



Webinar: Pathways to Indigenous Health - *Why some trees keep their leaves:
Considerations for Indigenous community safety and well-being*

This webinar examines two key aspects of community well-being - housing and community safety. Dr. Stark considers housing as a human right and treaty right examining Indigenous legal orders in relation to housing and discussing Indigenous jurisdiction regarding housing, encampments, and policy making. In calling for a move towards ontologies of care, Dr. Stark then turns her focus to Indigenous law and responses to concerns about community safety, with a focus on using Band Council Resolutions to carry out the banishment of members and non-members who are threatening community well-being. She asks what it means to take up ontologies of care and obligations in these complicated contexts.

Presenter



Dr. Heidi Kiiwetinepinesiik Stark is a Turtle Mountain Anishinaabekwe and an Associate Professor in the Indigenous Governance Program at the University of Victoria. She is the Director of the Centre for Indigenous Research and Community-Led Engagement (CIRCLE) and holds a PhD in American Studies from the University of Minnesota.

Her research interests include Indigenous law and governance, Treaty rights, and Indigenous politics in the United States and Canada.

Transcript

Dr. Sarah de Leeuw: Hi everyone from coast to coast to coast, on whatever traditional unceded territory you may be on in so-called Canada, and anyone from around the world, everyone – wherever we may be – who tends to be standing on Indigenous territory. So, I just want to thank you, each and everyone of you, for taking time today to join us on this really exciting webinar – I’m very excited about it – “Why some trees keep their leaves: Considerations for Indigenous community safety and well-being,” with our keynote today, Kiiwetinepinesiik Dr. Heidi Stark. A quick note to say that I’ll be moderating this, I think, impactful and informative webinar today.

My name is Sarah de Leeuw. I divide my time between Tleidli T’enneh Territory and Syilx Territory of the nsyilxcən peoples, nsyilxcən speaking people down here in the southern geographies of so-called British Columbia. I’m excited about joining this webinar virtually. I grew up and have spent my entire life, really, on the unceded territories of British Columbia – growing up with a Dutch father and an Irish Canadian mother, growing up on Haida Gwaii and finishing high school in Tsimshian territories, where I’ve been working as a feminist, anti-colonial scholar and activist in efforts to confront white supremacy, which I know is going to be a part of today’s conversation.

Next slide, Sarah, if you don’t mind, and a quick thanks to the folks behind the scenes, including Sarah, who is advancing slides – Sarah, if you want to flip over to the next slide – and Lesa, who has done so much work behind the scenes with the NCCIH to bring us these webinar series. Thanks again, Sarah and Lesa.

For those of you who are not familiar with the NCCIH (National Collaborating Centre for Indigenous Health), we’re one of six national Collaborating Centers for public health that was established in 2005. We’re funded by the Public Health Agency of Canada, and our sister NCC’s are focused on specific topic areas including infectious disease, environmental health, public health policies, determinants of health, and methods and tools for knowledge translation. Our NCCIH for Indigenous Health is the only NCC focused on the health of a population. We support health equity for First Nations, Inuit and Métis people. We promote the use of Indigenous-informed evidence to transform practice, policy, and program decision-making works across all sectors of public health. Hence the kinds of work that we are focused on today.

The NCCIH, the National Collaborating Center for Indigenous Health, is located at the University of Northern British Columbia's Prince George Campus, which is situated on the unceded traditional stolen territory of the Lheidli T'enneh First Nations, who are part of the Dakelh (Carrier) peoples' territory. Next slide, Sarah, if you don't mind.

Just a quick few webinar housekeeping notes, and thanks again for all of you who have joined and are returned joiners, to this webinar series. It's a beautiful thing that each and every one of you are taking time out of your busy days to join this webinar. All questions for panelists, as well as any technical issues, can be submitted in the Q&A window. Links to resources mentioned by the speakers are going to be posted in the chat window. Today's webinar, as you will have noted when you came in and noted on your screen, is being recorded, and we'll then make it available on the NCCIH website. So, if there's things that you want to return to, questions that you think were answered, or information that you want to reflect on, just go to the NCCIH webinar, give us a few weeks to kind of tidy everything up, but it will be available. And there may be brief pauses when we switch between presenters, so don't worry, we haven't glitched out too, too badly.

With that in mind - next slide, Sarah. We also want to say that many of the topics that are covered in NCCIH webinars can be difficult topics. Let's be clear, colonial violence is a violence, and it can be difficult to speak about and to learn about, particularly for people who embody the realities about which are being spoken. So, I just want to say from the bottom of my heart if any of what you're about to learn about and be in dialogue with today is triggering for you, please let us know or take note now of the resources on the screen, and honestly, don't feel shy. Don't feel shy to reach out to supports that might be good.

Next slide please, Sarah. Yeah, it's hard for me to put entirely into words, as sometimes happens for those of us asked to introduce incredibly inspirational thinkers and speakers, to say what a genuine honour, honestly a delight, to join you all today in learning from Kiiwetinepinesiik Dr. Heidi Stark. I am a deep admirer of Dr. Stark's work. We have friends, and activists, and scholars in common who I also know think the world of Dr. Stark's work. Dr. Stark is a Turtle Mountain Anishinaabekwe Associate Professor in the Indigenous Governance Program at the University of Victoria. She's the Director of the Center for Indigenous Research and Community-Led Engagement (CIRCLE). Please do look it up online. Amazing resources, amazing people, and amazing work. Dr. Stark holds a PhD in American Studies from the University of Minnesota and her research work include Indigenous law and governance, Treaty rights, and Indigenous politics in the United States and Canada. Next slide, please.

With those layers of expertise and wisdom, today's webinar will examine two aspects of community well-being: housing and community safety. In the first part of her talk, Dr. Stark

considers housing as a human right and as a Treaty right. In doing so, she examines Indigenous legal orders in relation to housing, as well as discusses Indigenous jurisdiction regarding housing, encampments, and policy making. Dr. Stark calls for expanding Indigenous jurisdiction beyond the duty to consult, arguing instead for ontologies of care and obligations. In this calling for a move toward ontologies of care, Dr. Stark then turns her focus to Indigenous law and responses to concerns about community safety, with a focus on using Band Council Resolutions to carry out the banishment of members and non-members who are threatening community well-being. Indeed, Dr. Stark's talk today fundamentally asks what it means to take up ontologies of care and obligations in these complicated contexts. Next slide please, Sarah.

