

# **BASIC INCOME AS A STONE IN THE PATHWAY TO HEALTH EQUITY**

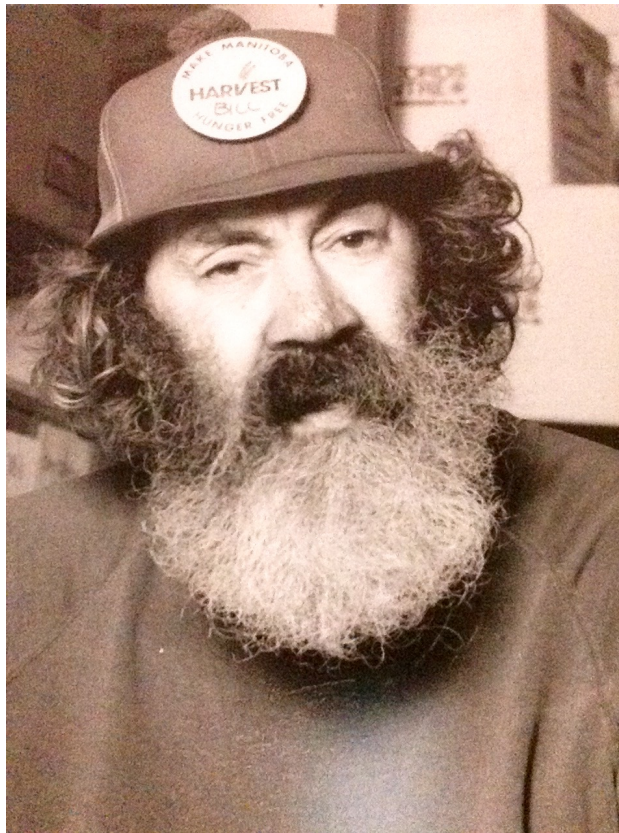
Donald Benham (Winnipeg Harvest)

Lorna Turnbull (Faculty of Law, University of Manitoba)

Byron Williams (Public Interest Law Centre)

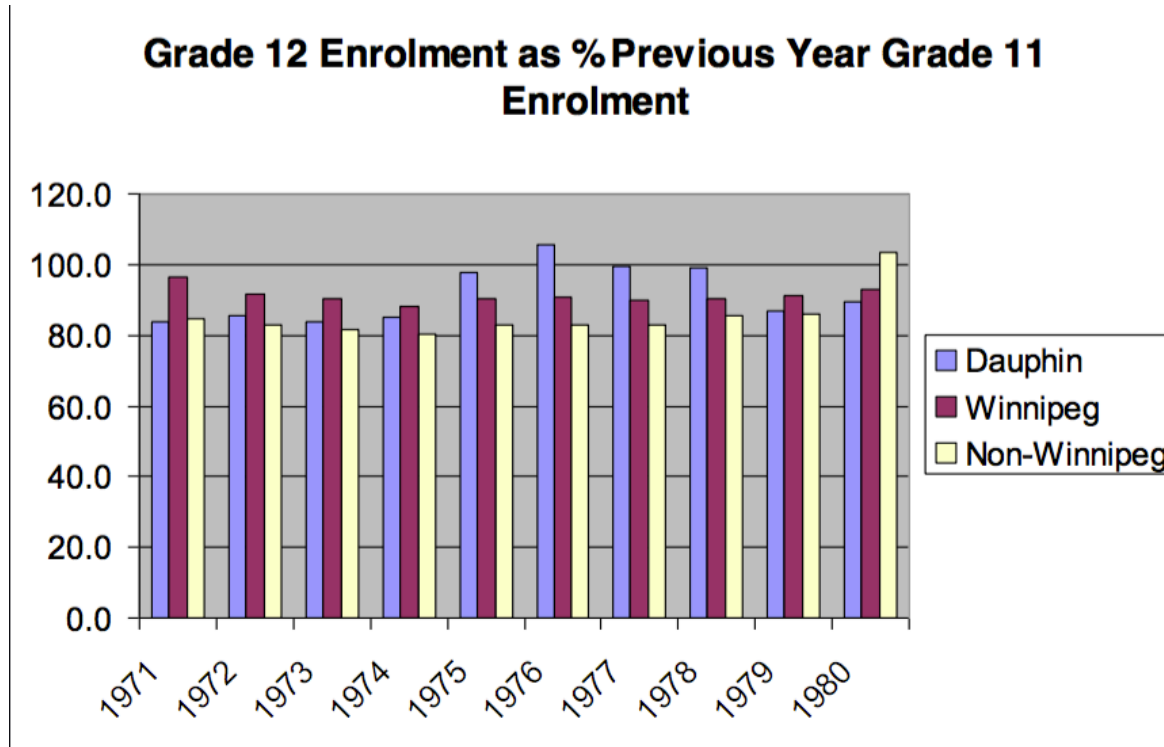
Joëlle Pastora Sala (Public Interest Law Centre)

