

Searching for Justice: Indigenous Self-Determination over the Landfill Search as a Matter of Justice for MMIWG2S

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Abstract

“Search the Landfill” is a movement for justice for missing and murdered Indigenous women, girls, and Two-Spirit people (MMIWG2S) which originated through Indigenous resistance to police racism in Winnipeg, Canada. The movement calls upon all levels of government to support the search of the Prairie Green Landfill, just north of the City of Winnipeg, to recover the bodies of two of four First Nations women who were murdered in early 2022 at the hands of a white supremacist serial killer. Through an analysis of news articles, press releases, and reports about the landfill search, this paper explores how Indigenous leaders resisted police inaction and transformed the discourses that surrounded the search. By at once condemning the Winnipeg Police Service’s refusal to search the landfill and rejecting police authority and control over the decision-making process, Indigenous women became the leaders of this movement and crafted the space to articulate for themselves how and why the search must occur as a matter of Indigenous rights. This paper explores how Indigenous leadership offers glimpses into what a decolonizing approach to justice may look like in cases of MMIWG2S which, in turn, invites further opportunities to problematize, subvert, and move beyond oppressive Western legal norms and traditions in pursuit of Indigenous self-determination.

Keywords: self-determination; justice; missing and murdered; police racism

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Introduction

“Search the Landfill” has become a prominent refrain among advocates for missing and murdered Indigenous women, girls, and Two-Spirit people (MMIWG2S) in Winnipeg, and has reverberated across this northern part of Turtle Island, colonially known as Canada. The call to action originated in response to the December 2022 announcement that a white supremacist named Jeremy Skibicki was charged with the serial murders of four First Nations women in Winnipeg, Rebecca Contois, Morgan Harris, Mercedes Myran, and Mashkode Bizhiki’ikwe (Buffalo Woman) and that the Winnipeg Police Service (WPS) would not be conducting a search of the Prairie Green Landfill, where at least two victims are suspected to remain. Not unlike demands to “Search the Sites” of the deadly colonial institutions known as Indian Residential Schools, the call to Search the Landfill has become a powerful demand for truth, accountability, and justice for MMIWG2S. On the same day as representatives of the WPS held a press conference stating that police would not be searching the landfill to bring these women home, daughters of Morgan Harris, Cambria Harris and Kera Harris, spoke at a news conference in the foyer of the House of Commons to demand the search take place. The following day, Member of Parliament Leah Gazan (2022) read a speech written by 21-year-old Cambria Harris before the House to call a national state of emergency to address the ongoing genocide of Indigenous women, girls, and Two-Spirit (2S) people. The speech concluded with Cambria’s call for action and accountability:

Let's pay her [Morgan Harris] the respect and love she deserves by giving her a home finally, and that would be finding her, Mercedes and Buffalo Woman from the landfill, or wherever else they may be. Your government started this genocide and now you must help us fix it.

Over 15 months – from the December 2022 public announcement to the announcement on 22nd March 2024 that the federal and provincial governments would collectively put forward \$40 million to support the search – victims’ families met with representatives of every level of government to push forward the search demands. At their side throughout the process was Cathy Merrick in her role as Grand Chief of the Assembly of Manitoba Chiefs (AMC) and Kyra Wilson, in her role as Chief of Long Plain First Nations where two of the victims are from and as a relative of the Harris



family. While political discussions were unfolding, at the grassroots level, the community held vigils, rallies, and marches in support of the landfill search and three camps were organized by Indigenous leaders in Winnipeg to hold ceremony to honour and ensure Harris, Myran, and Buffalo Woman are brought home.

In this paper, I trace the persistent efforts of Indigenous leaders in their work towards securing governmental support for the search. However, it is not my intention to offer any certain explanation as to why government officials changed their positions to funding the search, following their immediate and adamant refusal. Instead, I am interested in how the Search the Landfill movement can be seen as a matter of Indigenous self-determination. While originating in response to police inaction and refusal to search for MMIWG2S, the Search the Landfill movement did more than denounce the systemic racism of policing. I argue that through resistance to policing, Indigenous leaders created greater space to articulate for themselves what justice looks like and how it may be actualized with respect to the search. In this paper, I explore some of the fundamental differences in how the landfill search was approached by colonial government actors and Indigenous leaders. For the purposes of this paper, I use the term 'Indigenous leaders' in an intentionally broad manner that includes families alongside First Nations Chiefs and advocates, recognising that family survivors are at the heart of MMIWG2S organizing (Chartrand, 2022). I unearth and make sense of the dissonance between Indigenous leaders' and colonial governments' approach to the landfill search to shed light on aspects of a decolonizing approach to justice. While my analysis is specific to the landfill search, I theorize how these discussions reveal important principles, grounded in a framework of Indigenous rights, that may further inform search processes and justice responses to MMIWG2S more broadly.

