Systemic Factor: Racism and Systemic Discrimination in the Criminal Justice System

Themes: Systemic Racism; Systemic Discrimination; Social Determinants of Health; Policing; Custody; Incarceration; Colonialism; Reintegration; Release Planning

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Contents:

Systemic Racism as a Determinant of Health

Systemic Racism is known to create adverse health effects in racially marginalized populations for a multitude of reasons:

"First, institutional racism developed policies and procedures that have reduced access to housing, neighborhood and educational quality, employment opportunities and other desirable resources in society. Second, cultural racism, at the societal and individual level, negatively affects economic status and health by creating a policy environment hostile to egalitarian policies, triggering negative stereotypes and discrimination that are pathogenic and fostering health damaging psychological responses such as stereotype threat and internalized racism. Finally, a large and growing body of evidence indicates that experiences of racial discrimination are an important type of psychosocial stressor that can lead to adverse changes in health status and altered behavioural patterns that increase health risks."[i]

For example, "Without consulting Indigenous Peoples, the Canadian government set aside tracts of land (referred to as reserves) on which "Indian bands" could live – albeit without title or ownership. This land was often relatively small and poorly resourced (i.e., access to clean water and food sources). Many reserves and settlements are also isolated – not only from other communities and services but from employment and economic opportunities. After 200 years, some still do not have basic services like running water and most experience housing shortages and inequities in funding (Farenhorst, et al., 2017; Oliver et al., 2016; Scoffield, 2011; Standing Senate Committee on Aboriginal, People, 2015). Due to these hardships, the majority of First Nations people (~60%) no longer live on reserves, even though it means giving up certain services available only to on reserve populations (Statistics Canada, 2017c). On the other hand, despite the economic hardships, many communities are thriving – cultural practices are being revitalised and Indigenous languages are increasingly taught in schools and spoken in homes (Jacob, 2012; Rorick, 2017; Sarkar & Lavoie, 2013; Toulouse, 2013)."[ii]

Where First Nations peoples became confined to reserves through Canadian policy, "Between 1900 and 1960, many Métis made their homes on road allowances, which were strips of government-owned land set aside for future roads. Without a land base and facing racial discrimination by potential employers, these Métis families lived in extreme poverty, so road allowance houses were typically poorly constructed with recycled materials (Adams et al., 2013; Campbell, 2019)."[iii]

Long-term exposure to racial discrimination (systemic, societal, individual) has a particularly damaging effect on an individual, or group's, mental wellbeing (psychological health). This has been affirmed by studies in Canada, the U.S., Australia, and elsewhere:

"Racial discrimination has been consistently and prospectively associated with psychological distress and depressive symptoms in the literature. [1,5,6,7,9,32–34] Consistent with this research, qualitative findings from our study suggest the frequency and unpredictability of racist experiences had adverse psychological impacts on Aboriginal students. Participant reactions to discrimination were symptomatic of what has been termed racial battle fatigue among African-American college students in the United States.[33] Racial battle fatigue describes the depletion of mental and physical resources caused by stress response systems that are constantly switched on as minorities strive to cope with ongoing discrimination.[34] The primary psychological symptoms of racial battle fatigue are constant anxiety and worrying, hypervigilance, intrusive thoughts and images, and difficulty thinking coherently.[9,34] A growing number of researchers now attribute the health disparities experienced by African Americans and Indigenous Australians to chronic stressors, most prominently the experience of racial discrimination.[1,5–8,11–13] This risk factor may contribute to our understanding of the large and persistent health disparities observed among Aboriginal people in Canada and deserves more serious treatment in the scientific literature. Further research is also needed to determine whether racial discrimination may be contributing

to high university attrition among Aboriginal students in Canada… The idea that discrimination may affect health and psychological well-being is not new. It has long been acknowledged that living within a social context that denies people a sense of dignity increases feelings of insecurity about personal worth and competence, and carries connotations of inferiority, in which few people can feel respected, valued, and confident, and results in adverse psychological states that, in turn, have lasting deleterious impacts on health.[35] Reitz and Banerjee[36] have suggested that pride in Canadian multiculturalism has led to a reluctance to examine whether minority groups, including Aboriginal people, experience discrimination in Canada."[iv]

There is a measurable correlation between racial discrimination and heightened levels of stress, Post-Traumatic Stress Disorder, as well as stress-induced detriments to physical health:

