

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

Sisters Inside and the Institute for Collaborative Race Research (ICRR) welcome the opportunity to provide the following joint submission to the Legal and Constitutional Affairs References Committee to be considered as part of the **Inquiry into missing and murdered First Nations women and children**.

This is a particular area of expertise of the authors and our submission draws together our extensive work on the topic of murdered not missing Indigenous women, girls and gender diverse people (MMIW). We note the Committee's request for short form submissions and have provided a summary of our analysis which is drawn from our previous work in coronial inquiry expert reports, police inquiry expert reports, academic research papers, and years of work with families of MMIW.

We have concerns about the inquiry's framing of the issue of missing and murdered First Nations women, and we propose a different methodology for understanding to better inform mechanisms for redress for Indigenous women, girls and gender diverse people and their families which hold perpetrators to account and seek justice.

We note the particular contribution of Darumbul/South Sea Islander scholar and submission author Amy McQuire. Amy's PhD-based research and long-standing journalism on MMIW is ground-breaking, and we believe should be at the centre of the inquiry's work.

Sisters Inside, ICRR and Amy McQuire are available to provide a more extensive report that more fully examines the matters we have raised here. Thank you for the opportunity to make a submission to the inquiry.

Yours sincerely,

Amy McQuire

Sisters Inside

Institute for Collaborative Race Research (ICRR)

Murdered Not Missing

Reframing the terms of reference for understanding & addressing violence against
Aboriginal and Torres Strait Islander women & gender diverse people

16 December 2022

Amy McQuire, Sisters Inside & Institute for Collaborative Race Research



Background

Our Approach

ICRR is a group of expert scholars who, individually and in collaboration, undertake research relating to race, racism, colonisation, Indigenous sovereignty and state approaches to Indigenous issues (health, legal and policy responses). Together with Sisters Inside, we undertake joint work using a collaborative methodology in which all authors contribute their expertise via intensive discussions, collectively reviewing existing research and joint drafting of reports. This report therefore represents the joint opinion of all listed authors.

Our methodology explores if and how intersecting racial and gender stereotypes, and long-standing colonial and racialised political relationships, operate to feed assumptions and shape systems at a deep level, in ways that affect institutional cultures, policing behaviours, investigative models, approaches to treatment of individuals and the production of racial and gendered violence.

This means that our responses to the inquiry's questions often go beyond the terms of reference (ToR). In fact, we offer our own critique of the ToR, noting how they may serve to reproduce the forcible disappearance of MMIW. To the extent that we respond to the ToR, our submission addresses most directly the following points:

- b. the current and historical practices, including resources, to investigating the deaths and missing person reports of First Nations women and children in each jurisdiction compared to non-First Nations women and children;
- d. the systemic causes of all forms of violence, including sexual violence, against First Nations women and children, including underlying social, economic, cultural, institutional and historical causes contributing to the ongoing violence and particular vulnerabilities of First Nations women and children;

We go beyond the specific issue of contemporary responses to MMIW to consider violent colonial history of racial interactions and policing in Australia. This history directly shapes our present and assists in understanding the way individual and institutional behaviours work together to forcibly disappear First Nations women, girls and gender diverse people.

The Committee itself, as concerned as it is with MMIW, is not divorced from this violent history, from which it derives its current mandate. To counter the weight of history we centre the experiences and sovereignty of First Nations communities. From their perspectives, the state and its agencies such as police and courts look quite different to the ways they are understood in mainstream discussion and by most within them. ICRR and Sisters therefore bring our expertise to bear to seek to shift the existing terms of reference in relation to MMIW – moving away from the standard focus on Indigenous women's 'vulnerability' to make visible the structurally violent and deeply racialised relationship between Indigenous people and state agencies in this place.

About the Authors

Amy McQuire

Amy McQuire is a Darumbal and South Sea Islander woman from Rockhampton in central Queensland. She has recently submitted a PhD at the University of Queensland into media representations of violence against Aboriginal women. She is currently *Indigenous Post-Doctoral Fellow*, Faculty of Creative Industries, Education & Social Justice, Queensland University of Technology. She is a member of the ICRR collective and is a freelance writer and journalist. Amy has been the editor of the National Indigenous Times and Tracker magazine, was a former NITV National News political correspondent and journalist, senior reporter for New Matilda and producer for 98.9 FM in Brisbane. Recently, Amy was the Indigenous Affairs Reporter at BuzzFeed News Australia. Over the past four years, Amy has co-hosted the investigative podcast 'Curtain' with human rights lawyer Martin Hodgson. The podcast puts forth the case for innocence for Aboriginal man Kevin Henry, who was wrongfully convicted in 1992.

Sisters Inside

Established in 1992, Sisters Inside is an independent community organisation based in Queensland, which advocates for criminalised and imprisoned women and girls, their children and families. Sisters Inside believes that no one is better than anyone else. People are neither “good” nor “bad” but rather, one’s environment and life circumstances play a major role in behaviour. Given complex factors lead to women and girls’ entering and returning to prison, Sisters Inside believes that improved opportunities can lead to a major transformation in criminalised women’s lives. Criminalisation is usually the outcome of repeated and intergenerational experiences of racism, violence, poverty, homelessness, child removal and unemployment, resulting in complex health issues and substance use. First Nations women and girls are massively incarcerated due to the racism at the foundation of systems of social control.