This paper draws on a text-based analysis of the landfill search advocacy that circulated through various news outlets, on social media, and in press releases. This paper is also in part informed by my experience as a white settler trans person who engages in scholarship and grassroots organizing in Winnipeg as part of my solidarity work, through which, I was able to witness and take part in many community-led actions that raised awareness of the search demands and honoured the women. I situate myself in relation to the topics on which I speak, as is customary among Indigenous and non-Indigenous scholars who aim to work within decolonizing research frameworks and Indigenous methodologies (Kovach, 2009). Centring a

discussion of how colonial government actors and Indigenous leaders differently approached the landfill search is a worthy endeavour as it illuminates some of the fundamental oppositions that exist between Western and Indigenous worldviews and perspectives on justice, and offers further rationale for the resurgence of traditional Indigenous legal orders and towards Indigenous nations' full control over matters of law and justice (Monture-Agnus, 1999). This exploration also contributes to conversations that aim to hold colonial governments accountable for fulfilling their legal obligations to Indigenous peoples and to move toward aligning their laws with Indigenous rights (Borrows, 2019). I explore Indigenous leaders' articulations of the necessity of the landfill search to better understand principles of a decolonizing approach to justice and to consider how these principles may be applied within the confines of Canada's colonial justice system, insofar that this system currently exists and is imposed upon Indigenous governments, to better respect Indigenous rights and bring about better qualities of life for Indigenous people. Beyond a theoretical approach to decolonization (Tuck & Yang, 2012), this paper illuminates some of the material and practical effects of unearthing a decolonizing approach to justice for MMIWG2S as it relates to the allocation of resources and the need for immediate action to undertake searches and responses, as prescribed by Indigenous rights. It is my hope that this paper will contribute to decolonial goals by extending opportunities to educate other settlers about the racism and colonialism within colonial justice institutions, refute colonial discourses and oppressive ideologies regarding MMIWG2S, and foster solidarity with Indigenous struggles to build collective power.

I begin by offering a detailed account of the origins of the "Search the Landfill" movement while contextualizing this movement as a localized example of gendered colonial violence and systemic racism of policing that structures white settler societies. After establishing the landfill search movement as a product of Indigenous resistance to police racism, I turn to explore how Indigenous leaders articulated the landfill search as a broader matter of justice for MMIWG2S. I argue that police refusal to act in the interest of Indigenous lives prompted Indigenous leaders to take control over the search process, through which, they were able to fundamentally transform the discourses regarding the search, grounded in principles of Indigenous rights.



“Search the Landfill” as a Call for Justice

On 1st December 2022, the Chief of the Winnipeg Police Service (WPS) at the time Danny Smyth held a press conference alongside other WPS representatives to announce that a serial killer had been charged with the murders of four Indigenous women in Winnipeg (Molesh, 2023). The accused, a 35-year-old white man named Jeremy Skibicki, had been held in custody since 17th May 2022 on the charge of murder of 23-year-old Crane First Nations woman, Rebecca Contois, whose partial remains were located the following month in the Brady Landfill, just south of the city’s perimeter (Gowriluk, 2022). Upon arrest, Skibicki described to police his brutal, racially-motivated murders of four women, at which time, police suspected that their bodies would likely remain in the Prairie Green Landfill, just north of the city (Molesh, 2023). During the time of the women’s disappearances, Winnipeg’s Indigenous-led community safety group the Bear Clan Patrol Inc. shared missing persons reports of Rebecca Contois, Morgan Harris, and Mercedes Myran on its Facebook page and organized an all-chapter search for Harris five days after she was reported missing. While family members were expending their time, energy, and resources to organize community-led searches to look for their relatives and ensure their disappearances would not go unnoticed the WPS were well aware that they had succumbed to a serial killer. The women’s families, and members of the public, would be informed of the women’s murders six months later (Gowriluk, 2022). This case is a glaring example of the most heinous effects of anti-Indigenous racism within white settler societies, the gendered and sexualized dimensions of genocide that result in the violence, murders, and disposal of Indigenous women (Deer, 2009; Wilson, 2018), and the systemic racism of policing that results in the neglect and utter lack for respect and dignity for victims and their families (Palmater, 2016; Razack, 2016) which is intensified in the Prairie city of Winnipeg.

Winnipeg is a city with a large Indigenous population, particularly in its downtown core, wherein urban Indigenous people are coping with and healing from the effects of displacement and dispossession, intergenerational trauma and abuse, and social, economic, and political disempowerment caused by settler colonialism. Hundreds of years of hetero-patriarchal, capitalist-colonial laws, policies, actions, and attitudes have created the conditions of extreme vulnerability for Indigenous women, girls, and Two-Spirit people. . Carolyn Bennett, former Federal Minister of Crown-

Indigenous Relations, has infamously referred to Winnipeg as the “ground zero” of the crisis of MMIWG2S (Stranger, 2022). While political decisions of colonial governments are to blame for the marginalization of Indigenous peoples that makes the crisis of MMIWG2S a reality, the social and structural effects of colonialism are veiled by dehumanizing stereotypes regarding Indigenous women’s disappearances, and through which police play an active role (Wilson, 2018).