We are going to now turn it over to Dr. Stark. I am, again, delighted and honored to be witness to what you're about to offer us today. Heidi, thanks so much for presenting with the NCCIH. Sarah, please feel free to take the slides down and we will pass everything to Dr. Stark. Heidi, welcome and thank you so much.

Dr. Heidi Kiiwetinepinesiik Stark: Miigwetch Sarah, thank you for that generous and kind introduction. [Indigenous language used], or depending what time zone you're in, [Indigenous language used]. [Indigenous language used]. So good morning, or good afternoon to everyone. I just want to begin by acknowledging the Songhees and Esquimalt people, the ləkʷəŋən (Lekwungen) speaking people of these territories where I both live and work. I also want to acknowledge the Saanich people who also hold a relationship to these lands.

So, my name is Heidi or Kiiwetinepinesiik, or Kiiwetine for short. As Sarah mentioned, I'm Anishinaabekwe. My family comes from Turtle Mountain, which is in North Dakota, and I grew up largely off-reserve. I'm from the Lynx Clan and, as Sarah also mentioned, I'm currently an Associate Professor here at UVic (University of Victoria), in the School of Indigenous Governance.

So, I'm really grateful for this opportunity to be with you today and I just want to thank both of the Sarahs and Lesa for all the work that they put into making this presentation opportunity available to me. And of course, I want to thank all of you who have tuned in, and hope that I can really make this worth your time. I'm really looking forward to hearing from you some of your own thoughts and reflections, as this is kind of newer work I've been thinking about in relation to Anishinaabe law and our own kind of context around ontologies of care, and responsibility, and obligations to one another. So, with that in mind, I want to begin with a story. And the version I'll be telling today comes from a collection by Mary Siisip Geniusz, which her daughter edited, Makoons, and it's called "Plants Have So

Much to Give Us, All We Have to Do Is Ask.” So, there are many Anishinaabe stories in this book that may be of interest to some of you. The one I want to start with today is called, “Why some trees keep their leaves when others do not?”

So, one time there was once this little bird, a bineshihn who had a serious problem. This little bird had been blown off a tree branch and broke its wing. He huddled in pain and feared through the night, and was most happy to see the sun rising the next morning. He heaved a great sigh of relief and tried to stretch his wings to fly off to find his family, but his wing would not work. The little bineshihn sat for some time, pondering his problem and then decided to make the best of things until his wing was strong again. He found that he could still hop very well, so he could get around enough to find his meals and cold drinks, take cool drinks of water in the stream. By day, he sat on a low branch and watched as his friends and family took short, then long, then longer flights around the clearing, preparing for their coming trip to the South Land. The little bineshihn tried not to worry and he sang his best songs to cheer his family and himself. But as fall came, the days were shorter and colder. His family and friends stayed as long as they dared, but in the end, they had to call to that little bineshihn, wishing him well and promising to see him when it was spring again. They took to the air and soon that little bineshihn was alone. For a time, he felt very sad and almost too frightened to do anything. He had never been alone before. He tried not to think about it too long. He tried not to think about the long, hard winter that was to come. His kind had always left the North Land at this time of year and did not return until the warm breezes came again.

After a while though, the little bineshihn said to himself, “Well, I’m alone now for a time, but I can still sing a cheery song, and I can still hop about, and I can still take care of myself. My family would not want me to lose heart.” So that little bineshihn tucked his broken wing close to his body and went about his daily, busy, little life as best as he could. After a while, he found that it was really not so bad. He found ways of doing the things he had done before when he had the use of both wings. It might take him longer to find his supper and a place to sleep, but if he tried, he found he could do rather well in the cool days during fall. But then winter came. The days grew even shorter and the sun seemed far away. That north wind, giwedim, wore down upon the lands and the first snow swirled about that little bineshihn as he hopped around his daily journeys. That north wind blew and blew, and that little bineshihn huffed his feathers up so that he would not be so cold. He hopped across the clearing, hoping to find help.

“Oh, beautiful, a glossy, mitig. Beautiful Birch Tree,” said that little bineshihn. “I have a broken wing and I could not go with my family when they left for the South Land. Could I shelter in your beautiful white limbs and hide myself in your leaves, so I will not be cold

when the north wind blows?” “No,” said that wiigwaas mitig with a disdainful toss of his leaves. “We in the forest have our own winter birds whom we must foster this time of year. I, for one, do my part. But I'm not interested in taking care of any other bineshiinh who should have flown away by now. Be off with you.”

“Wow,” thought that little bineshiinh, “that wiigwaas mitig does not seem very friendly. Perhaps he just has such weak branches that he's afraid the weight of another bineshiinh may be too much when giowedin starts to blow again. I'll just go ask that Oak Tree, mitigomizh, for help. He's such a strong wood. Surely, he'll be able to help me.”

So, that little bineshiinh hopped over to that oak tree and asked him for help. He asked if he could hide in the leaves close to the trunk of that mighty, mighty oak, but the oak said, “Winter is a long time. You would get hungry and eat all of my acorns if I allowed you to shelter here. It is all I can do to feed the ajidamoo, the red squirrels as well, and those little chipmunks. “Be off with you.”

“Wow,” that little bineshiinh thought, “perhaps that oak tree is a little crowded. Maybe the Butternut Tree will help me.” So, he hopped over to that butternut tree and asked him if he could shelter there until spring. But that had butternut tree huffed. “Isn't it bad enough that the Anishinaabe and those bears are pawing through my branches and stealing all my nuts? Must I be bothered by another beggar as well? Off with you. Hop South if you cannot fly, just leave me alone.”

“Well,” thought that little bineshiinh, “I suppose it must be tiring to have people always bothering you for your tasty nuts. Hmm. Maybe the Willow will help me.” Well, that willow just said, “Get out of here. I don't talk to strangers and you are a stranger. We have never met.”

Wow. Clearly, bineshiinh was just stunned by that response, as that willow said, “Is it possible that some lesser tree might not mind a strange bird hopping on its branches, but I certainly do. Go away.” So that little bineshiinh just hung his head and hid under the one good wing he had.