May 30, 2016 – Pathways to Health Equity

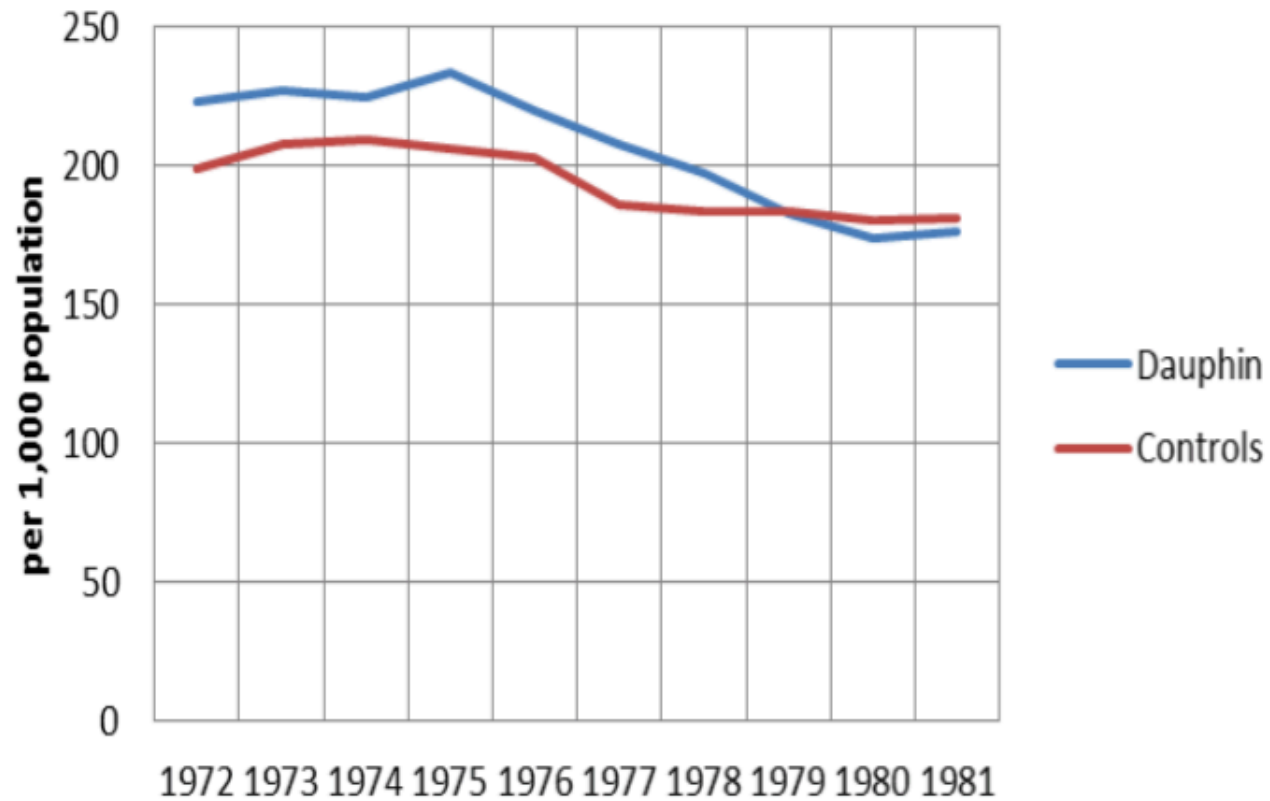


**BIG BILL**

# EDUCATION?



# Hospitalization Rates



# BASIC INCOME GUARANTEE

◆ BIG is not a “silver bullet”

◆ BIG should be:

- ◆ 1. Universal: every community member is entitled to receive a BIG
- ◆ 2. Unconditional: recipients do not have to go through means or eligibility tests, or work requirements; and
- ◆ 3. Individual: BIG is paid out to individuals rather than households.
- ◆ 4. Adequate: Minimum income could establish a floor - provided that floor is not set in the basement, ie. too low

# **ACHIEVING SOCIO-ECONOMIC INCLUSION**

# OUR PATH STARTS AND ENDS WITH CLIENT'S OBJECTIVES

- ◆ Public recognition of the necessity of social economic inclusion (including health equity)
- ◆ An entrenched human right to socio economic inclusion (including health equity)
- ◆ Progressive realization of the right to a Basic Income Guarantee
- ◆ Achievement of the Basic Income Guarantee

# LEGAL ADVOCACY IS JUST PART OF THE PICTURE

## The inclusion gap



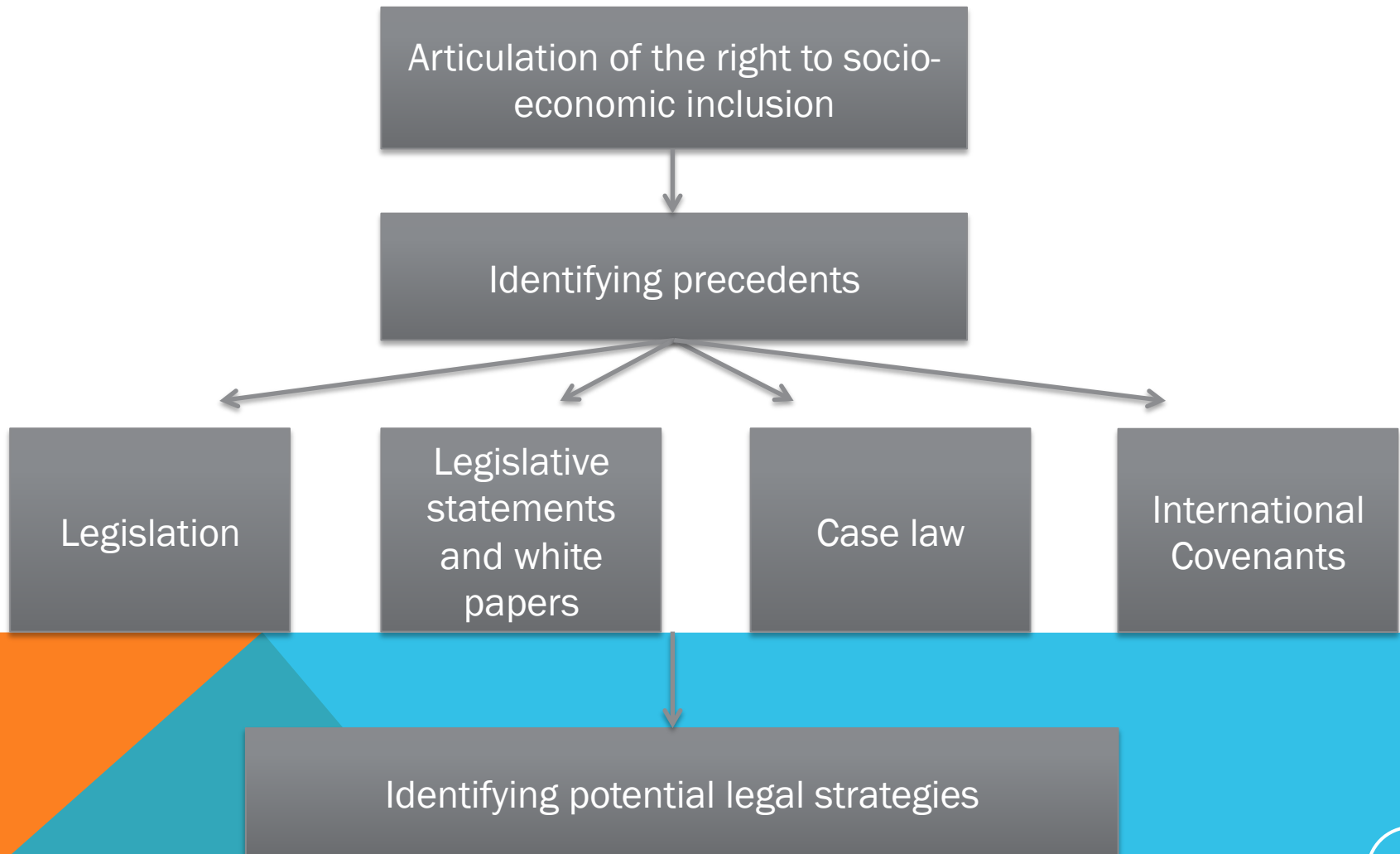
Recognition of the right



Realization of the right

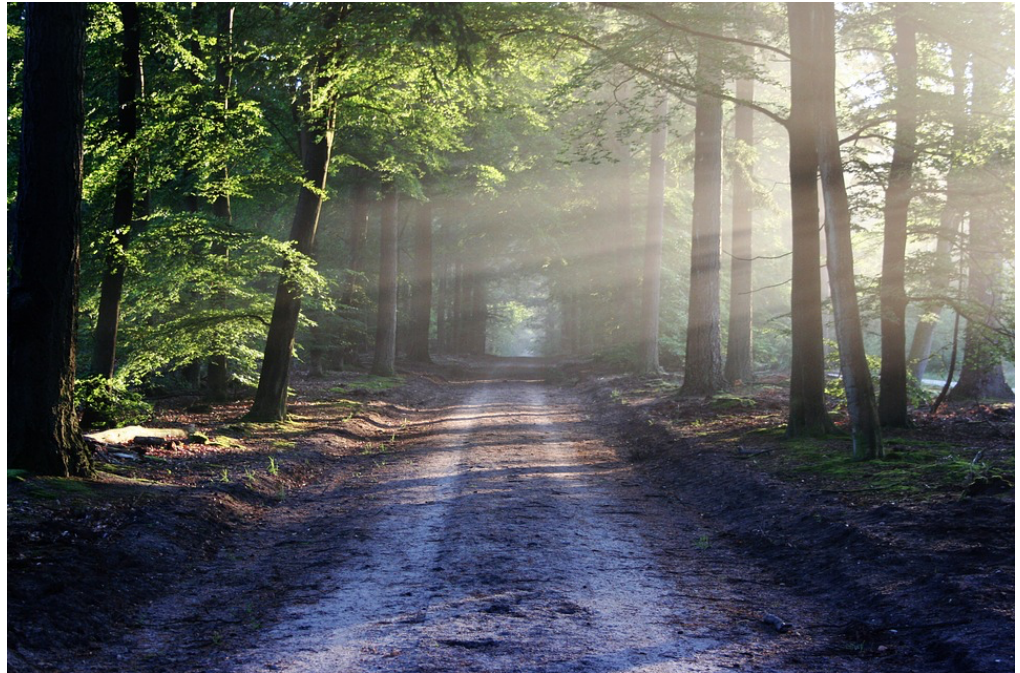


# LEGAL OBJECTIVES



# LEGAL TOOLS ARE STEPS DOWN THE PATH

- ◆ Socio-economic inclusion requires social, legal and political will



# POTENTIAL STRATEGIES FOR PROGRESSIVE REALIZATION OF SOCIO-ECONOMIC INCLUSION

Milk price regulation

Inadequate welfare on  
reserves

Inadequate provincial  
welfare

Exclusion of “social  
disadvantage”  
(CHRA)

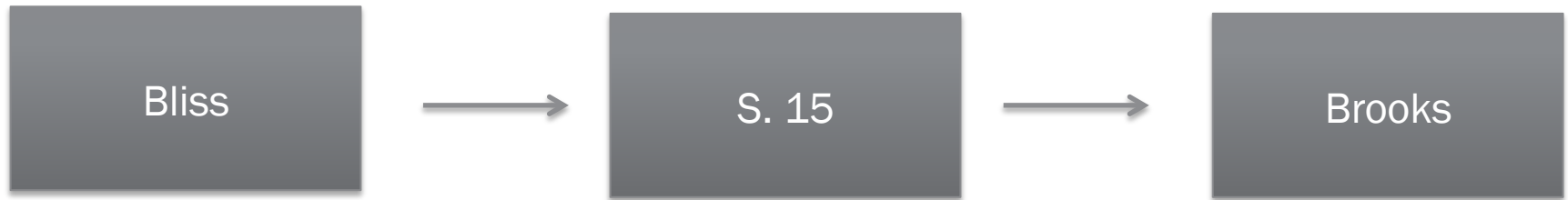
Challenge definition of  
“social disadvantage”  
(MHR Code)