Mi’kmaq lawyer, activist, and professor Pamela Palmater (2016) argues that police bear a large responsibility for the violence, disappearances, and murders of Indigenous women and girls. Palmater (2016) explains how systemic racism shapes police responses to MMIWG2S through victim-blaming narratives in response to violence against Indigenous women and girls, failures to take seriously and investigate missing person reports, and the verbal, physical, and sexual violence perpetrated against Indigenous women and girls at the hands of police. In a recent analysis of interviews with Indigenous women and Two-Spirit people about their experiences of violence in Ontario, Flores and Alfaro (2023) determined that police reproduce common frames and narratives to legitimize violence against Indigenous women and justify police inaction. The police’s framing of women as engaging in “deviant” lifestyles depicts violence as an inevitable consequence of their own poor choices. Meanwhile, police excuse this inaction through the creation of a common storyline – that “there’s nothing we can do” – as if to suggest that the disappeared women are beyond saving (Flores & Alfaro, 2023). This narrative would be echoed in police responses to the landfill search. As I unpack and debunk later, the WPS would strategically construct a discourse that the landfill search was “not feasible” to excuse their disregard for Indigenous women’s lives. The overt indifference, disregard, and the police’s failure to communicate with families and conduct proper investigations symbolize Indigenous women’s disposability within the settler colonial order (Flores & Alfaro, 2023).

Police (in)action to MMIWG2S is but one example of the sexist, racist, and colonial logics embedded in the Canadian justice system, wherein Indigenous peoples are more likely to be constructed as criminals as opposed to victims and subject to mass incarceration for actions that are largely products of colonial injustices in the first place (Monchalin, 2016). The systemic racism of policing, and the resulting distrust of police among Indigenous peoples, has been well documented. In 2021, the Southern Chiefs’ Organization reported on its survey of 738 First Nations people’s



opinions of, experiences with, and effects of policing in Manitoba (Southern Chiefs' Organization, 2021). Of those who had previous interactions with police (N=672), participants reported all types of police discrimination including rude treatment (78.2%), excessive use of force (39.4%), racist language (36.8%), fabricated charges (30.8%), threats against their person (27.1%), and retaliation or harassment by police (22.4%) (Southern Chiefs' Organization, 2021). Nearly 9 in 10 participants (88.4%) agreed that there is a problem of racism in policing (Southern Chiefs' Organization, 2021).

Just as empirical studies have demonstrated the harmful effects of police racism on Indigenous lives and communities, there is a long record of reports and commissions that have been tasked with investigating cases of MMIWG2S in Canada, as well as the legal system's (mis)handling of cases involving the Indigenous people, such as the Aboriginal Justice Inquiry of Manitoba in 1991 and the Royal Commission on Aboriginal Peoples in 1996. Explicit attention to MMIWG2S was afforded in Amnesty International's (2004) Stolen Sisters report, the Native Women's Association of Canada's (2010) Sisters in Spirit research, and the Royal Canadian Mounted Police's (2014) investigation into reports of disappeared Indigenous women and girls. Following decades of demands for an independent national inquiry into the crisis of MMIWG2S among advocacy groups and bolstering political pressure, the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) released its two-volume Final Report on 3rd June 2019. In Volume 1a, the Final Report discusses four indivisible categories of rights that pertain to the safety and wellbeing of Indigenous women, girls, and 2SLGBTQQIA people – the right to culture, health, security, and justice – and describes in length how these rights are currently being violated. Volume 1b follows by putting forth 231 Calls for Justice to address the root causes of violence and the structures that maintain the crisis of MMIWG2S. Three years after the National Inquiry issued its Final Report, the announcement that the WPS would not search for the remains of Indigenous women who had fallen victim to a serial killer was a glaring violation of the spirit of the Commission, let alone several of its Calls for Justice; the WPS would neither search the landfill as part of its investigation for the prosecution of Skibicki, as a right-based obligation to Indigenous peoples, nor as a humanitarian act. The Final Report is clear in its demands for all levels of government to take “all necessary measures to prevent, investigate, punish, and compensate for violence against Indigenous women, girls, and 2SLGBTQQIA people” (1.5). What's more, an entire section is dedicated to

“Calls for Police Services” (9.1-9.11). It is here that the Final Report called for acknowledgement by police services that its relationship with Indigenous women and girls has been shaped by colonialism, racism, and discrimination and to commit to entering respectful relationships going forward (9.1). There are also several calls for police reforms, some of which include policy review, the standardization of protocols pertaining to investigations, culturally appropriate service delivery, and police oversight measures including the creation of civilian Indigenous advocacy committees (9.2-9.11).