"In Canada, racism and its impacts on Aboriginal health have received little attention in the scientific literature. Racism is an ideology that ranks some groups as inferior on the basis of their ethnicity or phenotypic characteristics.[8] Racism informs action by justifying the prejudicial attitudes and unfair treatment (discrimination) of individuals and institutions against visible minorities.[8] Targets are aware of some of the discriminatory behaviour directed at them, which often generates significant levels of stress.[9] A number of conceptual models have been used to describe the impacts of discrimination on health. A prevailing paradigm is the stress and coping framework. This model focuses on the psychological stress associated with discrimination and the use of coping strategies to control these reactions.[10] Currently, the boundaries of the framework are being pushed by an expanding body of evidence suggesting that individuals may have visceral reactions to discrimination that extend beyond their psychological control. More than a dozen experimental studies now document that discrimination causes visceral physiologic stress responses across racial groups.[3] Discrimination has been associated not only with poor mental health but also stress-induced endocrine dysfunction, cardiovascular dysfunction, shortened telomere length, and other markers of accelerated aging.[11] Discrimination may also reduce an individual's self-control resources, resulting in less energy to elicit effective coping strategies and behavioural choices.[3]"[v]

For example, according to recent report released by the Saskatchewan Human Rights Commission (2023), Indigenous community members in Saskatoon say they are frequently targeted by the practice of "Contact Interviews," or police street checks.[vi]

"While police may assert contact interviews are a tool of intelligence gathering and community policing, the people who experience contact interviews often say they are a tool of racial profiling, intimidation, and discrimination."[vii]

"Many organizations[1] the Commission interviewed reported that their clients, and in some instances staff, feel like they are under constant surveillance by police. Persons from racialized communities often feel over-policed and over-monitored, as though they are being watched because of their race, because of where they live, or because of where they spend time... Several organizations said that a general avoidance of police is common among their clients, particularly in the core neighbourhoods. A representative from one such organization reported a noticeable decrease in clients accessing their services when police are in the area or around the organization's building.[113]"[viii]

"Many community representatives suggested that the cumulative effect of interactions with police is a reduction of trust in the police and an increase of fear of police. One participant told the Commission:

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[1] Interview participants consisted of advocates and representatives from community-based organizations including CLASSIC, OUTSaskatoon, Prairie Harm Reduction, chokecherry studios, the Saskatoon Intercultural Association, the Elizabeth Fry Society of Saskatchewan, the John Howard Society of Saskatchewan, the Federation of Sovereign Indigenous Nations, and the Métis Nation of Saskatchewan.

As an Indigenous person ... there is a certain fear when I interact with police. A generational trauma kind of thing. A fear where I have to hold my breath they to come ... to talk to me. Their questions are like I'm being interviewed or under a microscope. If I say the wrong thing, that will give them a reason to ask for my ID – even though I haven't done anything.[114]"[ix]

"Another participant was of the belief that discriminatory police action leads to more 'institutional mistrust'[115] which is particularly experienced by Indigenous community members who have current and historical reasons to distrust institutions, including police."[x]

Systemic Discrimination in the Criminal Justice System: Policing, Custody, and Incarceration

"Systemic discrimination can be seen in all phases of the criminal justice system: policing, courts, and corrections. The Aboriginal Justice Inquiry of Manitoba provides a definition of systemic discrimination: 'The term 'systemic' discrimination is used where the application of a standard or criterion, or the use of a 'standard practice,' creates an adverse impact upon an identifiable group that is not consciously intended' (1991: 100). It should be noted, however, that this a problem that affects not only Indigenous people, but also other racialized and minority groups as demonstrated, for example, by the Commission on Systemic Racism in the Ontario Criminal Justice System (1995). That said, Indigenous people as a whole are the most adversely affected by systemic discrimination (Rudin, 2007). Systemic discrimination in the criminal justice system is manifested in various ways and, ultimately, it contributes to the overrepresentation of Indigenous people at all stages of the system."[xi]

Policing

"In 2017/2018, Indigenous adult men accounted for 28% of the men admitted to custody in the provinces and territories. Indigenous women made up a greater proportion of custody admissions than their male counterparts, accounting for 42% of the women admitted to custody. Compared to 2007/2008, the number of admissions of Indigenous men to provincial/territorial custody increased 28% while the number of admissions of Indigenous women increased 66% in the provinces and territories."[xii]

"Rudin addressed the issues of over- and under-policing in a paper prepared for the Ipperwash Inquiry (Rudin, 2007). He said the following:

'Aboriginal people are both over- and under-policed. The impact of over-policing is that Aboriginal people come before the court in large numbers because Aboriginal communities or communities where Aboriginal people live are policed more aggressively than other communities…. At the same time, Aboriginal people are also under-policed. The legitimate claims of Aboriginal people that their rights, either individually or collectively, are being violated are not responded to with the same vigour as when those claims are advanced by non-Aboriginal people….. Over-policing and under-policing are different sides of the same coin. Each feeds upon the other to perpetuate systemic discrimination and negative stereotypes regarding Aboriginal people (2007, 64).'