Challenge  
discriminatory labour  
force attachment rules

# CREDIBLE CASE + CREDIBLE EVIDENCE

- ◆ Risk / return analysis
- ◆ Community voices
- ◆ Partnerships with allies: community, academics, lawyers and other professionals
- ◆ Case theory workshop
- ◆ Funding for legal challenges and community input (Court Challenges Program)

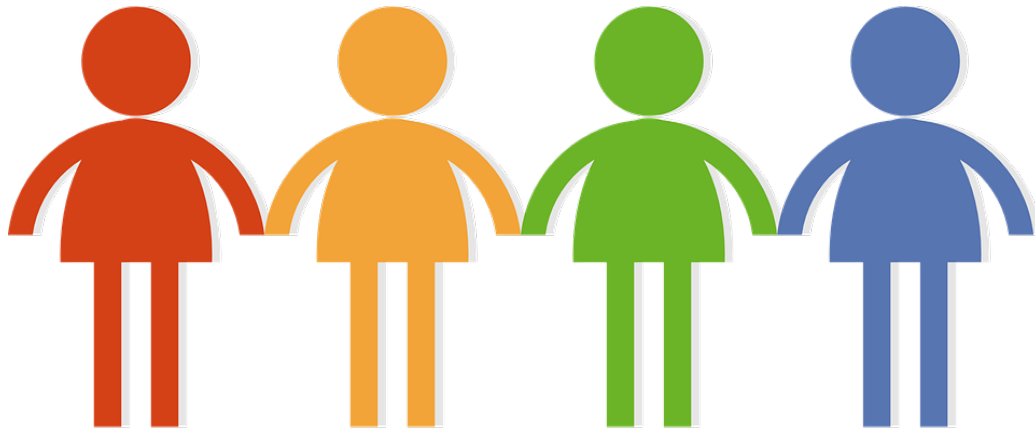
# FROM BLISS TO BROOKS: LEGAL ADVOCACY CAN ADVANCE SOCIAL NARRATIVES



- ◆ Stella Bliss's argument that Canadian Unemployment Insurance maternity benefits violated the equality provisions of the Bill of Rights was soundly defeated in the court. Ultimately, however, a loose coalition of feminist and civil liberties groups took Bliss into the political process and succeeded in forcing a revision of Unemployment Insurance along with a dramatic expansion of the scope of section 15 of the Canadian Charter of Rights and Freedoms.

- ◆ *Bliss v Attorney General of Canada: From Legal Defeat to Political Victory*, Pal and Morton, Osgoode Hall Law Journal, Vol 24, Number 1.

# INCLUDING COMMUNITY VOICES



- ◆ Legal advocacy can play an important, but secondary, role in presenting the community's voice.
- ◆ Community members deserve an integral role in the design and oversight of the advocacy campaign.

# **A CASE STUDY: WELFARE ON RESERVE**

- ◆ Women
- ◆ Children
- ◆ Indigenous people
- ◆ New immigrants and refugees
- ◆ Persons with disabilities
- ◆ Elderly
- ◆ Working poor





# INDIGENOUS PEOPLE

- ◆ 1.4 million Indigenous people in Canada (2011)
- ◆ Indigenous people have a median income of \$22,000 compared to a median income of \$33,000 for non-Indigenous populations
- ◆ First Nations are more likely to grow up in poverty, drop out of school, and live on social assistance
- ◆ Direct link between poverty and the history of colonization of Indigenous people

# WELFARE ON RESERVE

- ◆ In 2012-2013, on-reserve welfare dependency rate was 33.6% compared to little over 5% for the rest of Canada

# WELFARE ON RESERVE (CONT.)

- ◆ Welfare for First Nations living on reserve is funded and managed differently through Indigenous and Northern Affairs Canada (INAC)
- ◆ Objectives: provide funding so people living on reserve can *meet their basic needs* and deliver welfare in a manner that is *reasonably comparable* to province or territory of residence
- ◆ Anticipated results: to alleviate hardship, maintain functional independence on reserves, encourage greater self-sufficiency for First Nations

# WELFARE ON RESERVE (CONT.)

Welfare services on reserve are inequitable and insufficient for three main reasons:

- It ignores the reality of individuals living on First Nations

- There is very little indication of how “reasonably comparable” is used in practice