Such a lack of hospitality. The disrespect and humiliation hurt even more than the pain of his broken wing. He looked forward to the coming of the north wind, when he knew he would just get drowsy and slip into the last, long sleep if he could not find shelter. In his pain, he almost thought it might be better. “But no,” he thought, “my family expects me to be brave. If no one can help me, I have to help myself. Maybe I should just start hopping and maybe I will get to the South Land before giowedin blows again.”

As that little bineshiinh started hopping south, he heard a friendly voice call. “Little brother. Little brother, come here. Come over here. You may live in my branches all during winter, if you choose. I have lots of room. If your wing is too sore for you to follow your kind to the South Land, it's time for the trees to offer their assistance.” That little bineshiinh hopped gratefully into the low branches of that Spruce Tree and huddled close to her warm foliage.

“Indeed,” said the deep, booming voice of the tall White Pine, “I can help shelter both of you when the cold winds blow.” And then the giizhik, the Cedar Tree, also said, “I can offer my cones for your food.” Safe in the branches of his new friends, that little bineshiinh settled down to wait out winter.

As giiwedin, the North Wind came down upon the forest glade, the little bineshiinh was snug and sheltered again. Giiwedin raged over the forest, heaped snow into deep piles, and then arranged them and rearranged them to suit his fancy. As he blew, giiwedin asked [Gitche Manitou] if he could have all the leaves of the trees as he passed. “No,” said [Gitche Manitou], “you may have the leaves of that cedar or you may have the leaves of the birch. You may have the leaves of the oak, and the butternut, and the willow, but leave those leaves to the spruce, the white pine, and the cedar, who have taken care of that little bineshiinh with the broken wing. You may not have their leaves. They shall keep their leaves forever when you blow over the land.”

So, when I think of that story, I often think about this question of what does Anishinaabe, you know if we think of Anishinaabe stories as our laws, what do our laws tell us about both our ontologies of care, which Sherry Pasternak has described as our kind of, sense of, Anishnaabe worldview around how we care for one another. But also, what does our Anishinaabe stories tell us about Anishinaabe obligations and responsibilities to care for others? And in this story, I can't help but think about the correlations between that little bird and many of our relatives who find themselves without housing.

And so, I want to think through this story to think about, you know, how do we understand the need for housing or shelter as a human right? Also, a Treaty right? As we know, our ancestors negotiated many of these treaties with our long-term good health and interest in mind. And what is our responsibilities and obligations to ensure that we carry out these ontologies of care? So, when I reflect on this story, I can't help but bring up – I have more questions than answers, so here's some of the questions that come to mind for me. What does it mean that the little bird in this story is first blown off a tree branch and his wing is broken in that process? Is there a particular kind of duty of care or obligation that is held by either that wind that blew him off the branch or the branch that failed to provide the secure

protection for that little bird in the first place, producing the harm that would then lead to his own kind of precarity around housing, and ultimately lead to his homelessness?

Also, what does it mean that we must try to help ourselves? And indeed, in many moments in this story we hear this little bird kind of trying to build up their own kind of will to live, their will to go on, by reminding themselves of their own accountability and obligations to try to help themselves, and in many ways, that becomes the motivating agent for that little bird in these very difficult and trying times. What also does it mean for these different animals, sorry – these different trees – to have refused shelter, and indeed the bird offers a very generous interpretation of why these different trees might not be able to provide care. We see that first with the birch tree, where the birch tree expresses concern about its own ability, her or his own ability, to provide care for those whom the birch tree already has a responsibility to, if that birch allows another bird to come in and shelter. Which to me raises these important questions about what does capacity, our own capacities to help others, how does that shape how we might think about ontologies of care, and a kind of duty of care, or responsibility of care to others.

We see that that little bineshiinh recognizes that perhaps that birch tree can't handle the weight of another bird on its branches and may be too weak to care for the bineshiinh, and so that bineshiinh turns to the oak, but the oak tree recognizes that with the request for housing comes also a kind of responsibility to provide food. And so, you see a connection between housing and subsistence that occurs in that part of the story where the oak becomes concerned that if the oak is to house the bineshiinh, the oak tree would also have a responsibility – a correlating duty, if you would – to feed that little bineshiinh, and recognizes that they're already feeding many of the squirrels and concerned about their ability to bring additional care to others.

The butternut tree seems mostly just irritated at those pesky Anishinaabek for already eating so many of their delicious nuts, and the bears for the same. And so, we don't know within the story whether we're hearing about the kinds of frustrations that people might feel when they're feeling taxed or if we're just learning about some of the different kinds of emotions that go through entities who are leaned on for supports.

The willow is completely closed off to even hearing anything the bineshiinh has to say and is like, you know, essentially argues they refuse to talk to strangers, but in the process is kind of putting their arms up in a kind of closed off manner that's about closing off relationship building, right? To say, "If I am not already in relationship with you, I am not interested in extending any kind of practice that would enable us to come into relationship."

But we see that it is the spruce, the white pine, and the cedar who work collaboratively to ensure that the spruce alone is not left to bear the full burden and weight of caring for that little bineshiinh. They work together to meet the needs of the bineshiinh, and as a result of their generosity, their kind of hospitality and willingness to extend acts of care to that little bineshiinh, the Creator looks down upon what they've done and refuses to let that north wind take their leaves. And so, each winter, often when our Nations come into moments of hardship, as those winter days become dark and cold, and our own ability to access some of our own resources become more and more bare, those trees that have kept their leaves, that spruce, that white pine, and that cedar, serve to remind us of the importance of providing care for others in times of need.

And so, here I'm really interested in thinking about, you know, how do we think again about housing as a human right? The 2019 National Housing Strategy Act recognizes housing as a human right – although Canada has not as moved as far in terms of recognizing housing in terms of Treaty rights – but through the National Housing Strategy Act, recognizes the need to realign policies and programs towards this perspective of housing as a human right. Yet too often, this commitment has failed to take up Indigenous jurisdiction and decision-making authority when it comes to addressing the issues around housing precarity and homelessness in many cities and areas. And so too often, provinces and the federal government fail to look to Indigenous legal traditions to think about what our own responsibilities and commitments must be to our fellow humans.