Systemic discrimination and negative stereotypes result in more Indigenous people being arrested, charged, and entering the criminal justice system."[xiii]

Custody and Bail

"Indigenous offenders are sentenced to custody more often than non-Indigenous offenders. This is true for men and women, adults and youth in provincial and territorial correctional services. In 2016-2017, 30 percent of the total sentenced custody population were Indigenous. For Indigenous youth, the comparative numbers for secure custody and open custody were even higher at 55 percent and 60 percent, respectively (Department of Justice Canada 2018a)… Indigenous accused are also denied bail significantly more often and therefore held in remand (adults) or pre-trial detention (youth) more frequently and for longer than non-Indigenous accused."[xiv]

According to the Office of the Correctional Investigator's Annual Report (2022/2023), the proportion of Indigenous peoples in Federal Custody has risen from 30% to 32% (70.1% First Nations, 26.8% Métis, and 3.1% Inuit).[xv] In Saskatchewan's correctional facilities, the proportion is even higher with Indigenous adults representing 78% of adult admissions and Indigenous youth representing 84% of youth admissions (2021/2022).[xvi]

"Rudin points out that, consistent with the Criminal Code, courts deny bail and impose remand for one or more of three reasons: (i) the person is not likely to attend court for his/her next hearing or trial; (ii) the person is considered a threat to the community or an individual; or (iii) the nature of the alleged crime is so offensive that it would shock the public if the alleged offender were released on bail (Rudin, 2007: 51). If bail is granted, it is done with certain conditions attached. A standard condition is that the accused have a surety; i.e., a person who is able and willing to make a payment to the court in the event the accused breaks their conditions or fails to appear. This is often difficult for individuals accused of a crime; however, it can be especially difficult for Indigenous accused. Indigenous people living in the city are often without family or other supports and so will not have a surety to back them. These same individuals are often abjectly poor, homeless, unemployed, and have little education. (This is consistent with the socio-economic marginalization of many Indigenous people, as suggested above.) But whether in the city or in a remote community, poverty and the inability to post bail or to have a surety who can post bail is common and typically leads to remand…Another significant factor leading to Indigenous overrepresentation is that Indigenous accused are relatively more likely to breach their conditions, whether bail conditions or probation conditions. Typically, this works against individuals who have been before the courts previously; bail is usually denied in such cases. The issue of bail is important for several reasons, including the fact, as various experts have shown (e.g., Knazan, 2009), that "those held in custody on remand are more likely to plead guilty and be found guilty than those who are released pending trial" (Rudin, 2007: 53 citing Kellough and Wortley, 2002; Bressan and Coady, 2017)."[xvii]

"The main source of information on federal corrections, particularly on custodial institutions, is the Office of the Correctional Investigator (OCI). OCI Annual Reports and special reports commissioned by the OCI (e.g., Mann, 2009; OCI, 2012), clearly indicate that Indigenous inmates are subject to systemic discrimination while in prison… In his 2013-2014 Annual Report, the Correctional Investigator made the following comments which are worth repeating here:

'…the factors and circumstances that bring Aboriginal people into disproportionate contact with the federal correctional system defy easy solutions. The gap in outcomes between Aboriginal and non-Aboriginal offenders is widening as the most significant indicators of correctional performance continue to trend downward. Aboriginal people under federal sentence tend to be younger, less educated, and more likely to present a history of substance abuse, addictions and mental health concerns. They are more likely to be serving a sentence for violence, stay longer in prison before first release and more likely to be kept at higher security institutions…They are more likely to be gang-affiliated, overinvolved in use of force interventions and spend disproportionate time in segregation. Aboriginal offenders are more likely denied parole, revoked and returned to prison

more often. The situation is compounded by the fact that the proportion of Aboriginal people under federal sentence is growing rapidly. (OCI, 2014: 43-44)'"[xviii]

Incarceration is a negative detriment of health:

On average, one year in jail results in a decrease of life expectancy by two years.[xix]

- o Indigenous men lose 4-6 times more life-expectancy years than non-Indigenous men.