- Rates are insufficient

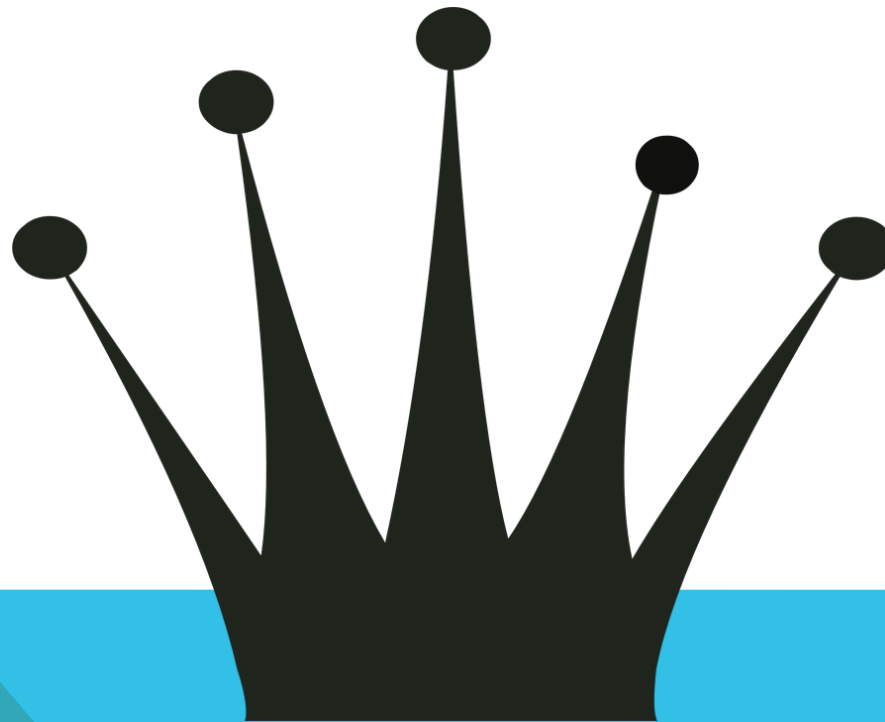
**FOR FIRST NATIONS, OBTAINING EQUITABLE  
AND SUFFICIENT INCOME IS ABOUT JUSTICE  
NOT CHARITY.**

**POVERTY IS A HUMAN RIGHTS ISSUE.**

# HONOUR OF THE CROWN

- ◆ Requires Federal Government to act fairly and diligently with Indigenous people
- ◆ Must be at stake in *all* the Federal Government dealings with Indigenous people
- ◆ Imposes positive obligations + engages responsibilities and requires action by Federal Government

**“IF THE HONOUR OF THE CROWN  
EXISTS, THEN PROVE IT!”**



# HUMAN RIGHTS VIOLATION CONTRARY TO THE CHRA

Section 5 of the *CHRA* states:

It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public

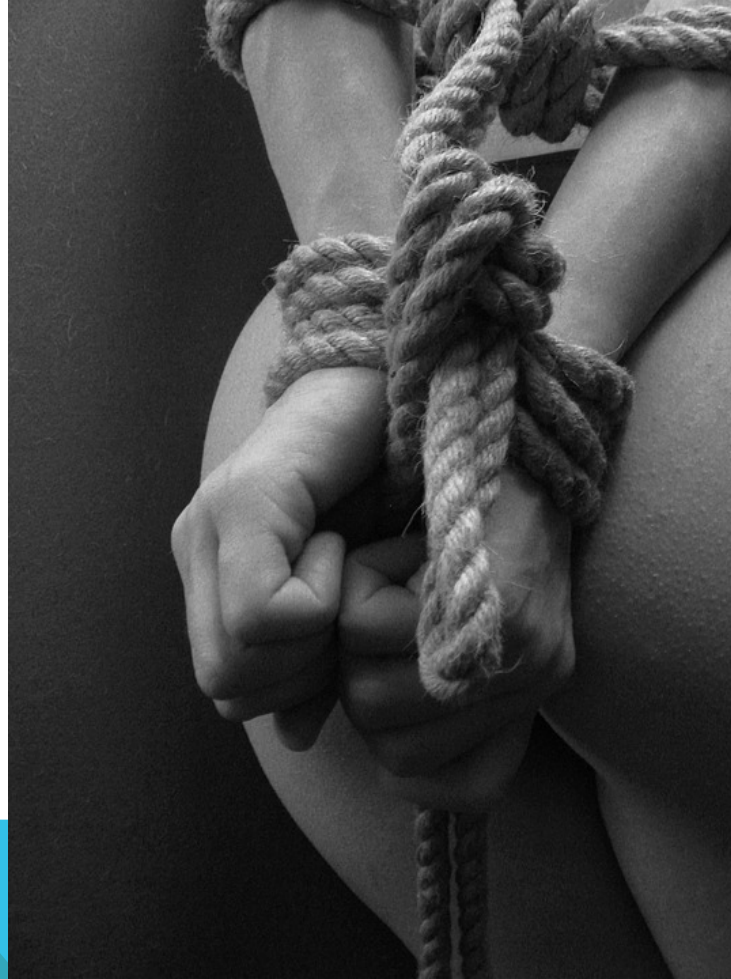
- (a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or
- (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.