So, this not only brings up a question of what is our right to housing, but more importantly, focuses instead on what are our obligations to ensure that others are sheltered. And here I want to think about one specific case study following the pandemic and the rise of homelessness that we saw in many cities. We saw in the City of Victoria a significant increase in the amount of people who were unhoused in the – I mean, I'm just going to say during the pandemic – some would say in the wake of, or following, the pandemic, because at this point the City of Victoria had decided, or had already recognized in their view, that they had met the housing needs of those who were unhoused. And so, in that move, decided to stop allowing 24-hour encampments. And so, obviously prior to their ability to make housing options available, the City of Victoria was obligated to enable individuals to shelter in parks because of the lack of adequate housing in cities. And so, in 2020 then, we see many, many people were still sheltering in parks, and specifically in Míqən, or Beacon Hill Park, in Victoria.

So, for anyone who has been in Victoria and been to Beacon Hill, it's this large park in the middle of the city that many think is pristine and beautiful and natural, and they want to ensure that it's preserved in many ways. But actually, Míqən is now situated as a trust. So,

it's interesting in that it's different from some other parks because Míqən was initially the ləkʷəŋən speaking people. So Esquimalt and Songhees folks were essentially dispossessed of this territory by the Hudson Bay Company in 1843, when they established for Fort Victoria. And then in 1882, this land was essentially transferred to the City of Victoria and established as a trust. And so, in that establishment as a trust, the land was essentially said to be set for the public use and recreation.

So, the park is the largest park in Victoria, covering approximately 183 acres, and is the city's primary feature park. Again, including what they say is natural areas, many of which are environmentally sensitive, culturally sensitive, manicured green space, horticultural areas, two sports fields, a golf putting green, a baseball diamond, a cricket pitch, a lawn bowling pitch, outdoor fitness equipment, tennis courts, two playgrounds, and water parks – well, they say spray parks, so little water pads. As well, there's a children's petting zoo, music performance stage, maintenance, yard pathways and roadways, artificial ponds, sculptures and monuments, and a story pool.

So, since it was transferred to the city in 1882, the park's been used for a range of purposes which, for example, have included cattle grazing, digging gravel pits and the like, continued after the settlement of the trust. There were various camping expeditions, with the Boy Scouts camping there in 1913. During the 1970s, the park was used as a campground with limited opposition from the city, and five acres of the park were used during World War One to house and train soldiers, with at least 20 structures being built for this purpose by the time they were dismantled in 1917. And then Beacon Hill Park Nursery was established in 1909, and it supplied plants for city parks and boulevards, and also generated revenue through commercial sales that would take place until the 1930s. And so, there is also been some festivals, but there's been lots of concern around the use of the park.

So, on March 18th, 2020, the province declared a state of emergency in response to the COVID-19 pandemic, which led local shelters and social service providers to either suspend their services or dramatically downsize such services to prevent the spread of COVID. This resulted in numbers of persons who were homeless and sheltering in public parks to increase from approximately 24 to 35 shelters before March of 2020, to 465 by April of 2020.

So, this phrase for the use, recreation and enjoyment of the public is one of the concerns that was brought forward. So, in the trust, Míqən, essentially Beacon Hill Park, is framed as being for the use, recreation, and enjoyment of the public. And so, [an] organization brought a claim forward to the City of Victoria, saying that it was violating its trust because the park should not be used to shelter unhoused individuals because that was a violation of the use, recreation, and enjoyment of the public. And, essentially the court did find that

the trust does not permit the park to be used for temporary sheltering by people experiencing homelessness, and that such activities by members of the public is contrary to the purpose of the trust. And so, I reflect on this particular moment, both because of the fact that at the time that the park was being used for shelter, there was lots of volunteer efforts taking place to ensure that duties of care and obligation were being met for those who were living in the park. So, numerous volunteers had put up fixed showers, which became part of the concern because fixed showers were significantly more cost effective and cheaper than mobile showers. They were also ensuring that a number of wrap-around services were being provided to folks sheltering in the park.

But essentially, those efforts were easily dismantled by one society bringing concern to the court that the trust was somehow in violation. And during this time, at no point was there concern given to Indigenous jurisdiction or political authority over this territory, with little attention being given to bringing in individuals from the local territories to speak to the proper use of the land. And indeed, there are a number of culturally sensitive areas within the park that the local Nations have really struggled to try to protect and be able to carry their authority over. And so, this is one moment in which I think we see a real contradiction at work in Canadian law, where we can recognize housing as a human right and yet we'll take up questions within the court around these particular moments, in which folks are encamped and trying to secure shelter, that will turn to these very narrow kinds of notions around the obligation to protect and preserve parks for the public good. In many ways, I think this example brings into question who constitutes the public and what that good is. There's a PhD student here at Uvic who's doing really great work, Kaylin, all around this specific case, and the issue of encampments in Míqən.

So, I wanted to raise that, and then I want to, you know, I know I've taken a lot of time, so just spend a few more minutes talking about another kind of area of concern for how we think about, you know, how do we enact ontologies of care, duties of care, how do we ensure that our communities are safe, but that we're also ensuring the well-being of individuals. Another case, in which I think we see this happening, is the ways in which many First Nations and Indigenous Nations, in the US as well, have been stripped of our political authority in ways that then limit our abilities to restore and revitalize our legal traditions that can give rise to these ontologies of care.

And so, for example, many Nations have struggled with addressing the issues that arise from addictions, with particular concern being given to the impacts that come into communities when you have active drug dealers in the community, as well as how communities should respond to extreme violent offenders, such as gang members. And so, a number of Nations have turned to the kind of historic cultural practice of banishment

as a way to carry out a duty of care for the community. And so, a number of Nations have, in the kind of wake of having processes that enable Nations to carry out practices that might mitigate harm in earlier stages, we often have to turn to these extreme practices like banishment.

But I was really interested in – one of the things I'm really interested in thinking about is how do we restore those practices that can mitigate harm before we have to take extreme actions such as banishment? And so, there have been some challenges against Indigenous Nations around the use of banishment. Some people have framed banishment as an extreme form of incarceration that essentially creates like the entire world as the prison, but the reserve is the place you cannot go. And, of course many have critiqued banishment for the ways in which this practice in the present merely pushes harmful offenders into other communities, whereas historically in practice, it would have largely resulted in the death of those who were banished in their own struggles to survive in a precarious world that was really dependent on relations with others.