Institute for Collaborative Race Research

The Institute for Collaborative Race Research (ICRR) is an independent organisation, not tied to the institutional interests of any university, association, or academic discipline. Its primary purpose is to support antiracist, anticolonial intellectual scholarship which directly serves Indigenous and racialised communities. ICRR seeks to create deeper engagement with crucial political questions in an institutional context not dominated by whiteness. Its members are invested in activist, community-based scholarship and communication on race, colonialism, sovereignty and justice. ICRR provides specialised additional support for those engaged in disruptive interdisciplinary research, sustaining a network of established scholars, early career researchers, students, activists and community members who collaborate in the interests of justice.

Introduction

In this submission, we argue that missing and murdered Indigenous women, girls and gender diverse people (MMIW) are never actually 'missing'. Aboriginal and Torres Strait Islander women do not just vanish from their homes, families and Country. In fact, they are disappeared.

'Going missing' is passive – something that 'just happens' to Indigenous women, or that they choose for themselves. Disappearing, on the other hand, is an active process. It is enacted by the police, individual perpetrators, media, courts, academic research, inquiries and many other colonial institutions. In framing Black women as 'missing', we argue that the state activates a range of racialised stereotypes that positions them as passive, as choosing to vanish and as complicit in their own victimisation.

The threshold for the state naming these women as murdered and holding individual perpetrators to account for their violent deaths is almost impossibly high in this place. Yet in this submission we do name all these women as murdered – they are violently disappeared by individuals operating within the structures of racial violence in the colony.

What is really 'missing' from this Inquiry, and from the dominant stories about MMIW, are the perpetrators of violence against Indigenous women. In erasing the perpetrators, we erase the violence itself and disappeared Indigenous women are isolated from the structures that produce their brutalisation. They become 'missing' when in fact they are murdered and disappeared.

Indigenous women experience higher rates of violence as a direct result of this erasure of perpetrators, which creates a culture of impunity. Violence against Aboriginal and Torres Strait Islander women in Australia is not seen as sufficiently problematic to warrant proper police investigation, judicial redress or media reporting. The Canadian Inquiry found that these state behaviours create a culture within which people can perpetrate violence against Indigenous women and know that they are safe from consequences. This the fundamental reason that Indigenous women, girls and gender diverse people experience all forms of violence at much higher rates than others in Australia. It is not the result of 'high risk' lifestyles or behaviours, or an inherent 'vulnerability'. The cause of missing and murdered Indigenous women, girls and gender diverse people is ultimately the colonial structure of white supremacy, where a supremacist ideology valorising a white *humanitas* is operationalised by police, courts, individual predators and media. This structure creates a culture of impunity for some and terror for others.

In order to address the crisis of MMIW, this Inquiry must shift its terms of reference. It must focus on naming, interrogating and holding accountable the perpetrators of violence towards Indigenous women – including individuals, police, courts, media and state agencies. If the Inquiry only focuses on counting, examining and 'commemorating' disappeared Indigenous women, the danger is that it will reproduce the assumption that they are inherently responsible for their experiences.

In this submission we propose four ways to understand and make visible the structure of disappearance:

1. **Examining the historical context of racialised and gendered violence in this place**, including the role of police in perpetrating this violence. This involves tracing the long-standing racial stereotypes that operate to legitimise and disappear violence against Black women.

2. **Understanding how apparently benevolent state narratives of Black victimhood and vulnerability reproduce these stereotypes.** These narratives are violent and contribute to the structure of disappearance.

3. **Locating the state as perpetrator of violence against MMIW, rather than as a site of redress or benevolence.** This involves identifying the way that under policing of Indigenous women as victims, and over policing of them as perpetrators, work together to create the culture of impunity.

4. **Naming white supremacy as the ultimate ‘missing perpetrator’** in the investigation of MMIW in Australia.

Finally, rather than seeking to ‘humanise’ Black women, girls and gender diverse people subject to violence, we draw on the work of Amy McQuire to propose a methodology that makes them present. Presencing returns these women to the fullness of their identities, relationships, Country and sovereignty.

It refuses to look away from the reality of the violence they have experienced, or from those who committed this violence – but it **never reduces Black women to their victimisation.**

This methodology requires that we do not move straight to ‘commemorating’ Indigenous women as if there is nothing to be done about their murders; instead, **it demands action and seeks justice.** Presencing focuses on the families left behind, who have never stopped looking for and speaking out on behalf of their loved ones.

What we know

We know that Aboriginal and Torres Strait Islander women, girls and gender diverse people face higher levels of all types of violence.