While such Calls for Police Services within the Final Report are evidently premised on improving Indigenous-police relationships, the Final Report also specifies that its findings and Calls for Justice are intended to be read within the spirit of Indigenous knowledges, rights, and laws. To this respect, Calls for Justice may be interpreted within the spirit of self-determination.

Self-determination, as articulated in both Western law and Indigenous perspectives, is principally about individuals’ and groups’ inherent right to have control over the things that affect their lives. While protected under international law, specifically Article 3 of the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), which Canada endorsed in 2021, self-determination both predates, exists regardless of, and transcends the scope of Western legal orders (Coulthard, 2014). Self-determination can be understood as “an inherent right that was given to each nation by Creator” and a right that is “vested in Indigenous legal and political traditions” (Ladner, 2009, p. 62). Reflecting on the long history of reports, recommendations, and reforms that have failed to substantively alter the relationship of violence between the Canadian justice system and Indigenous Peoples, late Mohawk legal scholar Patricia Monture-Agnus (1999) rejected reforms that further entrench Indigenous oppression and dispossession within the colonial system. Instead, she envisioned structural change aimed at securing Indigenous self-determination over matters of justice through the resurgence of traditional legal orders. The Canadian justice system has long been rejected by many Indigenous scholars as it has always played a central role in enabling and legitimizing genocide, assimilation, and dispossession (Ross, 1998), functions to neutralize Indigenous resistance to land theft and colonial control (Stark, 2016), and is premised on oppressive and punitive logics which are oppositional to Indigenous worldviews, ethics, and traditional laws (Monture-Agnus, 1999).



Indigenous writing on the topic reflects a diversity of strategies to move toward self-determination. The spirit of self-determination may be embodied through resurgent expressions of traditional approaches to law and justice, as well as efforts aimed at incrementally gaining control over the administration of law and justice by working with and within colonial systems. John Borrows (2019) argues that Western law may be radically transformed through an application of Indigenous ethics, and he sees the seven grandfather teachings as a model for Indigenous legal orders to be adopted within Western legal systems. As it relates to the issue of MMIWG2S, Snyder, Napoleon and Borrows (2015) argue that aspects of Indigenous legal traditions should be deployed to address violence against Indigenous women and that Indigenous laws must be attentive to correct gendered power dynamics that are products of colonialism. Like Borrows, they see much room for Indigenous laws to be recognized and affirmed within section 35 of Canada's Constitution Act, concerning the right to Indigenous self-government. Many of the Calls for Justice put forth by the National Inquiry may likewise be understood within the spirit of strengthening Indigenous peoples' control over the administration of justice. For example, number 5.4 is a call for the transformation of Indigenous policing from its current state to a model rooted in the rights to self-governance and self-determination.

It is within the spirit of incorporating decolonial principles within the colonial justice system – insofar as the colonial system continues to impose its jurisdiction on Indigenous nations, and with the ultimate goal of making space for the resurgence of Indigenous legal orders – that I explore how Indigenous leaders conceptualized justice through their demands that the landfill be searched. I explore discourses surrounding the landfill search to consider how colonial law may better attend to Indigenous rights by deferring the power and control over MMIWG2S justice responses to the leadership of Indigenous women. Before proceeding to this discussion, I begin by briefly outlining some of the local demands related to policing that were aired in response to the December 2022 announcement. I do so to better contextualize my overarching argument that police inaction was the catalyst for Indigenous leaders to gain control over the landfill search process and to determine, for themselves, why the search must take place as a matter of fulfilling Canada's obligations to Indigenous peoples and to comply with Indigenous rights.

Community Calls to Search the Landfill

In Winnipeg, some early supporters of the landfill search advocated for additional resources to be dedicated to the police search (Lefebvre, 2022) and for an international oversight measure to ensure police accountability (Benson, 2022). Others, however, were concerned that funnelling more money into the institution of policing may not be the best approach, given the documented history of police discrimination as it relates to MMIWG2S. Instead, some advocates deferred to Indigenous self-determination over the search so that resources would be allocated to Indigenous leaders to determine how the search would be handled (Laidlaw, 2022) and that additional funding be put into communities as a long-term violence prevention strategy (Olatunde, 2022). At the same time, Indigenous leaders also demanded accountability from the WPS. Cathy Merrick, in her role as Grand Chief of the Assembly of Manitoba Chiefs (AMC), and Kyra Wilson, in her role as Chief of Long Plain First Nation, called for Danny Smyth's resignation as Chief of Police. They argued that Smyth's refusal to enforce the search of the landfill raises concerns regarding his commitment to public safety, particularly as it relates to Indigenous women (Baxter, 2022).