But in 2012, an Ojibwe man who is banished from the Mille Lacs Band of Ojibways in Minnesota, also raised questions around the kinds of constitutionality of banishment. And so here he wanted to question whether or not the Mille Lacs were violating their own laws. And so, the Court of Appeals addressed the constitutionality of the – and here they're talking about Mille Lacs constitution, not the US – but the Court of Appeals addressed the constitutionality of the Band's Exclusion and Removal Ordinance as it applies to a Band member under the Band and the Minnesota Chippewa Tribe's constitution, as well as whether the Ordinance was valid under the Indian Civil Rights Act, which is legislation that protects some of the human rights of Indigenous people from our own Nations. So, the court – and this is a tribal court – utilizing the importance of “maintaining relationships” rationale, held that a heightened standard of removal for Band members applies, "because they possess a unique interest in remaining on the Mille Lacs reservation that non-members may not possess."

And so here the Nation had used banishment to remove non-members a number of times, but were being challenged in their ability to remove their own members, whether or not they had a higher kind of duty of obligation. So, the court remanded the matter back to the lower court to stay the removal petition and the court emphasized then the importance of kinship and community relationships, stating, “It could certainly impair a Band member's right to exercise his religion if he is desirous of learning the traditional ways of the Anishinaabek and his access to the patrimony necessary for practicing these ways, was defeated by his inability to come onto the reservation. The court also believes that a right of a person to live with his child and raise his child, is that type of intimate relationship that

many courts have recognized as being within that core group of persons whom a person has the first amendment right to live with and associate with.”

So, this principle embodying then the importance of maintaining relationships was utilized by the Band as a way to say that one must have a kind of heightened duty of care to their members and cannot banish them without ensuring that they're explicit about the conditions that can lead to banishment. And so, in this case, the court essentially remanded back to the legislative body that they revisit their banishment code to ensure that it's not overly general and vague, and that it's descriptive in its duties and obligations to their members.

And so, it's been over 12-14 years – whatever the math is on 2012 – and the Mille Lacs are still working on their Banishment Code, as they think about and take up these important questions of what are our obligations and duties, not just to the individual, not just to the community well-being, but when we think about community well-being only through a lens of harm, we fail to sometimes see the kinds of harms that could get produced by our responses, right? So, in this case, they were really questioning what the long-term implications of banishment would mean, not only for this individual who would have limited access then to their spiritual traditions and practices, but also to their ability to be in relationship with their relatives, to be in relationship with their children. The case goes on to talk about the ways that the kinds of duties and obligation of this individual to pass on traditions to the children that would be limited by their banishment.

And yet, banishment has also been used in cases where communities are experiencing extreme forms of harm that need to be addressed. And so, much like this question of housing, I think both of these different contexts speak to this important question of what does a duty of care, or what do ontologies of care, tell us about what our responsibilities and obligations are to one another. What are the ways in which we might restore and revitalize our own legal traditions that can help our communities respond to harm and conflict as they occur, while enacting these ontologies of care in response to our fellow relatives?

So, I'll leave it there and open it for the questions.

Dr. Sarah de Leeuw: Heidi, thank you so much. I'll maybe just open by saying what a beautiful, kind, reflective, and creative space you've just opened for the 300 plus people who are joining us from coast to coast to coast and from around the world. It was just a beautiful and resonant, dare I say, deeply caring, kind, consideration of a topic that is not only incredibly timely and pressing and sharp right now, but as you so beautifully kind of

articulated, stunningly, interdigitated with other legal landscapes and histories that produce somewhat conflicting ontologies that need to be looked at.

So, there's been a remarkable number of reflections in the chat, many of which I think focus in some ways on that initial question that you posed. So, a lot of the questions in the chat are talking about things like, you know, what are the larger responsibilities of larger systems – and you moved from your story to a provocation wherein you ask, “What is the responsibility of that first branch that allowed little bineshiinh to fall,” or “what was that responsibility of the larger system?” And I just wondered if you wouldn't mind, for many of the folks in the Q&A session who are asking that, what is these larger systems? What's that branch, and how do we kind of move back to that branch? And then, I think there will be other questions about the trees that said no to little bineshiinh. But can you talk a bit more about that branch, that initial fall?

Dr. Heidi Kiiwetinepinesiik Stark: Yeah, I mean, it's such a great question and one I think of often myself, because I do think it is these systems that need to, you know we see by the end of the story these various trees working together, and when we think about this larger system, it's often... I think in the feeling of working together and thinking through questions around not “what is my right”, but “what is my responsibility and obligation towards others,” that can really dictate how we behave towards one another that attend to and account for our deeply interconnected world.

And so, in that case, I think that first branch, it kind of poses this question of like, did that – we don't know from the story, at least the version that I shared today – we don't know if that branch had made some prior commitment to protect the bineshiinh or if bineshiinh had presumed there would be a kind of commitment to protection. And so, there's this interesting kind of question about who's responsible? Should bineshiinh have known that that branch wasn't sheltered itself enough in ways that could ensure that little bird's protection? One could argue that both the bird and the branch have a kind of accountability or responsibility for the harm that occurred. One could for sure argue that the wind, himself, is likely, you know, deeply responsible, and yet throughout that story, we know that that North Wind is known for that behavior. So, in some ways the North Wind is the one that is causing hardship, is producing harm, and yet we also understand the need of the North Wind, in terms of those kinds of cycles of life change that occur, or seasonal change, right?

And so, this idea of the good person, like the good and the bad, or the villain and the victim, don't work, right? And I think that in many ways, it's that kind of binary and dichotomy that has made it so challenging for us to know how to come to better solutions for these questions around community safety because when we get fixated on who's a victim and

who's a perpetrator, we fail to see the kinds of intersections that are working and we respond only to those things, instead of thinking through the deep kinds of relationships at work.