- Nationally, Aboriginal and Torres Strait Islander women are 32 times more likely to be hospitalised due to family violence than non-First Nations women, 10 times more likely to die due to assault, and 45 times more likely to experience any type of violence.¹ Indigenous females are five times more likely to be victims of homicide than non-Indigenous females, and are more likely to be killed by strangers.² Additionally, “[t]here is substantial evidence to date showing that Aboriginal women also suffer from levels of sexual violence many times higher than in the wider population.”³
- Despite this, Indigenous women were more likely to be criminalised and identified as perpetrators by the police and criminal legal system. A 2017 review of domestic and family violence related deaths in Queensland found that almost half of the women killed had been identified as a respondent to a DFV protection order on at least one occasion. In the case of Aboriginal and Torres Strait Islander women, that number rose to almost 100% of deceased women recorded as “both respondent and aggrieved prior to their death.”⁴
- Nationally, the imprisonment rate of Aboriginal and Torres Strait Islander women has increased 148% since 1991, and Aboriginal and Torres Strait Islander people are currently imprisoned at over 10 times the rate of non-Indigenous people.⁵ From 2000 to 2016, the Aboriginal and Torres Strait women’s imprisonment rate increased at over double the rate of Aboriginal and Torres Strait Islander men; “Aboriginal and Torres Strait Islander women are generally forced into the legal system at an earlier age, are less likely to be granted bail, are more likely to be remanded in custody, are more likely to serve shorter sentences and are almost twice as likely to return to prison after release when compared to non-Indigenous women.”⁶
- This is demonstrated with brutal clarity by the recent Queensland Sentencing Advisory Committee Report ‘Engendering Justice’.⁷ It found that the number of incarcerated women in Queensland increased by **339 percent** over the past 14 years. Of those, “Aboriginal and Torres Strait Islander women and girls were 7.7 times over-represented. Nearly half of all sentenced girls identified as Aboriginal and Torres Strait Islander (46.9%), compared to 29.9 per cent of sentenced women”.
- Crucially for this inquiry, Aboriginal and Torres Strait Islander people are more likely to go missing, and less likely to be found. There is no accurate data on the rates of missing and murdered Indigenous women in Australia as many states do not record, disaggregate or accurately measure

¹ Change the Record (2021) ‘Pathways to Safety Report’, p.3.; statistics on stranger violence are not adequately collected in Australia, but in the comparable jurisdiction of Canada rates are many times higher.

² Ibid.

³ Marcia Langton (2016) ‘Two Victims, No Justice’. *The Monthly*.

⁴ Change the Record (2019) ‘Pathways to Safety Report’, p.9.

⁵ Australian Bureau of Statistics, ‘Prisoners in Australia’ 2021 <<https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>>

⁶ Queensland Sentencing Advisory Council, *Engendering justice: The sentencing of women and girls in Queensland*, August 2022, <https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0008/735425/Sentencing-profile-on-womens-and-girls.pdf>

⁷ Ibid.

cases of MMIW. Recent analysis by Amy McQuire and Martin Hodgson found that 20 percent of currently missing women in Australia are Aboriginal women.⁸ In Western Australia (where there is some record) Aboriginal people make up 17.5 per cent of unsolved missing persons cases, despite making up just 3 per cent of the state's population.⁹ In NSW, 10% of females not found since 2014 are Indigenous.¹⁰

This statistical story can reproduce racialised imaginings of Indigenous women's communities and cultures as inherently violent. People know these statistics; governments and media recite them. There is an implicit assumption that these experiences of violence are, in one way or another, the result of Indigenous people's behaviour via 'risk' or 'vulnerability'. This behaviour might be understood as the result of a violent/savage culture, or community dysfunction due to substance abuse and disadvantage, or even (in the most progressive formulation) as the 'reverberating intergenerational effects' of colonialism creating social trauma. However, these explanations all locate the violence, and the behaviour that leads to that violence, within Indigenous communities.

This is an unacceptable and racist explanation for these rates of violence. As the Canadian Interim Report from National Inquiry into Missing and Murdered Aboriginal Women, Girls and 2SLGBTQIA+ people, 'Our Women and Girls Are Sacred' found:

*"Even when faced with the depth and breadth of this violence, many people still believe that Indigenous Peoples are to blame, due to their so-called "high-risk" lifestyles. However, Statistics Canada has found that even when all other differentiating factors are accounted for, Indigenous women are still at a significantly higher risk of violence than non-Indigenous women. This validates what many Indigenous women and girls already know: just being Indigenous and female makes you a target."*¹¹

The only way we can understand rates of victimisation of Indigenous women, girls and gender diverse people is by examining the structure of violence created by colonisation. Colonisation continues to be an extremely violent experience for Indigenous peoples, and police and state agencies are on the frontline of that violence. As the Canadian Inquiry found, Indigenous women experience higher rates of violence as a direct result of the culture of impunity created by police and state actions. Violence against Aboriginal and Torres Strait Islander women in Australia, and Indigenous women in Canada, is not seen as sufficiently problematic to warrant proper investigation by the police. The Canadian Inquiry found that this creates a culture within which people can perpetrate violence, including domestic and family violence, against

⁸ Digging deeper into data on disappeared Aboriginal women, Amy McQuire, *Presence*, November 11 2022
<<https://amymcquire.substack.com/p/digging-deeper-into-data-on-disappeared>>

⁹ Lost, missing or murdered? Isabella Higgins and Sarah Collard, *ABC News*, December 8 2019,
<<https://www.abc.net.au/news/2019-12-08/australian-indigenous-women-are-overrepresented-missing-persons/11699974>>

¹⁰ Ibid

¹¹ National Inquiry into Missing and Murdered Aboriginal Women and Girls (2017) 'Our Women and Girls are Sacred, Interim Report'. p.56

Indigenous women and know that they are safe from consequences. This the fundamental reason that Indigenous women can be disappeared in the way that they are.