- o Indigenous women lose 6 -9 times more years of life-expectancy than non-Indigenous women.

Not only do these statistics demonstrate that incarceration is a factor of health, but that systemic discrimination and institutional racism are underlying causes to negative determinants of health. These coexisting factors disproportionately funnel Indigenous peoples into the criminal justice system. In the Canadian criminal justice system, Indigenous peoples are subject to systemic discrimination at various levels; policing, courts, and corrections, which result in longer and more frequent justice system contact and recontact. The longer a period of incarceration is, correlates to detrimental health outcomes and overall lowered life-expectancy in an individual.

Lasting effects of Incarceration

"Some researchers suggest that the trauma people experience behind bars can lead to Post-Incarceration Syndrome, a syndrome that shares characteristics with PTSD. A 2013 study of 25 released lifers found that participants experienced a specific cluster of mental health symptoms, including institutionalized personality traits (like distrusting others, difficulty maintaining relationships, and problems making decisions), social-sensory disorientation (issues with spatial reasoning and difficulty with social interactions), and social and temporal alienation (the feeling of not belonging in social settings)… Similarly, a 2019 literature review found that incarcerated people experience high rates of Potentially Traumatic Events, often shortened to PTEs. The review further revealed that experiencing PTEs behind bars was strongly correlated with rates of PTSD upon release...We often think of incarceration as something people live through and from which they can ultimately be released. But the reality is that time spent [incarcerated] can create a host of collateral consequences that haunt individuals even after release. As the research shows, incarceration can trigger and worsen symptoms of mental illness — and those effects can last long after someone leaves the prison gates."[xx]

It is widely believed in the criminal justice system that incarceration reduces recidivism, despite a plethora of contradictory evidence. The collateral consequences of incarceration (worsened mental health, institutionalized personality traits, social alienation, etc.) provide an explanation as to why incarceration does not reduce recidivism, and there is concrete evidence supporting this claim: "Two decades ago, researchers from the University of New Brunswick did a meta-analysis of 50 studies on incarceration, spanning a half-century. They could not find 'any evidence that prison sentences reduce recidivism' and that 'prisons should not be used with the expectation of reducing criminal behaviour.' They revisited the study two years later, looking at 100,000 inmates. They found the same result: Prisons do not reduce crime, they increase it."[xxi]

Lawren Trotchie writes:

"[I]ncarcerating an individual does not necessarily result in rehabilitation, but could potentially foster procriminal attitudes that could lead to increased recidivism... When sentencing Indigenous people, there is a concern that the Courts will run afoul to considering Gladue as a blanket principle, dismissing the

fact that colonialism impacted every Indigenous person differently. What may impact one individual in a negative way may not be the same for the next. Some individuals may not even be aware that their background has affected their actions. That is why it is important that when the legal profession is discussing *Gladue*, both an individualistic and a community approach is necessary to gather the full story. As stated numerous times, Parliament's intention when they introduced section 718.2(e) was to reduce the increasing overrepresentation of Canada's Indigenous people in prisons. On a large scale, it is clear there is an epidemic that persists in the lives of Indigenous people and prisons, but *Gladue* more specifically seeks to understand why that is by drawing upon the accused's life, their background, and their systemic factors. This is done by ensuring that each Indigenous person's experiences are seen as unique."[xxii]

Systemic Discrimination in the Criminal Justice System: Racism, Sexism and Colonialism

Indigenous women are over-represented within the criminal justice system at rates that exceed all other demographics. In Saskatchewan, "over a three year period, the number of unique[2] Indigenous adult women who entered custody increased from 1,008 in 2015/2016 to 1,098 in 2017/2018. This represents an increase of 9% over this period. In contrast, the number of unique non-Indigenous adult women who entered custody over the same period increased from 166 to 233, which represents a 40% increase. The number of unique women, where Indigenous identity is unknown, decreased 64% from 47 to 17"[xxiii]

If the numbers presented during this period account for the total number of women admitted to custody, it is easy to measure the disproportionate representation of Indigenous women in these counts.