And so, you know, I think that's what always made me think about wanting to reflect on banishment, which I closed with very briefly, just because I like both understand the concern communities are facing, and feeling the pressure communities are feeling to protect their young, and to protect the vulnerable really, and that they don't have many processes or resources available to ensure protections. And so, sometimes removing a person who is causing harm becomes that only mechanism that one can invoke and yet that's still somebody's child, and somebody's father, or mother, or brother, right? And so, when we fail to think about our relationships and obligations to one another, we tend to produce one-dimensional solutions that often won't get us towards the kinds of communities we want to be. So, I'm really trying to think about how do we get closer to who we want to be as a people, and I think our Anishinaabe stories, at least, constantly tell us, you know, try to push us towards these responsibilities of care and relationality that are about providing for others in need, recognizing that we live in a precarious world, and that our own ability to invoke our own needs in those kinds of moments require us living in a world where everyone gives what they can, right?

So yeah, I'm trying to think about, how do we produce law that's generative, that's not just prohibitive, but instead gets us closer to the kinds of Nations we want to be, the kinds of communities we want to be, the kinds of relatives we want to be to one another?

Dr. Sarah de Leeuw: I'm so moved, and I can tell you that there's a lot of emotion being generated in the Q&A stream that I'm kind of keeping an eye on. I'm moved with the generosity of your vision of sort of a better ethic of care, a better ontology of care. So, the question that I'm about to pose in some ways is in bit of tension with – because, I mean, I'll be transparent here and tell you that as a poet, I'm very biased towards story as an incredible means of moving hearts and minds, but we do have a question in the chat and I think it's an interesting question given that the National Collaborating Centre for Indigenous Health is a SARS responsive originally, health determinants kind of area. One of the questions is about data, which is in some ways somewhat antithetical to, I think, the spirit and the evocations that you're making about stories, about generative kind, future reaching, ontological ways of being. But one of the questions is: How do we ground this in data to possibly – and I'm reading into the question and the observation – to maybe make this even more legible to people who aren't fluent in, dare I say, humanistic kind of story-based ways of knowing. Like, is there a way to make what you're saying legible to

quantitative data works? And that's not meant to be pejorative to any folks online who are data wonks.

Dr. Heidi Kiiwetinepinesiik Stark: Yeah. Well, I mean, I do think there's a lot of work out there that can either be grounded in data but turns to story to make sense of data, and a lot of data that's generated from story. So, I do think these things can work together and they can be incredibly effective, especially in generating policy change. And so, I had mentioned that before we started this webinar, that this particular work around homelessness and housing precarity is part of a bigger project that's thinking about how our communities are responding to harm and conflict. And so, it's really interested in also looking at gender-based violence, specifically in the context of sexual assault and intimate partner violence, as well as looking at the kinds of repercussions that can produce, and family dynamics, that leads to child apprehension. And the numbers, the data in those areas, as well as on how we understand homelessness, has been really important for also making clear a particular kind of story.

So, one thing in some of the data I was looking at to think through homelessness in Victoria, there was a report done in 2020 in the City of Victoria, and so, these numbers are coming based off their respondents, but it comes from the Point in Time Homelessness Count. So, it was a 2020 report in, again, study in Victoria where they found that one in three of the respondents of folks who were homeless at that moment had been children in care, that, you know, we're looking at somewhere around 30-some percent of our homeless population having been kids in care, and that having been a child in care significantly increases one's risk for housing precarity. We have to think about what are those connections, right? That 91% of women who are homeless have also experienced violence in their lives, right? That these are not discrete... there's a reason I'm trying to look at these things together, right, because these are intersecting in ways that require us to take a very intersectional approach to ontologies of care, but to also recognize like what might be the things causing harm. You know, 35% of folks in Victoria who are homeless are Indigenous, despite making up only 5% of the population. Of that 35%, half of that population are Indigenous people to First Nations on Vancouver Island, which tells us that there's a whole lot of things happening.

So, what are the kinds of things those numbers tell us? Well, they tell us that there's already a lot of housing precarity on reserve, that dispossession is one of the major kinds of productions of ... actual dispossession from our territories is one of the reasons we see Indigenous populations being at greater risk for homelessness. In addition to that, we know that there's housing shortages on reserves, that housing is deeply underfunded, that many reserves, many First Nations don't even have enough land to build additional housing, that

there's overcrowding happening. But in addition, because of colonial policies that have deeply impacted our communities, we also need greater services that can address harm and safety concerns happening in communities that are then contributing to people exiting those communities and then being at greater risk for homelessness, right? So, all of those things are... the data can give us those narratives, in some ways, and the narratives can help us understand the data, Like why do we see so many people whose Nations are in this place, still experiencing homelessness? Well, this can help – if we look to them, their stories, like some of these reports in Victoria were really careful to both produce the data as well as include the stories of people's lives, because a lot of it helped ... the narratives they told, not only could it enable us to think through data from a people-centered perspective, but could also help us make sense of why some people don't feel safe accessing particular emergency shelters, why some families are struggling with some of the forms of housing that's being made available, right. So that if we want to think about why a number of people were still in encampments in the parks... because those produced forms of community that carried out obligations and duties of care for one another, that people were not receiving from their so-called social workers or caseworkers. So, you have these communities of care being produced through peer support within parks that people found challenging to reproduce in those kinds of short-term housing solutions that were made available. And so, the stories, when we hear them from people, along with the data can help us think more creatively about what kinds of solutions are needed.

Yeah, I don't know if that answered the question, but I could ramble forever.

Dr. Sarah de Leeuw: Well, it certainly satisfied the question that I posed in terms of my desire for an answer. So, I think it was a thoughtful, expansive and rich answer, like your talk. So, thanks again.

There's another data question, but it'll just be a restatement, if you can offer it, and I'll ask that. But there's a broader question which I think I'll ask you the data question just for the sake of audience - but this is an interesting question. They're linked in some ways, so I'll read them directly.

Dr. Heidi Kiiwetinepinesiik Stark: Mm-hmm.

Dr. Sarah de Leeuw: You talk about how trees function together to share responsibility and expand capacity broadly, but there's sort of a sub question to that, which is, can you talk about how reserves handle homelessness in their communities? So, is there – what's the larger metaphor and story of trees in terms of being in community, or even if it's an issue. The question was posed like, “Is that an issue in and on reserve homelessness?”

But I'll just quickly get you to answer, or just say again, "could you please repeat the percentage of women in homelessness who have suffered violence? And do we know if it's sexual violence?" That's the kind of data wonky specific question, and then moving to that larger metaphorical question of trees – like the integrated nature, and some reflections and contemplations on homelessness in and on reserve.