# HUMAN RIGHTS VIOLATION CONTRARY TO THE CHRA (CONT.)

Pursuant to s. 5 of the CHRA, INAC discriminates in providing welfare services on reserve on the basis of race and/or national or ethnic origin, by providing inequitable and insufficient funding for those services.

# ADVERSE IMPACT OF INEQUITABLE AND INSUFFICIENT FUNDING



# SOCIO-ECONOMIC INCLUSION FOR FIRST NATIONS

Provision of welfare on reserve  
may be legally vulnerable

A step toward achieving socio-  
economic inclusion and health  
equity

# **POVERTY AND GENDER: HOW A BASIC INCOME COULD HELP**

# **SUPREME COURT OF CANADA (1989)**

## **BROOKS, ALLEN & DIXON V CANADA SAFEWAY LTD**

- ◆ Those who bear children and benefit society as a whole thereby should not be economically or socially disadvantaged...
- ◆ Only women can bear children; no man can become pregnant.
- ◆ It is unfair to impose all the costs of pregnancy on one half of the population.

# BUT, WOMEN DO BEAR THE COST...

- ◆ Women earn less than men
- ◆ Women have less stable connections to the workforce
  - ◆ More part-time employment
  - ◆ Mainly in “female” occupations
- ◆ Women have smaller (or no) pensions
- ◆ More than one third of women fall below the poverty line upon the break-up of a spousal relationship

# WOMEN ARE DISADVANTAGED BECAUSE MOTHERS ARE DISADVANTAGED

- ◆ Women with children have significantly lower lifetime earnings than women without children, as much as 60% less
- ◆ Some Canadian statistics suggest women *without* children earn \$0.97 for every \$1 earned by men; women *with* children earn as little as \$0.52.

# SOME MOTHERS ARE MORE DISADVANTAGED

- ◆ The disadvantages experienced by all mothers are felt more heavily by mothers who experience discrimination on the basis of race, physical ability (their own or their child's), sexual orientation or social class





# WHY MOTHERS?

- ◆ 73% of women with children under 16 years of age are employed
- ◆ Women still do the bulk of the work of caring for children (and other dependents)
  - ◆ Mothers who are employed full-time spend an average of 50 hours a week caring for children - Fathers who are employed full-time spend an average of 27 hours a week
- ◆ Childcare is hard to access

# HOW DOES LAW CONTRIBUTE?

- ◆ The actual work of mothering is not visible or valued
- ◆ Benefit schemes discount, or devalue the impact of care work ie “workforce attachment tests”
- ◆ Mothers’ work is hyper visible when they are perceived as bad mothers and no recognition is given to the social context (usually poverty, also intergenerational effects of IRS)

# EFFECTS OF PRIVATIZATION

- ◆ When work is not recognized as work and not valued
- ◆ When the costs of that work are borne by some, but not all, even though it brings benefits to society at large