Therefore, what is truly ‘missing’ in investigations into MMIW are the perpetrators.

As Darumbul and South Sea Islander scholar Amy McQuire points out, ‘Aboriginal women don’t just disappear, but are disappeared’:

“[This issue is] not about ‘violence against Aboriginal women’, but instead about the disappearing of Aboriginal women in this colony. I use the term ‘disappearance’ because it ties the deaths and disappearances of Black women to an ongoing settler colonial project that actively targets Black women. Disappearance is linked to a genocidal practice, rather than assuming Aboriginal women existing in spaces of violence, existing only as bodies to which violence is done. ‘Disappearance’ and ‘disappearing’ is a political act; it is a project that has not ended and so we must speak of it to unveil how it has been silenced for so long.”¹²

The failure to ‘see’ how such forced disappearances are made possible via the discourse of ‘missing Indigenous woman’ is central to the culture of impunity which ensures that Aboriginal and Torres Strait Islander women and girls are victims of high rates of violence.¹³ In order to identify some of the deeper structural issues which forcibly disappear MMIW, we have grouped our responses to the ToR into four sections which are discussed briefly here.

Histories of Disappearance

Tracing the long history of violence towards Aboriginal and Torres Strait Islander women makes visible the contemporary structure of disappearance producing the crisis of MMIW here. It is important to begin by highlighting Australian colonialism and its connection to racism, which informs the violent relationship between the state (especially police) and First Nations peoples. We note how the ongoing denial of Indigenous sovereignty (*terra nullius*) is a racial statement about the ‘inferior capacities’ of Indigenous peoples deemed by colonisers to remain in a ‘state of nature’. Even more strongly than in other colonial states, colonists in Australia assumed Indigenous inferiority, savagery and incapacity, asserting that First Nations did not own land or exist in a meaningful political and social sense.¹⁴ It is important to note that

¹² Amy McQuire (2022) *Disappearing Aboriginal women: speaking back to silences* [unpublished thesis] University of Queensland, p.18

¹³ Institute for Collaborative Research (2022). *Expert Report to the Inquiry into Queensland Police Responses to Family and Domestic Violence*
<<https://static1.squarespace.com/static/5fd158df412849720ce27cbd/t/632a6ae464da4c16ca759e98/1663724263454/QPS+Inquiry+Expert+Report+Final+25.8.pdf>>

¹⁴ Aileen Moreton-Robinson (2015). *The White Possessive: Property, Power and Indigenous Sovereignty*. Minneapolis: University of Minnesota Press; I Watson (2015). *Aboriginal peoples, colonialism and international law : raw law*. Routledge.; I Watson (2009). “In the Northern Territory Intervention, What is Saved or Rescued and at What Cost?”. *Cultural Studies Review* 15(2).

this racial positioning has not been legally revised and continues to operate as a foundation of Australian sovereignty. It has enabled extreme forms of violence against Indigenous peoples by the state.

Aboriginal women are subject to a particular gendered form of this foundational racial categorisation. There are specific and distressing tropes of sexual availability that have long rendered them always consenting and unable to be the worthy victims of sexual violence. Aboriginal women are regularly seen as victimised by Aboriginal men, but in fact research into historical and contemporary colonial relations show that mass sexual violence by white men towards Aboriginal and Torres Strait Islander women has been a core part of colonisation, especially on frontiers and in remote regions.¹⁵ From first invasion, First Nations women were viewed as: sexually voracious, in need of 'rescue' by white men, less desirable but more easily exploitable than white women, automatically involved in sexual trading for food, gifts and money, and objects to be owned by colonists.

Police have been complicit in this widespread violence both as direct perpetrators and by refusing to investigate the violence of other settlers. The ongoing solidarity between police and individual white male perpetrators is a key condition of the culture of impunity which produces violence against Indigenous women. Elsewhere we have traced the violent relationship between First Nations people and police by focusing on the Queensland Native Mounted Police and their legacies in the contemporary QPS. We argued that in Australia, police forces do not police Indigenous and racialised communities through consent but through control. Their relationship with Aboriginal and Torres Strait Islander women, girls and gender diverse people is particularly coercive, hierarchical and racially violent.¹⁶

Violence against Indigenous women's bodies is integral to the project of settler colonialism; this structural violence, indeed, is what secures the continuing operation of the settler state, whether perpetrated inside or outside the formal custody of its institutions.

Commenting on the thousands of Missing and Murdered Indigenous Women and Girls (MMIWG) in Canada, Mohawk scholar Audra Simpson notes that their deaths and disappearances may be understood as 'part of a vaporous crime spree that belongs to not one serial murderer, but an entire citizen ship' (2016, 8).