Dr. Heidi Kiiwetinepinesiik Stark: Yeah. So, I suspect that the rate of violence experienced by women who experience homelessness might look a little different depending on the study. So, the 2020 Point in Time homelessness count figured 91% of women who are homeless have experienced violence. One could speculate that that's probably higher for Indigenous women because we do know from many of the various reports around gender-based violence that Indigenous women experience violence, and specifically, sexual assault, but also the combination of ... like Indigenous women face much higher rates of assault than their white counterparts, but often also experience multiple accounts of assault, and then also often experience high levels of violence with that assault. So, there's an increased rate of physical violence that often accompanies the experience of sexual assault for Indigenous women. And those numbers were actually really instrumental in shifting some policy in the United States that would enable our Indigenous Nations to have some kind of greater control over our solutions to gender-based violence. But in the US context, that was really specific to domestic violence, despite the fact that most of the data shows that most violence experienced by Native women come at the hands of non-Native men, but doesn't necessarily parse out how much of that is non-Native men in relationship with Native women versus outside of that. So yeah, so it was 91% in the 2020 Point in Time Homelessness Count

And then, to the other question around the trees working together. I kind of forgot that one, but I'll start with the communities experiencing homelessness. I think the reason we see crowded housing on reserve is because that's our response to homelessness. That, essentially, we are constantly carrying out those ontologies of care in particular ways that, you know, I've just never been in a space where someone hasn't always tried to ensure I've been fed and that I have a place to sleep. Those just have always – and that's just the response I've had from any Indigenous person anywhere I've been, whether I've been in the city, whether I've been on the reserve, whether Nations that are not my own, or Nations that are. I think it's just so deeply built into many of our practices that you do see then a lot of crowding in houses as a specific response to a lack of housing.

So, you don't necessarily see as many people out on the streets, and that's just because people aren't going to leave their family out on the streets. What that does also mean, though, is there are – when you have people who are also struggling with mental health

issues, with addictions, there is an increase to kind of safety concerns and things that can happen in spaces where you have so many people living together. And so, some communities have responded to that by producing housing responses to specifically domestic violence or intimate partner violence.

I've been currently looking for lots of the different kinds of responses to homelessness and most of them are like coming from Indigenous communities, and most of them are in kind of urban settings. I'm sure there are many more that are happening in community, but they've just been harder to find. But again, I do think that's also because it looks different because an ontology of care is kind of already being carried out on some levels, but we're back to this question of, what does it mean when those trees are at capacity and what are the kinds of duties to work together to ensure that greater supports are given so that these trees aren't failing to meet the needs of those they're in kind of responsibility or relationship to?

Dr. Sarah de Leeuw: Yeah, and this is a bit of an editorialization, Dr. Stark, but, you know, I think if we run questions about crowding and housing through a white supremacist legal colonial lens, you then have lots of potential for things like the Ministry for Children and Family Development to impose discussions about neglect, and about overcrowding, and about the health, which then allows a narrative of removal of children – stealing children, as colonial powers have done since moments of contact – which then of course spirals those kids, as your data so eloquently demonstrates, into a potential life of being unhoused by the very system that produced the unsafe environments in the first place. So, it's as always in so many equations of colonial violence, the colonial white supremacist house stacks the rules so that the house always wins, and in this case, it literally is a house and a housing issue, as you've so generously and kindly pointed out. Which again, I guess allows me to ask the question that one of the participants – really, honestly people are totally engaged. You can't see all the messages, but people are excited. So, Heidi, thank you again. I think there there's a question that is about these binaries that you've pointed out, how that binaristic sort of short-term models, equations, thought processes are problematic, like they are inherently divisive (a duality is divisive). So, one of the questions is: can you talk more about Western binaries that shape how we care, and then extend that? How do we do research? How do we provide services for and about each other, and all of us like, how is that binary? If you wanted to expand on that, that would be great.

Dr. Heidi Kiiwetinepinesiik Stark: Yeah. No, it's a great question. I think the first example that comes to mind, because I've also been doing some work around Indigenous communities trying to restore child well-being laws, is that a lot of times we see what a binary produces, right? That we have someone who has a need, who is in need, and

someone who is not. And often that person in need is also sometimes framed as the perpetrator or the harmer. So, in cases of child apprehension or risks of apprehension, you see a kind of framing of one parent potentially having their rights limited in particular ways, but then they're offered sometimes particular services. This was something that we were talking about in a meeting with a dozen of us on some of the Nations working on their law, where we're saying, "OK, so that's really good and that's needed, we want healthy communities, we want family members who are struggling with addictions and other issues to receive the services they need." But how come we don't provide some additional supports to the person who's still caring for the children? Why aren't we doing more to think about ... what they're like? ... that sometimes the binary – through a kind of binaristic viewpoint – we fail to see how needs are operating in both contexts, but also, this is where so much of the work around family preservation has been so important, right?

And that's the same around housing, where if we can address housing precarity before people are homeless, and the same goes... like, if we can address the issues that are occurring in families before children are removed, it's far more cost effective, it's far more better for the health of the community, of the family, and so on. So, you know, in housing, a lot of things people talk about is we have to deal with how evictions are operating. We have to deal with how particular kinds of programs, like 30-day treatment centers, that then cause people to lose housing because they missed payments, or if someone's being charged for a particular crime that often I think that one of the reports was talking about how in Victoria someone would be arrested for having alcohol in the park or something and it would be a 30-day sentence that would often then be the very thing that would cause people to lose the services they need to secure housing or to keep housing and so on.

But at the same time, when we think about family supports, we often won't take a very holistic view of that. And so some Nations – I remember, you know, I think it was at least a decade ago, maybe two decades ago – one of the Ojibwe Nations was carrying out a project where when they were dealing with family matters, if there was a dispute in the family that caused the parents to separate, or that required some kind of removal, they said they would no longer remove children, that only parents could be removed. Only caregivers or guardians could be removed from the house, but the children had to be able to retain their ability to stay in their home, that they shouldn't have to both suffer the loss of that person who provides care for them and the safe space that they're used to. So, they created kind of a community response program that ensured people, other caregivers, would come into the home so that those children would at least have some of those comforts, instead of producing compounding impacts or traumas.