Unique Women Admitted to Custody (2017/2018)	Custody Counts (Women)	Custody Count Percentages (Women)
Indigenous Women	1098	81.5%
Non-Indigenous Women	233	17.3%
Identity Unknown	17	1.2%
	Total Counts: 1348	Total Percentage: 100%

According to the 2021 Census, Indigenous women represented 8.7% of Saskatchewan's population, yet their custody rates are almost 10x higher (81.5%, 2017/2018).[xxiv] Non-Indigenous women represented 41.5% of Saskatchewan's population in 2021, yet only accounted for 17.3% of those women in custody (2017/2018).[xxv] While the data examined is drawn from two different yearly counts (2017/2018 and 2021, respectively), it is evident that Indigenous women are vastly over-represented within Saskatchewan's criminal justice system.

Colonialism is responsible for the over-representation of Indigenous women within the criminal justice system, in that it has created the societal and systemic disadvantages that maintain oppression. Indigenous communities, families, and individuals are also subject to increased surveillance from racist institutions and policies that criminalize Indigenous people, which contributes to over-incarceration:

"(Neo)colonialism and related factors, including oppression, are the main causes of Indigenous women's overrepresentation across the Canadian criminal justice system, not individual pathologies or shortcomings. Oppression is a relational, multidimensional, and dynamic process (Gil, 1998; Mullaly &

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[2] The Canadian Centre for Justice Statistics defines "Unique Persons" as: individuals who have entered custody within the reporting period. Each individual is counted only once regardless of subsequent contact with correctional services including changes in status (e.g., from remand or pre-trial detention to sentenced custody) and time spent in custody.

Dupré, 2018). It can be defined simply, as one group having power and advantage at the expense of another group because of some identified "otherness" (Gil, 1998). Oppression prevents individuals from achieving their maximum potential (Mullaly, 2010). For example, Csiernick and Rowe (2010) frame addiction as oppression. When people are labelled as alcoholics or drug addicts, others within mainstream society may objectify the person in terms of this characterization. People experiencing addictions can, in turn, be deemed by others by way of their condition and circumstances as unwelcomed, unwanted, or loathingly as a subspecies of humanity. Arguably, being labelled as criminal also serves as a point of oppression. These individual deficit perspectives fail to recognize the role that interconnected societal structures play in contributing to contacts with the criminal justice system. As noted by Johnson (2019), labelling someone as criminal 'does not assist in that person's rehabilitation,' rather, 'it limits their ability to re-engage with their community and to become a productive member of it' (p. 130)."[xxvi]

"While data documenting the state of Aboriginal mental health generally, and among Aboriginal women in particular, is extremely limited, it has been generally accepted that they have poorer mental health compared with non-Aboriginal people.[101] Mental health research focusing on this population group has tended to treat Aboriginal people as a single homogenous entity, and focus primarily on social problems such as substance abuse, violence, and suicide rather than on psychiatric disorders which stem from these social problems and in turn aggravate them.[102] Generally, studies have shown that women are nearly twice as likely to experience depression compared with men.[103] Among Aboriginal women, certain groups, such as young First Nations women, are particularly vulnerable.[104] The role that social, economic and historical determinants play in the mental health of Aboriginal women cannot be understated. These determinants have often led to socio-economic marginalization and intergenerational trauma, resulting in depression and other psychiatric disorders, and engagement in self-destructive behaviours.[105]"[xxvii]

The National Collaborating Centre for Indigenous Health finds that,

"A serious threat to the well-being of many Aboriginal women is the violence they experience in their homes, their communities, and Canadian society at large. Such violence can "engender a pervasive sense of helplessness, futility and personal vulnerability."[106] Aboriginal women are 3.5 times more likely to experience violence compared to their non-Aboriginal counterparts, and they are more likely to suffer from severe forms of spousal violence.[107] The high rates of violence Aboriginal women experience are related not only to lower socio-economic status, but also to the legacy of colonial policies like the residential school system, where many experienced sexual, physical and emotional abuse.[108] For some women, a legacy of these abuses has been a loss of self-esteem, alcohol and drug abuse, and the perpetuation of an existence where violence and abuse are the norm.[109] Prolonged exposure to abuse and neglect has been associated with complex post-traumatic stress disorder, a psychiatric ailment characterized by impaired impulse management; chronic self-destructive behaviors; episodes of disassociation or depersonalization; alterations in self-perception manifested by a chronic sense of guilt or shame; alterations in relationships with others; and alterations in one's belief system or the value and meaning of one's unique life.[110]"[xxviii]