Understood as a form of serial killing, Indigenous women's deaths in disparate places, on the fringes of towns or on lonely roads, are not accidental or random tragedies, but a systematic outcome of the logic of settler colonialism.

These are deaths that implicate a state's entire non-Indigenous citizenry in the crime of Indigenous femicide. The state's non-Indigenous citizenry is implicated, because the crime of Indigenous femicide is enabled by the everyday operations of settler law, culture and its embodied economies of commodified exchange and disposability.

The settler prerogative to use, abuse and kill Indigenous women is embedded in the colonial state's gendered and racialized relations and structures of power. Indigenous femicide constitutes an identifiable and criminal dimension of the settler state's genocidal logic of elimination.

[Indigenous Femicide and the Killing State](#)
(2020) *Deathscapes*

¹⁵ See for example Libby Connors, 'Uncovering the shameful: sexual violence on an Australian colonial frontier' In Robert Manson (eds): *Legacies of violence: rendering the unspeakable past in modern Australia* (Berghahn Books, 2017); and Liz Conor, *Skin Deep* (University of Western Australia Press, 2016).

¹⁶ Institute for Collaborative Research (2022). *Expert Report to the Inquiry into Queensland Police Responses to Family and Domestic Violence*.
<<https://static1.squarespace.com/static/5fd158df412849720ce27cbd/t/632a6ae464da4c16ca759e98/1663724263454/QPS+Inquiry+Expert+Report+Final+25.8.pdf>>

Narratives of Disappearance

First Nations women experience distressing and unacceptable rates of violence. However, the dominant framing of MMIW, and First Nations women more generally, problematically positions them as passive victims. This victimhood narrative works to cast Aboriginal women as vulnerable, without agency and beyond the ken of civilisation. It serves to erase them in every sense of the word. This victimhood narrative never generates action to protect or prevent violence against Aboriginal and Torres Strait Islander women, though it is regularly used to extend state control over their lives. Additionally, it quickly flips into a narrative of criminality when Indigenous women speak up or behave in ways not deemed ‘appropriate’ for passive victims. It is clear that the narrative of Indigenous women’s victimhood is conditional, racialised and ultimately locates the causes of their victimisation within themselves or Indigenous communities.

This dynamic is clear when examining the ways that the tragic stories of Hannah Clark and Tamica Mullaley have been used in relation to the extension of state and police powers. Hannah, a white woman who was murdered along with her children by her estranged husband, received widespread sympathy and her case was used to call for greater police powers to criminalise coercive control¹⁷. Tamica Mullaley is an Aboriginal woman who suffered from domestic violence but rather than being treated as a legitimate victim, the police treated her as an offender, which resulted in the most [tragic of consequences](#) for her baby Charlie. Tamica’s story was told in distressing detail in the documentary series *See What You Made Me Do*, which is based on journalist Jess Hill’s book of the same name; Jess Hill used this series to explicitly advocate for the criminalisation of coercive control. Despite the clear reality that police were perpetrators not protectors for Tamica, her tragedy is used to make a case for extending police powers and consideration of female-only police stations. In the public conversation about coercive control Indigenous women who raised concerns about how coercive control would be used to further criminalise Indigenous women were dismissed. The function of Indigenous women’s trauma is clear – it is used to legitimize the extension of the very authorities that perpetrate abuse and violence towards Indigenous women. When Indigenous women speak up against this, they are silenced.

Aboriginal women have been silenced since the first waves of invasion, and they are still actively silenced, particularly when it comes to violence. As Bundjalung poet and academic Evelyn Araluen Corr writes, “silence and erasure of Aboriginal women’s voices has been employed as a strategy of disempowerment by the settler colonial state and its imperial affiliations.”¹⁸ This is not because of a lack of voice or speaking, because Aboriginal women have conducted numerous reports on violence and are actively involved in campaigning against violence in whatever form it takes. Instead, these reports and testimonies have been met by silence by successive governments.¹⁹

¹⁷ Coercive control refers to systemic domestic violence that operates through a matrix of subtle practices including surveillance, gaslighting, financial control, and fear of potential violence; Watego et al, “Carceral feminism and coercive control, when Indigenous women aren’t seen as ideal victims, witnesses or women”, *The Conversation* 24 May 2021, <<https://theconversation.com/carceral-feminism-and-coercive-control-when-indigenous-women-arent-seen-as-ideal-victims-witnesses-or-women-161091>>

¹⁸ Evelyn Araluen Corr (2018) *Silence and resistance: Aboriginal women working within and against the archive*, *Continuum*, 32:4, 487-502, DOI: [10.1080/10304312.2018.1480459](https://doi.org/10.1080/10304312.2018.1480459)

¹⁹ Moreton-Robinson, Aileen. “Imagining the Good Indigenous Citizen.” *Cultural Studies Review* 15, no. 2 (2009): 71.