Beyond political discourse, grassroots organizing played a central role in the landfill search movement. Grassroots organizing for MMIWG2S takes many forms, like remembering those who have disappeared through vigils and ceremonies, search support and community patrols, and community methods of accountability for violence and injustice, and these efforts serve the important purposes of raising awareness, mobilizing political action, generating resources, and fostering healing and garnering support for families and survivors (Chartrand, 2022). In the days that followed Skibicki's murder charges, Indigenous leaders and community members united to honour the women through a ceremony, and "Camp Morgan" – named in honour of Morgan Harris – was established near the entrance to Winnipeg's Brady Landfill (Molesh, 2023). Its location, at Brady Landfill, serves to honour Buffalo Woman and Tanya Nepinak, where these women remain, and to ensure that they will not be forgotten in search efforts. Grassroots communities in Winnipeg have held countless vigils, rallies, and marches as part of the Search the Landfill movement, which has raised awareness of the crises of MMIWG2S and police racism, and the interconnections between the two. For example, on 30th July 2023, the AMC hosted a rally at Oodena Circle, a sacred site and gathering place at The Forks in Downtown



Winnipeg, where Grand Chief Cathy Merrick garnered support for the landfill search by condemning the City of Winnipeg's allocation of public funds to host the 2023 "World Police and Fire Games" while allowing Indigenous women to remain in the city's garbage dump.

A few weeks before Merrick's call to action, members of Camp Morgan blockaded Brady Road to intensify political pressure to search the city's landfill by preventing access to it. However, the WPS quickly responded by serving an injunction to the campers, instructing them to remove the blockade or risk legal consequences (CI23-01-41869 City of Winnipeg, The vs Harris, Cambria). Injunctions are legal orders that enable the arm of the state – the police – to criminalize acts of Indigenous resistance that interfere with white capitalist interests (Pasternak & King, 2019). In this case, while the injunction order authorized the WPS to dismantle the blockade at Camp Morgan because it interfered with city operations, the effect is that it constructed Indigenous resistance as criminal (Stark, 2016) and attempted to neutralize and silence Indigenous organizing in support of the search. Camp members resisted by setting fire to the injunction order. Although the city executed the function and dismantled the blockade, Camp Morgan remains strong in vast fields of land on Brady Road.

This brief discussion of contentious police-community relations in response to the landfill search demands offers the context necessary to understand how Indigenous leaders moved forward in their landfill search advocacy. I now turn to explore how family and community members, representatives of Indigenous advocacy organizations, and First Nations Chiefs who have been central to the Search the Landfill movement refuted state positions and sought accountability from state actors.

Approaching the Landfill Search Through Different Worldviews

In this section, I focus on how issues of cost, safety, and time permeated political discussions throughout the landfill search negotiations. I explore how these principles were approached differently, and in oppositional ways, among Indigenous leaders and colonial state actors and I aim to make sense of these fundamental differences with respect to Indigenous and Western worldviews. I make meaning of these different perspectives to offer theoretical insight into some of the principles that may underpin a decolonizing approach to justice for MMIWG2S.

As I draw from publicly available sources to relay the issues being raised and debated, derived from news articles, press releases, and reports, I want to caution the reader that this is only a partial story, fundamentally shaped by the position from which I write. As a settler scholar, I intend to craft further space to listen to, learn from, and support Indigenous perspectives on justice, and as a supporter of the movement, I am not privy to the full breadth of conversations that took place behind closed doors, or the content of reports that are not made public. At the same time, my focus on media is particularly salient against the backdrop of systemic erasure of MMIWG2S in mainstream news, and sexist and racist victim-blaming discourses regarding disappeared women in times that they are shared (Gilchrist, 2010). While specific to the landfill search movement, I hope for this discussion to have broader implications for search responses for MMIWG2S.

Throughout the entirety of negotiations regarding the search, colonial government actors crafted a narrative that the landfill search was simply not feasible to justify their decision to not search for murdered Indigenous women. During a press conference held on 6th December 2022, the head of the forensics unit, Inspector Cam MacKid, reaffirmed this position by reiterating the WPS's perspective that the landfill is too large, compacted with trash, and too much time has passed to ensure a feasible recovery of the women's bodies (Canadian Press, 2022). While police strategically gestured to the amount of time that passed to rationalize their refusal to search, this delay was itself a manifestation of police negligence. The WPS had known about the murders since 17th May 2022, and while operations in that part of the landfill ceased in June, it was not until December that the public announcement was made and in which police, without any consultation with the families, unilaterally decided that the search would not occur (CBC News, 2023). It was around his time that news articles re-circulated about a recovery of the remains of Nathaniel Brettell in a landfill in Southern Ontario, eight months after his disappearance in 2021 (Stewart, 2021). In a press release issued by the Southern Chiefs Organization (SCO, 2022), Grand Chief Jerry Daniels spoke to the "huge loss of trust between First Nations citizens and the Winnipeg Police Service" related to its decision: "We are asking police to stop using language saying that this is not feasible because this is not truthful.." Daniels called for the Prairie Green Landfill to "be classified as an active crime scene" and joined other Indigenous leaders in calling for the resignation of WPS Chief Danny Smyth (Baxter, 2022).