"Given the crucial problem of violence, support services need to be strengthened. Aboriginal women survivors of violence have described a lack of support from police authorities, the justice system, and from male chiefs and council members.[111] There are few services across Canada that consider the unique cultural and social context of Aboriginal women.[112] Inadequate funding to support new and existing Aboriginal women's shelters is a significant challenge.[113] Women's groups in Quebec, for example, highlighted that the federal funding formula for Aboriginal women's shelters has remained unchanged since 1995 and that these shelters receive less than one-third (on average) the funding that provincially funded women's shelters receive.[114] In northern communities, the problem is exacerbated by a lack of `safe' housing for victims of abuse and lengthy delays awaiting the arrival of police.[115]… A lack of support has led some Aboriginal women to move out of their reserves into urban centres to escape the violence. In fact, 'a larger proportion of women leave [their] communities than men.'[116] In cities, they may become vulnerable to risks associated with economic and social marginalization such as sexual exploitation and violence. Culane reports, for example, that Aboriginal women account for approximately one-third of the population of Vancouver's Downtown Eastside, the poorest neighbourhood in Canada.[117]"[xxix]

"Living in these types of conditions can contribute to harmful coping mechanisms such as substance use and addiction, which in turn can result in higher rates of suicide.[118] While the data on the prevalence of suicide attempts among Aboriginal people is sparse, research has shown that Aboriginal women are three times more likely to commit suicide than other Canadian women.[119] The suicide rate, however, varies considerably among Aboriginal communities (even within the same geographical region), across Aboriginal groups, and over the lifespan.[120] In some communities, rates of suicide can be exceptionally high, while in others, the rates fall below the Canadian average. Some studies have found rates of suicide to be particularly high among adolescent Status Indian women[121] and among Inuit women, particularly in Nunavut.[122] Like other Canadian women, Aboriginal women are more likely to attempt suicide compared to their male counterparts, while Aboriginal men are more likely to commit suicide.[123] Cultural continuity and the development of a strong sense of identity and belonging have been identified as protective features for communities with low suicide rates.[124]"[xxx]

Considerations for Sentencing, Reintegration, and Building a Release Plan

"When people are discharged from prison or jail, they can be overwhelmed and vulnerable with sudden changes. Therefore, they need an effective discharge plan. Release plans are used to provide an individual with guidance on resources available to them post-incarceration. They also confirm housing and employment opportunities. While some institutions do provide release plans, with so many different provincial and federal institutions, it is difficult to quantify how many people are released without one. However, the participants in a study by the John Howard Society indicated that many prisoners released did not have a proper reentry plan, particularly those in remand. One participant is quoted as saying 'No – never [Discharge Plan]. I've been to jail when I was younger 15-16 times – never once has anyone ever asked me where I lived. This is how I ended up on the streets several times.'"[xxxi]

For example, "For many prisoners, re-entry does not mean a return to a 'normal' or pre-prison life. Research has well documented the challenges tied to the re-entry process. For example, Durnescu (2019) notes that many former prisoners 'experience pains of release such as stigma, temptation, or lack of employment' (pg.3). The reintegration process for former prisoners is oftentimes extremely difficult as a result of the disruptions and harms tied to imprisonment. For example, they face issues with finding employment, housing or face rejections for schooling as a result of having a criminal record (Durnescu, 2019). Having a criminal record can act as a 'snowball' by creating larger issues (Travis, 2002). For example, without a job it is extremely difficult to obtain adequate housing and as a result many former prisoners are left to their own devices in their reintegration process. It is difficult to obtain an adequate job without education, more specifically, without a grade 12 education or its equivalent."[xxxii]

There are many ways to mitigate these stresses by ensuring individuals are equal participants during the planning process, "Self-determination is one of the most important determinants of Indigenous health and well-being (Reading & Wien, 2013). It is considered essential for empowering and enabling communities to build capacity and gain control over the wide-ranging forces that affect health and well-being at individual and collective levels (Garces-Ozanne, Ikechi Kalu, & Audas, 2016). ... To achieve equitable outcomes, Indigenous Peoples must be given full access to high-quality, responsive, comprehensive, culturally-relevant, and coordinated health and social services that target the diverse determinants of health, including individual and community self-determination (AFN, 2017; Greenwood, 2019; Jones et al., 2019)."[xxxiii]

"[T]reatment might focus on ways to advocate for and empower Indigenous clients to find meaning apart from the colonial values and practices infused into colonial societies. In other words, treatment

professionals may want to assist their Indigenous clients in decolonizing their recovery by restoration of Indigenous beliefs concerning life, relations, and health."[xxxiv]