Aboriginal women instead exercise a politics of refusal.²⁰ “We refuse to be silent,” Noongar academic Hannah McGlade wrote, “instead giving voice to those who cannot speak, including the many Indigenous women being incarcerated.”²¹ McGlade sees this refusal through the counter-representations offered by Aboriginal women’s life writings and testimonies: “Often at great personal risk, black women have long been telling their own stories through autobiography, music, film and poetry.”²²

Despite this, one of the silencing tactics employed by the state and the media has been the accusation that Aboriginal communities—including women—are complicit in an alleged ‘culture of silence’. The onus then is placed on Aboriginal women to ‘break this silence’, even though they have never been silent on the issue. The fact that they have been silenced is weaponised against them.

When Aboriginal women are given room to speak on violence, it is often only through a discourse of pathologisation in which Black communities—and particularly Black men—are viewed as innately violent. This is the ‘acceptable’ discourse that is most palatable to white agendas and white witnesses.²³ As silence operates by replacing one discourse with another, this pathologisation is powerful: **it means that Aboriginal women are not able to speak of their strength or their resistance, but only of their wounds.** The evidence of these wounds must be shown in graphic imagery or in sensationalist wording.

This pathologisation works because of another form of silencing, which Canadian academic David MacDonald refers to as “settler silencing,” in which the histories of settler-colonialism, genocide and conquest are made “irrelevant” in the crisis of violence against Aboriginal women.²⁴ “This has an important effect in keeping settlers ‘culturally and historically ignorant of our colonial past’, and makes the dispossession of land, the violence inflicted on Indigenous bodies, languages, and cultures largely irrelevant in how contemporary settler society is understood.”²⁵ In order to uphold the hegemony of the settler colonial state, silencing—particularly of Aboriginal women—is a powerful tactic.²⁶

Perpetrators of Disappearance

As the Canadian Inquiry found, Indigenous women experience higher rates of violence as a direct result of this culture of impunity created by police and state actions. Violence against Aboriginal and Torres Strait Islander women in Australia, and Indigenous women in Canada, is not seen as sufficiently problematic to warrant proper investigation by the police. The Canadian Inquiry found that this creates a culture within which people can perpetrate violence, including domestic and family violence, against Indigenous women

²⁰ Audra Simpson (2014) *Mohawk Interruptus : Political Life across the Borders of Settler States*, Duke University Press.

²¹ Hannah McGlade, “Raising Black Women’s Voices,” *The Saturday Paper*, 2018, <https://www.thesaturdaypaper.com.au/opinion/topic/2018/12/08/raising-black-womens-voices/15441876007247#hrd>.

²² Ibid.

²³ Black and White Witness (Winter 2019) Amy McQuire, *Meanjin* <<https://meanjin.com.au/essays/black-and-white-witness/>>

²⁴ David B. MacDonald (2021) Settler silencing and the killing of Colten Boushie: naturalizing colonialism in the trial of Gerald Stanley, *Settler Colonial Studies*, 11:1, 1-20, DOI: [10.1080/2201473X.2020.1841505](https://doi.org/10.1080/2201473X.2020.1841505)

²⁵ Ibid.

²⁶ Amy McQuire (2022) *Disappearing Aboriginal women: speaking back to silences* [unpublished thesis] University of Queensland, p.18

and know that they are safe from consequences. This the fundamental reason that Indigenous people experience all forms of violence in the way that they do.

By overpolicing Indigenous women as perpetrators, and underpolicing them as victims, the police are directly responsible for creating the culture of impunity which produces the unacceptably high levels of violence towards Indigenous women and which disappears MMIW. Brutal and uncaring police responses to Indigenous MMIW are the product of intersecting racial and gendered stereotypes. They create a uniquely violent reality for Indigenous women, girls and gender diverse people in this place. These women are positioned as unworthy of full humanity, as sexually violable and often as perpetrators rather than victims of violence. This means they bear the brunt of police violence, and of other forms of violence which police ignore or validate. The result is a culture of fear for Indigenous women, girls and gender diverse people, and a culture of impunity for those perpetrating violence against them.

There is therefore a practice of solidarity between state agencies and individual perpetrators of violence towards Aboriginal and Torres Strait Islander women. Individual perpetrators can only act in the ways that they do because there is a long-standing practice of state agencies disregarding their actions.

There are a range of racialised stereotypes which facilitate and legitimize this inaction. One that is particularly important in the context of MMIW is the trope that Aboriginal people are 'destined to disappear' or 'destined to die'. Being historically perceived as less than human, and as part of the natural landscape rather than human society, First Nations people have been framed as likely to 'go walkabout', 'run off', 'disappear into the bush' and 'run into the hills.'²⁷ This was often the explanation given for the disappearance of Indigenous peoples after violent dispersals, individual murders and removal to missions.²⁸ The trope of Indigenous peoples as 'destined to disappear' as a natural result of their encounter with the 'modern world', without intent or action by white perpetrators, legitimises dispossession.²⁹ White society is seen as blameless and even as seeking to hold off this inevitable disappearance for as long as possible by protecting Aboriginal people. The 'disappearing Aboriginal person' stereotype can be seen in contemporary framings of Aboriginal people as dysfunctional, addicted, traumatised, suicidal, culturally lost, unproductive and responsible for their own deaths. Its continued currency means it is still used as an alibi for white violence.