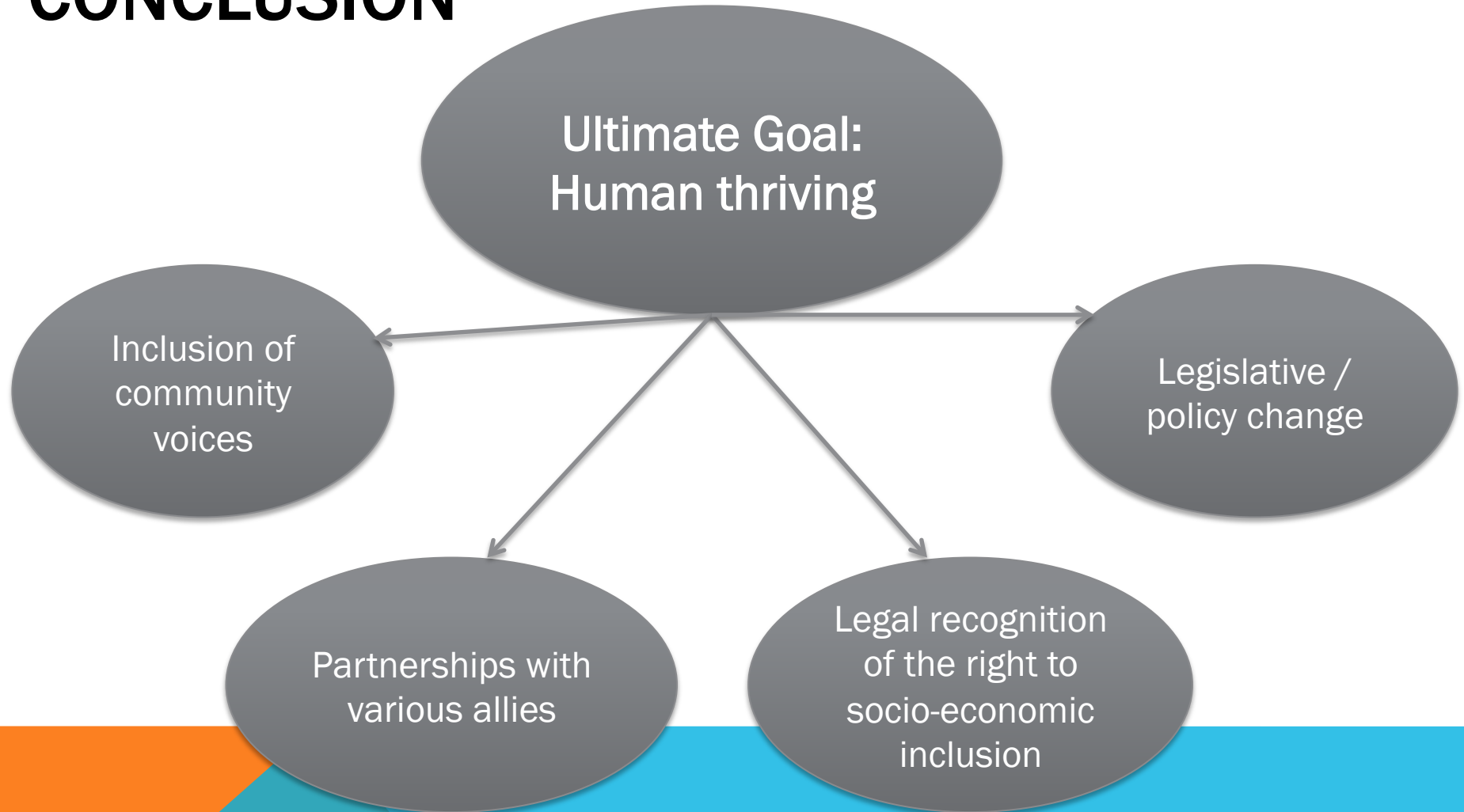


# WHAT MIGHT EQUALITY LOOK LIKE?

- ◆ A basic income
- ◆ Universal, high quality, accessible childcare with fair salaries for workers
- ◆ Enriched, extended maternity/parental benefits and proper tax treatment
- ◆ Restructured workplace/ improved part-time work
- ◆ Access to benefits for all workers
- ◆ Support for women in all their diversity, supporting reconciliation

**POVERTY AND INEQUALITY ARE  
“WICKED PROBLEMS” AND REQUIRE  
A MULTI-PRONGED APPROACH**

# CONCLUSION



***IF YOU REALLY WANT TO ADVOCATE FOR HEALTH...  
YOU HAVE TO START TO MAKE FUNDAMENTAL  
CHANGES TO THE WAY SOCIETY IS STRUCTURED.  
YOU HAVE TO DEAL WITH ISSUES LIKE POVERTY.***

***- Dr. Jeff Turnbull, President, Canadian Medical Association (2010)***