When the provincial First Nations advocacy organization the AMC was granted federal funding and authority over a Feasibility Study in February 2023, late Grand Chief Cathy Merrick would work closely with the Harris and Myran families. On 24th July 2023, the AMC (2023b) released its Final Report of the Landfill Search Feasibility Study Committee's Technical Subcommittee. The report concluded that a search of the Prairie Green Landfill is, in fact, feasible, although the search would involve a considerable amount of time, resources, and risks. The report estimated that a search could take anywhere between 12 and 36 months and cost between CAD 84 and 184 million, depending on the time it takes (Holland & Dueck, 2023). A second report, not made public, suggested that the cost would be significantly less than originally estimated (Buffie, 2024). It also identified risks to workers related to the exposure to toxic chemicals and asbestos while laying out instructions on how the search could safely proceed by managing these risks (Holland & Dueck, 2023). The report grounded support for the landfill search within Canada's legal obligations and responsibilities, including the rights guaranteed by UNDRIP and the Calls for Justice put forth in the Final Report of the National Inquiry. As Merrick stated in the report, the recovery of these women from the landfill is not only a humanitarian effort but a legal obligation for Canada as per the inherent rights of Indigenous Peoples to a dignified burial.

Beyond the technical factors including the economic cost that the search would incur, the feasibility report measured the societal cost of the search. In the Community Impact Statement written as part of the report, Cathy Merrick on behalf of the AMC accused the WPS of viewing the recovery of Indigenous women from the Prairie Green Landfill as "unworthy of the hours and budget" (Merrick as cited in Holland & Dueck, 2023, p. 11) before going on to denounce the lack of political will among all levels of Canadian government, which she views as a symptom of systemic racism. Alongside the distress that the families would experience by having their loved one's final burial place be a city landfill, Merrick relayed community concerns that the failure to search "could possibly then set a precedent that could encourage perpetrators to use dumpsters/landfill sites as a means of disposing of the remains of their victims," and "one that comes with impunity" (Merrick as cited in Holland & Dueck, 2023, p. 12). As Merrick put it, the implication is that: "you can dispose of us, and no law enforcement will look for us" (Merrick as cited in Holland & Dueck, 2023, p. 12). The feasibility study would conclude that a search is not only feasible,

but integral for the healing of families, for justice for MMIWG2S, and for creating a culture of safety for Indigenous women and girls. Through reference to the societal cost, Merrick shed light on how police searches are imperative for the administration of justice and to set a precedent that missing and murdered Indigenous women are always worth searching for.

While the report balances the risks to the workers who conduct the search with Indigenous women's inherent rights to safety and security, this important nuance – that risks could be managed – was obscured by colonial state actors in defence of their inaction. Manitoba's Progressive Conservative (PC) Premier at the time, Heather Stefanson, indicated that the risks involved meant that the landfill search was "unsafe" and should, therefore, not take place. The landfill search was then used as part of a thinly veiled racist political strategy by the PC as part of their 2023 provincial election campaign, whose billboards plastered across the city read, "Stand firm against the unsafe \$184 million landfill dig." Through a sweeping construction of the search as "unsafe," the campaign skirted the details of the feasibility study and aimed to garner public support by positioning economic interests in opposition to justice for MMIWG2S. However, vague references to legal technicalities would be used to legitimize the provincial government's decision.

Manitoba Justice Minister Kelvin Goertzen argued that the delay in searching the landfill was in the interests of justice. Goertzen relayed the position of Crown attorneys in charge of prosecuting Skibicki who felt that they had the necessary evidence required to lay charges and proceed to trial and who raised the concern that conducting the search at this point could delay or disrupt the court proceedings (Bernhardt, 2023). What the Minister was likely alluding to is the Jordan 2016 framework, which prescribes that, within the context of the Superior Court, there is a 30-month timeframe for trials to occur once charges are laid. Skibicki's trial was scheduled to begin on 29th April 2024, nearly 24 months after Skibicki was first charged with the murder of Rebecca Contois. Beginning the landfill search before the trial seemed to pose a problem to the prosecution since the search could take anywhere between 12 and 36 months.