So, yeah, that's one way I think about the binary. I think of another as – I mean, I think this is part of the issue that comes up around assault – physical violence, but also sexual assault and intimate partner violence – is that often those who become perpetrators have been victims themselves, and that when we only think in binaries, we fail to respond to the harms being produced as being a byproduct of harm's experience. And that's not to say that that becomes an excuse for that behavior or that that behavior should be tolerated, but that our responses to any kind of restoration of the person, and their relationships with others in their communities, requires that we attend to individuals as sitting in both of those spaces, as someone who has probably been harmed and carried out harm.

And really, I think that taking up these issues can also help us to understand how we are all always doing these things, right, and that Anishinaabe stories have always been about questioning our own kind of subjectivity or positionality, as people who are both harming and being harmed, that we have to stop producing narratives in which we're all innocent, that we're always all in relationship and relationship comes with distinct perspectives and experiences in which, you know, I may not intend to harm another person in a particular action, but I might do that. And, us not having better mechanisms to address that, even in the small scale, like micro-harms, is I think part of what's enabling such a failure of vision for how to address that on the kind of large-scale responses to harm.

So, I think the kind of bigger project started with this kind of question. A bunch of us were doing land-based work and we just kept finding that every time we would go out into these spaces, something would go wrong, and we were like, “We have to stop being surprised by this. We know that there will be harm or conflict, so let's start making sure we have the mechanisms in place to address harm or conflict when it arises.” So, I think it's that question around homelessness, too, like we're never going to get to a space where there's never anyone experiencing homelessness. That instead, we want to make sure we have systems that are responsive to a harm the moment it occurs so that we aren't compounding that harm and that we that we can be responsive in ways that can address that harm more efficiently, more lovingly, more compassionately, and more quickly; that if we recognize that they are always going to be people who need to access particular services, then we need to make sure those services are ready to respond to those people. Yeah.

Dr. Sarah de Leeuw: Heidi, all I can say is I hope that one day soon you and I get to go out for lunch so that I can continue to just really enjoy what feels to me like an incredibly intellectually sharp and smart, and yet kindly, elegant and compassionate sort of sense of intersecting, non binaristic ways of orienting to complicated, messy questions.

But we have four minutes now before we say goodbye to you, and I feel like there's a question that's so beautiful, I would ask that you reflect on it and that we end with this person's question, which is: "Heidi, how do we take these teachings – the teachings that you've offered us – into our lives for many who continue to live with the realities and intersections of homelessness and housing insecurities in our families." Sometimes it feels hopeless, it feels impossible to take up a duty of care when systems are so overwhelmingly failing, and I hope that opens up your ability to gesture for something hopeful, for all of us. I think we've really benefited from such kind wisdom that you've offered today, but there's somebody out there who I think is looking for hope.

Dr. Heidi Kiiwetinepinesiik Stark: Yeah, I mean, and I guess I think, in closing, I really do think that the most important thing for anyone who works in city spaces, for provincial or federal agencies, restoring Indigenous authority over our lives is the key answer to addressing these issues. It just is. We are the best equipped to deal with our own problems, and that these are problems that have largely been imposed into our communities because of colonialism and because of the barriers and challenges produced by state policies and state laws. And so, continuing to ask us to turn to the state to solve the problems they produced is just not helpful.

So, I do think most importantly, we need to restore jurisdiction and political authority back to Indigenous Nations in all capacities of our lives. And I think that this story, there are many moments and when that little bineshiinh – every time I say that word, my youngest son's name is Bineshiinh, so I always think of my son when I think of that story – but that little bird faces many moments of feelings of despair and lacks hope, and feels hopeless in many ways. And these are the moments where I just have to say that I think our ancestors – like the fact that we know these stories today in the wake of the things that our ancestors had to experience – to me speaks just magnitudes to the kind of, you know, I mean, it sounds so cheesy and romantic to say this, but the perseverance of our people.

And so, I do think it is very hard to take up a duty of care when systems are overwhelmingly failing. And yet I also think that, you know, it's in these encampments, it was even in my own family, in the moments where people were facing their hardest struggles, that they also carried out the greatest capacity to love and give to others. And I often find that those who are struggling the most are actually also the most loving and generous. Yeah, we all have our moments, right? But I would say that I think that there's a real important thing in us looking to those moments to just see the capacity of human care for one another, love for one another, that can teach us so much.

So, I don't know that that provides hope. But I do think it is so often... I so often learn from those who have faced some of the greatest challenges, in their own capacity to give when

they have nothing. That should remind all of us of the importance of generosity as an ontology of care. So, I'll leave it at that.

Dr. Sarah de Leeuw: Yeah, Heidi, thank you for your generosity today. Thank you for your really, like I said, moving generative and yet compassionate, smart, sharp, caring. I think it takes caring to offer your knowledge to the world and we are ever so grateful to have been here with you. Honestly, Dr. Stark, that was spectacular.

Dr. Heidi Kiiwetinepinesiik Stark: Thank you

Dr. Sarah de Leeuw: So just a reminder that this entire webinar, including Heidi, you're really kind and thoughtful and fulsome responses to questions and provocations, that will all be available. Give us a little bit of time to sort of tidy things up and clean things up, but we'll ensure that through our newsletters and through our social media posts that there's updates of when this beautiful webinar that you just offered us, Dr. Stark, is available to the public.

And I can't say with enough conviction, from the bottom of my heart, thank you again for offering hope, but I don't think a naive sort of superficial hope. I think a very deeply intellectualized, kind, compassionate, reflective, and intersecting hope for all of us. I think it's an incredible lesson for all of us working as scholars and activists and frontline practitioners in the world of First Nations, Inuit and Métis Health. Heidi, thank you again very, very much.

I'll just turn to the folks behind the scenes, Sarah and Lesa C., to see if we're missing anything and if I need to close anything off, because oh my goodness, I have the capacity to bumble these things like nobody's business. Sarah, Lesa, are we all OK and good?

We just had the texts that we're good, we're good for final goodbyes. I hope to visit you on the territories of the Ləkʷəŋən speaking people in the not-too-distant future. Heidi, a real honor to have had this conversation with you.

Dr. Heidi Kiiwetinepinesiik Stark: Great. Thank you so much. It's been a real honor to be here, and thanks to everyone who attended. I'm really grateful to have this time with you all. Miigwetch.

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