

Investigation into the situation of Inuit children under the residential care of the CIUSSS-de-l'Ouest-de-l'Île-de-Montréal and the Ungava Tulattavik Health Center - Summary

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Introduction

The Commission des droits de la personne et des droits de la jeunesse has the mandate to investigate any situation where it believes that the rights of a child reported to youth protection authorities have been infringed. These investigations can be individual or systemic and are conducted following a complaint or on the Commission's own initiative.

Considering the limited availability of residential care units for youth in Nunavik, Inuit youth must leave their communities to receive rehabilitation services. Two media articles reporting that Inuit youth could not speak their language in rehabilitation centers prompted the Commission to launch an investigation. The investigation initially concerned the right of Inuit youth to speak their language as well as the social services they receive while in the residential care of the CIUSSS-de-l'Ouest-de-l'Île-de-Montréal (CIUSSS-ODIM). However, the Commission soon realized that youth residing in these facilities were deprived of a formal education, as were youth residing in units under the governance of the Ungava Tulattavik Health Center in Dorval. For this reason, the scope of the investigation was expanded to include their right to education.

The cultural safety of Inuit youth from Nunavik placed under the residential care of the CIUSSS-ODIM

The use of language

The right of Aboriginal peoples to the use and preservation of their language is enshrined in national and international law. The Inuktitut language is an integral part of the culture and the identity of Inuit children. Despite the recognition of these rights, the policy on the right to communicate and the codes of conduct that govern the lives of youth placed in CIUSSS-ODIM rehabilitation units do not positively affirm the right of Aboriginal youth to speak their native language. Furthermore, the codes of conduct are not translated into Inuktitut and workers do not have ready access to interpreters during their interventions.

Although the investigation did not reveal a formal rule prohibiting Inuit youth under the residential care of the CIUSSS-ODIM to speak their language, the restrictions at times imposed on the use of

Inuktitut in the context of surveillance practices in rehabilitation centres can create a feeling of insecurity among youth in relation to the use of their language. Youth sometimes feel obliged to speak English so that educators understand their conversations, which is contrary to principles of cultural safety.

Considering the above, the Commission issued recommendations demanding the reaffirmation of the right of Inuit youth to speak their native language freely while in residential care. This right should be affirmed in the codes of conduct of rehabilitation centres. The Commission also recommends access to interpreters for Inuit youth and the translation of codes of conduct into Inuktitut.

Cultural and social isolation: obstacles to exercising cultural rights

The placement of Inuit youth in rehabilitation units outside their communities contributes to their cultural and social isolation. This isolation prevents the collective exercise of their linguistic and cultural rights. Some youth find themselves in a unit without peers with whom they can socialize in their native tongue. Furthermore, despite efforts of the CIUSSS-ODIM and the Ungava Tulattavik Health Center to provide certain cultural activities to these youth, the Commission believes that these activities do not sufficiently meet their needs or respect their rights. The activities depend on external, community organisations, have not been the subject of consultations with the youth concerned and, due to distance, do not properly account for the importance of land, extended family and traditional ways of life in the youth's cultural life while in residential care.

In its recommendations, the Commission reiterated recommendations issued in December 2019 by a consultant hired by the CIUSSS-ODIM to investigate the issue of the cultural safety of Inuit youth in residential care. The Commission also made further recommendations, notably that the CIUSSS-ODIM consult with Inuit youth regarding cultural activities that would best meet their needs, develop a cultural safety plan in collaboration with Inuit organisations and implement a rehabilitation program that would allow for Inuit youth to socialize with one another and speak their language.

Rehabilitation services

The investigation revealed that the social intervention for Inuit youth placed within CIUSSS-ODIM facilities is less effective due to distance and the absence of in-person meetings between youth and their social workers. Social workers in Nunavik, responsible for the youth's files, cannot meet their clients in person due to distance. Distance also limits the opportunity for Inuit youth placed at the CIUSSS-ODIM to progressively reintegrate their communities, which goes against basic principles of rehabilitation. Considering these gaps in rehabilitation services, the Commission recommends that Inuit youth placed in residential care meet their social worker on a regular basis and that a progressive community reintegration program be established for their benefit.

Cultural competence and clinical tools

Linguistic and cultural barriers are significant and hinder the ability of workers at the CIUSSS-ODIM to offer rehabilitation services that are culturally adapted. The Commission recommends that the CIUSSS-ODIM staff involved in the rehabilitation of youth in Nunavik receive training that respects

the principles of the Viens Commission and that all workers have direct access to an interpreter when needed. The Commission also recommends that the Ministry of Health and Social Services develop, in collaboration with Aboriginal communities, orientations, clinical tools and guidelines regarding culturally safe services for Aboriginal youth placed in rehabilitation facilities.

The right to rehabilitation services in their communities

The detrimental effects of uprooting Aboriginal children from their villages or communities are widely documented. The few opportunities allotted to Inuit youth to visit their communities while in placement exacerbate this problem. According to the investigation, no minimum threshold of annual visits is set by youth protection services. Youth also have limited telephone contact with their families, which only accentuates their isolation. All actors involved recognize that the placement of Inuit youth in CIUSSS-ODIM rehabilitation facilities does not optimally meet their needs.