To the prosecution, it was in the interest of securing a conviction that the delay of the landfill search was necessary. The rationale for delaying the search until after the trial had concluded was likely to mitigate the risk that any findings from the search, or lack thereof, could impact or delay the trial proceedings, in which case, the charges against Skibicki could be thrown



out. What's more, the decision to delay the search until after the trial concluded might also be seen as a pre-emptive measure in response to the legal strategy mobilized by the accused's lawyers; the defence had argued, albeit unsuccessfully, that the high-profile nature of his case, including the media coverage surrounding the landfill search, would lead to a jury bias in favour of Skibicki's guilt. In any case, regardless of the rationales put forward by state actors, the decision to delay the search was unacceptable to Indigenous leaders. Aware of the state's concern that the landfill search could negatively impact the prosecution of Skibicki, Cambria Harris maintained that this is "not a risk for our family, the risk for our family is you telling us that you will not search for them" (Bernhardt, 2023). The AMC responded similarly in a press release, referencing former Chief Kyra Wilson who countered the government's framing of the landfill search in opposition to the prosecution and trial of Skibicki (AMC, 2023a):

This latest provincial response is deeply concerning as it leaves affected families in an unfortunate dilemma: they must choose between pursuing justice in court or advocating for the search and recovery of their loved ones. Moreover, the province's actions demonstrate a familiar lack of urgency in handling cases of MMIWG2S+, which is concerning not only for the affected families but for all of Turtle Island.

It is clear, from the position of Indigenous leadership, that the search and recovery of victims' bodies is an inherent part of the justice-seeking process and a matter of Indigenous human rights. They illustrate how searching the landfill and trialing Skibicki should not be seen as oppositional, nor as a zero-sum game. While the state positions the search in conflict with the criminal trial, the search and recovery of the women's bodies would have undoubtedly played a significant role in the collection of evidence for the prosecution of Skibicki, especially considering the difficulties of securing a conviction of murder when bodies are not recovered (Stobbe, 2023). The search of the Brady Landfill, alongside the Prairie Green Landfill, is also pivotal to determining the identity of Buffalo Woman, to reunite her with her family, and to ensure that she is no longer an unknown person within the threshold of missing persons reports. Not only could the landfill search have played an important role in the prosecution of Skibicki, but the landfill

search was also a larger symbol of justice, healing, and accountability from the state and its racist legal institutions.

Indigenous leaders would refuse that the search be delayed because of administrative technicalities prescribed by colonial law, although this is precisely what occurred: the landfill search, while receiving financial support on 22nd March 2024, was delayed while Skibicki stood trial. Following a six-week trial, held between late April and mid-June 2024, Chief Justice Glenn Joyal offered his judgment on the Skibicki case while affirming the “undeniable and profound impact on the entire Manitoba community, Indigenous and non-Indigenous” (R. v. Skibicki, 2024 MBKB 113, para 508). Justice Joyal found Skibicki guilty of four counts of first-degree murder and expressed hope that this outcome would “provide some clarifying answers, and by extension, assist in the process of grief, acceptance, and healing” for families and communities (R. v. Skibicki, 2024 MBKB 113, para 509). Skibicki was later sentenced to life imprisonment with a chance of parole after 25 years. By July 2024, a healing lodge was erected on the grounds at the Prairie Green Landfill and the establishment of search infrastructure is underway at the time of writing.

Self-Determining Justice for MMIWG2S

In the previous section, I laid out how Indigenous organizing for the landfill search challenged the institution of policing – by rebutting the police’s position on the landfill search and demanding accountability from its leadership – and gained greater control over the search process. What I find particularly interesting is how Indigenous leaders did not reproduce normative demands for police reforms and improved police-Indigenous relationships as part of calls for reconciliation which fail to escape the colonial circuits of power (Coulthard, 2014). Instead, Indigenous leaders called for accountability from state actors for disregarding the rights and the lives of Indigenous women before asserting control over aspects of the decision-making process. It is my argument that, through resistance to state inaction, Indigenous leaders created the necessary space to articulate why the search must occur and how it would take place. In doing so, Indigenous leaders transformed the discourses surrounding the landfill search and, by conveying the search as a matter of Indigenous rights, they would challenge rigid and restrictive principles crafted within the Western legal tradition. In this final section, I theorize the efforts of Indigenous leaders as an expression



of self-determination and argue that their perspectives offer a valuable glimpse of what a decolonizing approach to justice may look like as it relates to search efforts for MMIWG2S.