In 2011 Lynette Daley's killers initially told police that she had 'walked into the sea' of her own volition, and in Canada the parents of a missing 18-year-old Indigenous woman were told without justification "oh, give her a week. She's on a drunk" and no police report was filed. The view that 'they do that sort of thing' is often accepted as fact.³⁰ These stereotypes remain powerful today and facilitate the crisis of Missing and Murdered Indigenous Women by suggesting it is natural, inevitable or self-chosen for Aboriginal and Torres Strait Islander women to disappear. This legitimises violence and police inaction. The Canadian

²⁷ For example, in the Australian Geographic magazine *Walkabout* (published from 1934 to 1974), the 'timeless interior' of the continent is presented as synonymous with "Aboriginal people as "primitives" existing in isolated pockets and facing cultural or biological extinction. They were either to slip quietly into the black past or be absorbed into the white future" Glen Ross 'The fantastic face of the continent: the Australian Geographical *Walkabout* magazine' (1999) 32(1), *Southern Review* (Adelaide), pp.27–41.

²⁸ Liz Conor, *Skin Deep* (University of Western Australia Press, 2016) p.14.

²⁹ "Barbarians must give way to civilized men. Wherever the whites choose to settle upon the domains of coloured tribes, the latter must resign their ancestral possessions, and if they cannot lose themselves amongst the invaders, must retire or perish beneath their onward march. But if the whites become the instruments of fate, they are bound to perform their mission with tenderness, and to postpone as long as they can the inevitable conclusion". *Argus Newspaper* 1860 quoted in Liz Conor 'A Species of Rough Gallantry', *Settler Colonial Studies* 3:1, pp6-26.

³⁰ *Reclaiming Power and Place: Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Volume 1a* (2019), p649.

Inquiry found “dismissal, contempt, and out-right discrimination, in which police evoke racist stereotypes about Indigenous people as drunks, runaways, or prostitutes” contributed to poor investigative practices by police and a culture of impunity regarding violence towards Aboriginal women.³¹

The Canadian Inquiry noted the consequences of this behaviour for Aboriginal women and girls:

“Police apathy in cases involving violence against women and girls – or violence against certain groups of women and girls – sends the message that such behavior is accepted and will carry no consequences for perpetrators. It may, in effect, encourage the targeting of certain groups for violence.”³²

Hierarchies of Disappearance

The crisis of murdered not missing Indigenous women girls and gender diverse people must therefore be understood as a form of racial violence. In explicitly identifying this racial violence, we also return the perpetrators of this violence to the story. They must be no longer allowed to ‘go missing’. Individual men, police, state agents and uncaring bystanders are perpetrators who need to be held to account to disrupt the culture of impunity that creates this violence.

Ultimately, the disappearing of Indigenous women can only be understood within the broader structure of settler colonialism that aims to ‘disappear’ First Nations peoples in order to occupy their lands and claim political authority. The various practices of violence, inaction and stereotype that we have noted in this submission are not isolated incidences – they congeal into the structure of white supremacy which justifies and enacts Australian settler colonialism. A key part of this white supremacist structure is the erasing of Indigenous sovereignty in this place, on the grounds of racialised stories of Indigenous deficit and primitiveness. The silencing of First Nations women’s voices who speak about the violence they experience is part of this erasure.

The ultimate missing perpetrator in the crisis of MMIW is white supremacy itself. In order to shift the conditions that produce the structure of disappearance, an explicitly anti-racist approach is needed. Such an anti-racist approach must be grounded in Indigenous sovereignty and led by Indigenous peoples – who already consistently speak out and fight for racial justice. Foregrounding sovereignty contests the foundational racial violence in this place – the denial of legitimate Indigenous existence and authority here.

As part of this approach, and to disrupt the erasure of MMIW and contest racialised framings of the women who are ostensibly at the heart of this inquiry, we propose a method of presencing. Based on the work of Amy McQuire, presencing refuses the dehumanisation of Indigenous women, girls and gender diverse people that occurs when they are disappeared from their lives, and again when they are disappeared in media, court and state processes.

³¹ Reclaiming Power and Place: Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Volume 1a (2019), pp648-649.

³² Ibid.

It does not simply seek these women's 'humanisation', though it always insists on their equal humanity. A society structured in racial dominance/supremacy must necessarily have an 'other' against which it measures itself. To do so it insists on biological and cultural hierarchies - the status, privileges and associated impunity conferred by this supremacy compensate for the social alienation it generates. Practices of humanisation too easily rely on showing that MMIW are 'just like' and therefore just as worthy and valuable as, white women. It does not disrupt the structures of racial dominance themselves.

Conclusion/Recommendations

In this submission, we argue that missing and murdered Indigenous women, girls and gender diverse people (MMIW) are never actually 'missing'. Aboriginal and Torres Strait Islander women do not just vanish from their homes, families and Country. In fact, they are forcibly disappeared.

The threshold for the state naming these women as murdered and holding individual perpetrators to account for their violent deaths is almost impossibly high in this place. Yet in this submission we do name all these women as murdered – they are violently disappeared by individuals operating within the structures of racial violence in the colony.