In view of these findings, the Commission recommends several measures allowing for more regular meetings between Inuit youth and their families via technological means and more regular visits in their communities. The Commission also recommends that the Nunavik Regional Board of Health and Social Services inform the Commission of its action plan regarding the creation of an autonomous rehabilitation system for youth in Nunavik to avoid that they be uprooted and placed in rehabilitation facilities outside of Nunavik.

Access to education in English of Inuit youth placed in residential care

Obstacles to access to education in English and lack of schooling

Education is a fundamental right, guaranteed by various internal and international legal instruments. The right of Aboriginal youth to English instruction is regulated, in Quebec, by the *Charter of the French Language* and the *Education Act for Cree, Inuit and Naskapi Native Persons*. Inuit children can receive English instruction in their communities without an English eligibility certificate issued by the Quebec Ministry of Education. However, as soon as these youth leave Nunavik, they must initiate administrative procedures in order to be allowed to study in English despite English being the language of instruction for a significant proportion of Inuit youth. Thus, the right to instruction in English does not follow the child but is, instead, attached to their residence. The Commission's investigation reveals that the challenges encountered in obtaining the required documentation to be admissible to English instruction have created a chronic situation of lack of formal education for many Inuit youth placed outside their communities.

The exact proportion of youth that has not received an accredited education is difficult to ascertain as there are no precise statistics on this matter. However, the investigation revealed that a significant proportion of Inuit youth residing in CIUSSS-ODIM rehabilitation units since 2010 and for whom school attendance was mandatory were being tutored by a private agency, financed by the Kativik Ilisarniliriniq School Board.

The investigation also revealed that tens, if not hundreds, of Inuit youth residing in two units in Dorval under the authority of the Ungava Tulattavik Health Center were not receiving an accredited education since 2011. Furthermore, youth residing in rehabilitation facilities in Inukjuak and Salluit, Nunavik, were also sporadically receiving tutoring services since 2015 instead of attending school.

The facts collected in this investigation suggest that the challenges in meeting the administrative requirements of the Charter of the French Language to obtain admissibility to English instruction dissuaded youth protection authorities to pursue the required steps for Nunavik youth to be authorized to study in English. Youth protection authorities involved were responsible for these youth and failed to regularize their situation, notably by applying for an exemption or filing a humanitarian application pursuant to the Charter of the French Language. By tolerating this situation, they perpetuated a situation of educational neglect.

The applicable legislation clearly indicates that the responsibilities of school boards are territorial. The Kativik Ilisarniliriniq School Board was not responsible for providing educational services for youth outside its territory. The obligation to provide educational services belonged to the English school boards serving the youth's territory of residence while in residential care.

For this reason, many youth passed under the radar of the English school boards. Furthermore, despite the low number of requests for English instruction eligibility concerning children from Nunavik under the residential care of the CIUSSS-ODIM and the Ungava Tulattavik Health Center in the last years and efforts on the part of the CIUSSS-ODIM to address this issue with the Ministry of Education, the latter did not take any initiative to investigate the situation and ensure school attendance for this population.

The Commission made several recommendations. The Commission recommends that directors of youth protection and the English school boards involved enter into agreements concerning the school attendance of Inuit youth placed in rehabilitation outside of Nunavik. The Commission also recommends that the responsible directors of youth protection review their collaboration agreement and include, explicitly, the responsibilities of each director regarding the administrative steps required for Inuit youth to become admissible to English instruction and be registered in school. To avoid that these youth be « under the radar » of school boards and not attend school, the Commission recommends that the directors of youth protection track, on a yearly basis, the number of Inuit children that are placed outside their communities in order to have an accurate portrait of their schooling. The same recommendation was issued regarding youth placed in rehabilitation units in Nunavik.

The limits of the legal framework

The existing legal constraints also incited the Ministry of Education to put in place a specific practice for Inuit youth: requesting exceptions pursuant to the Charter of the French Language. However, this practice does not confer the right to be educated in English: it grants an exemption to general admissibility rules in relation to a single school board as opposed to province-wide admissibility to English instruction.

For this reason, the Commission recommends that the Ministry of Education find a durable solution to the issue of admissibility to English instruction for Inuit children residing outside Nunavik and, more specifically, children under the residential care of a youth protection authority. It also recommends that the Ministry of Education collect data on Aboriginal children, in relation to admissibility to English instruction and school attendance and pursue, in collaboration with the Ministry of Justice, legislative work to facilitate the access of Aboriginal children to English language instruction outside of their communities.

The cultural safety of Aboriginal students

The Commission recommends that English school boards, in collaboration with the Kativik Ilisarniliriniq School Board, provide Inuit youth placed under the residential care of the CIUSSS-ODIM and the Ungava Tulattavik School Board with educational services that respect principles of cultural safety, notably Inuktitut classes, pedagogical support services that are culturally adapted and the presence of Aboriginal teachers if possible.

Final considerations

The current investigation demonstrates a series of actions and omissions and institutional practices on the part of the different actors involved which led to the exclusion of Inuit children in residential care from the formal education system as well as a chronic violation of their right to education and to the full development of their human and cultural potential.