Focusing on the 'dysfunction' of an individual is unhelpful to their long-term success and stability, instead, "Using a strengths-based approach takes the focus away from the unfavourable structural barriers and places more importance on offender talent. This approach forces the offender to trust in themselves which consequently leads them to a path of identifying goals and trusting their ability to achieve the set goals (Hong, Lewis & Choi, 2014). In addition, having a successful reintegration into society not only relies on the strength-based approach but also the prisoner's motivation and readiness to make the necessary changes in their lifestyle (Hong, Lewis & Choi, 2014). Moreover, as previously mentioned, re-entry is seen to be a process with key elements being the ability for offenders to stay motivated and have the strength and resilience to continue to put in effort when they regress (Hong, Lewis & Choi, 2014). Therefore, hope plays a key role in ex-prisoners' motivation and resilience to persevere throughout their re-entry process. Hong, Lewis and Choi (2014) argue that hope plays an important role in noncognitive transformation, and it is key to successful reintegration. That is, in a process to empower ex-offenders, in a society where they tend to be ostracised, emphasis must be put on hope in terms of employment (Hong, Lewis & Choi, 2014)."[xxxv]

"[A] means of successful reintegration into society is generally characterized by positive, pro-social behaviour in the community and desisting from crime. However, there is no threshold for success and as such, success can be characterized by a lessening of offending behaviour and not a full cassation. By utilizing strengths-based approaches, it fosters more motivation to be successful and set goals for the future so that offenders can have a successful reintegration into the community (Hong, Lewis & Choi, 2014). Hope is important throughout the stages of incarceration through to reintegration and it will encourage offenders to desist from crime and lead pro-social lives as they strive to achieve their goals."[xxxvi]

The principles of self-determination, then, must also be incorporated into determining an appropriate sentence for an Indigenous offender, while also considering the potential further impacts that incarceration may have on an individual, their family, and community. Fostering hope in the individual is also a necessary component of the reintegration process, where they can recognize and draw on their strengths, interests, talents, and support networks on the journey before them. Elders and/or supportive community members (like a mentor) can be incredibly beneficial for an individual's reintegration; they can provide guidance, knowledge, perspective, and cultural connection which can greatly enhance an individual's reintegration plan and healing journey.

To summarize, individuals should be involved in conversations about their rehabilitation, healing and aftercare plan, and perspectives on what constitutes meaningful healing _for them._ Merely sentencing them to generic treatment programs, often facilitated within jails/prisons, without exploring their unique challenges, interests, and skills is not enough to affect rehabilitation and greater wellbeing/health. Additionally, incarcerated persons _MUST_ have access to necessary medications and therapeutic options, otherwise, healing and rehabilitation will be hard to achieve. For example, if an individual becomes incarcerated and is forced to stop treatment for their ADHD (i.e., through medication) this can greatly inhibit their chances rehabilitation because they are being deprived of medication aimed to support their mental health and cognitive functions. Likewise, if an individual is released from incarceration and are unable to continue their medical treatment (i.e., through medication), this will also impact their ability to rehabilitate and reintegrate effectively. This means continuity of care is necessary when developing aftercare and release plans, and when someone becomes incarcerated.

Therefore, it is important to consult and work with an individual on their release and aftercare plan to identify meaningful pathways of support, whether they have been found guilty of a crime, have spent time in an institution, or not. Any contact with the Criminal Justice System may induce stress, cause

disruption in their life, and/or jeopardize their social, economic, health, and/or housing security. All individuals in contact with the Criminal Justice System may benefit from aftercare and release planning to map resources and community-based supports, and this opportunity should be made accessible. This is particularly important when exploring rehabilitative, restorative, cultural, and spiritual programming. For example, if an individual does not have issues concerning substance use, an Alcohol Treatment program and conditions related to maintaining sobriety will not be relevant or meaningful. In fact, mandating conditions that are not relevant to an individual's rehabilitation may further impede their ability to heal, because they will not find the programming helpful to their needs. Aftercare and Release plans should address the immediate and long-term needs of an individual when they are released from custody, such as housing solutions, healthcare needs (i.e., prescriptions, medical assessments, mobility aids), transportation needs, employment, and further support programs and community caseworkers (i.e., John Howard Society, Elizabeth Fry Society, FASD Network. etc.).

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