Indigenous legal scholars have argued that responses to sexual and gendered violence against Indigenous women must be addressed through the perspectives of Indigenous women and survivors, and that doing so will help contest patriarchal and racist legal norms established by the colonial system and move toward the resurgence of Indigenous legal traditions (Deer, 2009; Snyder, Napoleon & Borrows, 2015). I approach the Search the Landfill movement as a resurgent expression of Indigenous women's political power and a reflection of a decolonizing approach to justice that must be implemented in response to MMIWG2S. Resurgence, as articulated by Leanne Simpson (2017), describes the practice of reviving and embodying Indigenous traditions, knowledges, and ways of doing things. Against a backdrop in which Indigenous women have been socially, economically, and politically disempowered through hundreds of years of colonial laws, practices, and policies (Simpson, 2017), Indigenous women's role in the landfill search movement marks a revival of women's central role as decision-makers and leaders. The role of Indigenous women in governing positions simultaneously invites opportunities to recentre and reclaim Indigenous values that defy Western capitalist patriarchal norms, interests, and laws. Indigenous women's leadership in pushing forward the search demands would bring to light some major oppositions between Indigenous and Western worldviews and ethics. Indigenous leaders would not allow capitalist interests and Western legal technicalities to supersede and violate the inherent rights of Indigenous women.

While state actors were reluctant to financially support the search, Indigenous leaders refused to put a price tag on Indigenous lives. To Indigenous leaders, the search was not about money – it was about responsibilities. Their perspectives exemplify the incommensurability of assigning monetary value to matters of justice for MMIWG2S, especially when injustices themselves are products of colonial laws, policies, and conditions. To Indigenous leaders, the cost of the search was less a financial consideration than a social one. The financial cost of the search is incomparable to the societal cost of not searching, which would only further enable the conditions of disposability of Indigenous women (Wilson, 2018) and reproduce the status quo of police discrimination and neglect (Palmer, 2016). The search would not only constitute justice for the individual women

and support the families' healing but also serve as a broader symbol of justice for all who have disappeared and have been subjected to the dehumanization of settler state inaction.

Against a backdrop of systemic racism and sexism that culminates in the refusal to take seriously missing persons reports, that excuse and enable disappearances through victim-blaming discourses, and all forms of police violence against Indigenous women and girls (Flores & Alfaro, 2023; Palmater, 2016), state support to search the landfill would be a meaningful way to exercise a commitment to protecting Indigenous lives and begin resolving the conditions that create the crisis of MMIWG2S. However, Indigenous leaders would not allow for their search demands to be transformed into a call for better police practices and improved police relationships with Indigenous peoples. On the contrary, Indigenous leaders demonstrated a refusal to work with those who fail to practice good relationships with Indigenous Peoples, as exemplified in the calls for the resignation of both Danny Smyth as Chief of the Winnipeg Police Service and Heather Stefanson as Manitoba's PC party leader. Moving beyond performative gestures, good relationships and a political will to act in the interests of Indigenous rights are necessary to securing a nation-to-nation relationship (Coulthard, 2014). The Search the Landfill movement became an opportunity for Indigenous leaders to exercise self-determination over the process and to rewrite the discourses that surrounded the search, which would be premised on principles of Indigenous rights, worldviews, and ethics. Indigenous leaders maintained that the issue was less a matter of whether a search was to take place, but a matter of how it would be done. By grounding the search as a matter of Indigenous rights, issues of cost, risks, and time involved could be reframed and rearticulated within Indigenous worldviews in ways that mandate the search take place as an imperative for justice to occur, not only for the families of the four women but for all cases of MMIWG2S.

Conclusion

In this paper, I explored how the Search the Landfill movement originated in response to police inaction and transformed into a powerful expression of Indigenous self-determination over matters of justice for MMIWG2S. I argued that Indigenous leaders challenged the control and decision-making power that police had over the search, which opened the door to challenge and



rewrite the problematic discourses surrounding the search that was crafted by colonial state actors. Indigenous leaders did not only refuse to take no for an answer, but they refused the position of police as the authority over the decision-making process. Instead, Cathy Merrick as late Grand Chief of the AMC, former Long Plain Chief Kyra Wilson, and families would emerge as the principal authorities over the feasibility study, the primary decision-makers throughout the entire process, and the central advocates behind securing state support and holding the state accountable to fulfilling its legal obligations to Indigenous Peoples.

With respect to their assertion of control over the search process, I see the Search the Landfill movement as an expression of Indigenous self-determination over matters of justice, which pivots upon restoring women's rightful place as the central decision-makers within traditional governance structures. Reclaiming Indigenous women's responsibilities within Indigenous nations is an integral part of decolonizing and resurgent movements and invites further opportunities to articulate, recreate, and practice decolonial forms of justice that are crafted in the interest of creating a culture of safety for Indigenous women. By transforming the discourses that surrounded the search related to issues of cost, safety, and time – in essence, that the searches should go forward regardless of economic cost, that the risks to Indigenous women are too great to not search, and that the searches begin immediately out of respect for the women and their families – Indigenous leaders offered important insight into what a decolonizing approach to justice looks like in the case of searches for MMIWG2S, and how these principles may be engaged to hold the state accountable in its actions toward Indigenous peoples and its obligations to respect Indigenous rights.

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