The very fact that Indigenous women are not found – rendered missing rather than murdered – means that there is never accountability for violence against Indigenous women. In actual fact, **what is missing are the white male perpetrators of this violence, whether they be strangers on the street or agents of the state.** It is the invisibility of such perpetrators that renders them innocent and this dynamic is particularly intense when it comes to state actors such as police. The erasure of the perpetrators thus allows inquiries such as this to frame the state as the potential solution to this problem, rather than its central cause.

In turn, in dominant discourses of MMIW the culture of Aboriginality is made hyper visible, but only as a racialised imagining which sees Aboriginal communities always and only constructed as violent and as the cause of the problem. We reject this also, **identifying Aboriginal families and communities as the site of love, care and justice who never stop seeking to bring disappeared Indigenous women home to their Country.**

This fundamentally flawed set of assumptions are given life in the very terms of reference of this senate inquiry. This dynamic is not a unique feature of this particular inquiry, but part of the inquiry process itself in the colony. **State inquiries here track violence but do not intervene in it** – as is seen in the repeated contemporaneous inquiries into the mass killings by the 'Native Mounted Police' who operated in Queensland for decades.³³ All of these inquiries, while ostensibly expressing concern over the violence, either took no action to stop the Mounted Police or directly resulted in an increase of the force's power and resources.

³³ See discussion in ICRR, Expert report commissioned by the Independent Commission of Inquiry into Queensland Police Service responses to family and domestic violence, 2022
<https://static1.squarespace.com/static/5fd158df412849720ce27cbd/t/632a6ae464da4c16ca759e98/1663724263454/QPS+Inquiry+Expert+Report+Final+25.8.pdf>

We can observe this potential dynamic in the chronology of this inquiry's terms of reference which commence with the **enumeration of death and disappearance of Aboriginal woman, with white perpetrators still missing, and Aboriginal women rendered as 'vulnerable'**. The ToR concludes with the question of **how to honour their deaths, rather than with a call for action and accountability**. MMIW are once again framed as irrevocably disappeared: 'to be commemorated'. We note that the ToR presumes an innocence of the state in relation to the violence Aboriginal and Torres Strait Islander women experience, framing the state as both strategy and solution.

What is missing in the Terms of Reference is any explicit reference to the unique form of racialized and gendered violence that Aboriginal and Torres Strait Islander women are subject to in a settler colonial context. This is ironic given the influence of the Canadian inquiry, the report of which explicitly names Indigenous femicide as a form of racial and colonial genocide. We note that the Australian inquiry takes much of the language of its ToR directly from that of the Canadian inquiry, in a much abbreviated form and without the careful community based work to build the ToR and without the extensive focus on community informed and trauma based practice.³⁴ Instead of starting with a statement about the national tragedy of MMIW and the commitment to ending all forms of violence against Indigenous women and girls, the Australian ToR move straight to quantification of MMIW.

This inquiry flags a 'vulnerability' of Aboriginal women and children to violence made possible via 'underlying social, economic, cultural, institutional and historical causes'. **There is a very real danger in the way in which this well-worn discourse of Black vulnerability is used to distract from the real issue – the violence of white supremacy.** This is a risk also present in the Canadian terms of reference from which the Australian language was taken, but one somewhat mitigated in that context by the extensive focus on community control and centring of families in their ToR and the process of the Inquiry.

This language of Aboriginal female vulnerability (when used in the absence of its relation to white male perpetrators or structures of racial violence) has long been deployed to reinscribe racial hierarchies and reinforce the authority of the state. The Northern Territory Emergency Response used the discourse of 'protecting Aboriginal women and children from violence', and the positioning of Aboriginal women as abject victims of Black male violence, to rationalise greater control over the lives of Aboriginal people. There is always a danger that solutions to addressing violence further authorise state control over the lives of Aboriginal women without offering any actual protection.

This inquiry has the opportunity to break the following cycle: apparent concern for violence experienced by Black women, extension of state authority in the name of protecting these women, increased surveillance and control over these women's lives, and a subsequent intensification of the violence that was ostensibly the subject of concern. It can do this if it centres the voices of Black women and recognises the racial violence they experience at the hands of the state.

Presencing returns these women to the fullness of their identities, relationships, Country and sovereignty on their own terms. It refuses to look away from the reality of the violence they have experienced, or from

³⁴ The Government of Canada worked diligently during the [pre-inquiry design process](#) to ensure the recommendations from survivors, families, loved ones and grassroots women's organizations, National Indigenous Organizations, as well as provinces and territories, are reflected in the commission's mandate. Through 18 pre-inquiry design meetings with over 2100 participants and over 4100 online survey submissions, the government ensured the voices of families and survivors were heard to ensure the inquiry would honour the spirits and memories of those we have lost and to protect future generations.

those who committed this violence – but it never reduces Black women to their victimisation. A ‘presencing’ approach insists not just on an equal humanity, but one that does not take as its basis a hierarchy through which it understands itself. In this sense, it is more humane.

This methodology requires that we do not move straight to ‘commemorating’ Indigenous women as if there is nothing to be done about their murders; **instead it demands action and seeks justice**. Presencing focuses on the families left behind, who have never stopped looking for and speaking out on behalf of their loved ones.

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