



**flew** Family Law  
Education for Women  
Women's Right to Know

**fodf** Femmes ontariennes et  
droit de la famille  
Le droit de la femme à savoir

# Preventing Bias in Service Delivery: A Child Welfare Lens

March 25<sup>th</sup>, 2021

**Estella Muyinda**, Interim Legal Director, METRAC: Action on Violence  
**Jean Samuel**, President & Owner at Arise International Promotions

Funded by:

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)

 **The Law  
Foundation  
of Ontario**  
*Advancing access to justice*

# Disclaimer

This webinar is for general information purposes only and is not legal advice. The legal information and answers provided by our presenters in the Q+A are not intended to be used as legal advice for a specific legal problem.

This webinar was recorded on March 25<sup>th</sup>, 2021 and reflects developments in the law before that date.



# Land Acknowledgement

- We acknowledge that since time immemorial the land on which we live and work has been the home and traditional territory of Indigenous Peoples, including the Mississaugas of the Credit, Haudenosaunee and Huron-Wendat, and is now home to many diverse First Nations, Inuit, and Métis relatives. CLEO's work is also carried out across the many traditional territories of this land that is also known as Ontario. We acknowledge our privilege as well as our role in the systems of colonization.



**CLEO**

Community Legal Education Ontario  
Éducation juridique communautaire Ontario

# About our Presenters



Estella Muyinda has an LL.B., LLM, Dip. LP and she is called to the Bar Societies of Ontario, the Northwest Territories and Manitoba. Estella has practiced in the areas of family, criminal and immigration law. Her work experience also includes policy development on diversity, equity, equality, and human rights issues. Estella is a mediator and facilitator, she has made presentations on human rights issues at the United Nations Commission on Human Rights on several occasions, the Organization for Security and Co-operation in Europe and at many national and international conferences. She has been instrumental in starting projects that empower youth, women, disabled, Indigenous, and racialized communities. Estella is currently the Interim Legal Director at METRAC: Action on Violence.



Jean Samuel has worked in the Diversity field for over 20 years, and her most recent role was as the Provincial Director of Diversity, Equity, and Inclusion for the Ontario Association of Children's Aid Societies, where she worked to support the development of equitable services, programs and processes for children, youth, families, and staff.

Jean is a graduate of the University of Toronto and is a Certified Change Management Professional, as well as a trained facilitator of Anti-Racism and Anti-Oppressive Practice. Jean also holds the designation as a Certified Canadian Inclusion Professional (CCIPTM) from the Canadian Centre for Diversity & Inclusion, and she is passionate about social justice, human rights, and equity. More information on Jean can be found on the [CLEOConnect.ca](http://CLEOConnect.ca) site on the page for this event.

This webinar will be facilitated by Fiona MacCool, CLEO's Digital Projects Manager. Fiona manages web projects for CLEO including the Steps to Justice website, and formerly, the Your Legal Rights site. She also facilitates CLEO webinars, manages live chat services and is in charge of social media for the organization.



**CLEO**

Community Legal Education Ontario  
Éducation juridique communautaire Ontario

# METRAC

## METRAC: Action on Violence

- works to end violence against women, youth, children, Two Spirit, Trans, and Nonbinary people
- a not-for-profit, community-based organization

[www.metrac.org](http://www.metrac.org)

## METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

## FLEW, **Family Law Education for Women** in Ontario

- provides information on women's rights and options under Ontario family law
- in 14 languages, accessible formats, online and in print

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)



# Introduction

# Topics to be Covered

1. An Overview of Equity Work
2. Unintentional Bias and Child Welfare
3. Making Connections to Gender-Based Violence
4. Equity Changes Start with/within Me
5. How to be an Effective Ally within the System or Structures

*Information is accurate as of March 22<sup>nd</sup> , 2021*

- Embody curiosity over judgement;
- Promote a culture of learning and unlearning;
- Honour the complex, layered range of emotions and feelings we are experiencing at this time during the pandemic and racial unrest in Canada and globally;
- Collective responsibility and accountability for equity within our organizations and institutions;
- Practice humility, vulnerability and authenticity;
- Lean into discomfort.

## Guiding Principles

# Virtual Space Agreement

## What we hold to be true:

- No debating existence of oppression, including racism within child welfare and other systems including GBV
- No victim blaming;
- No intentional harm;
- Any other behaviour or rhetoric that perpetuates oppressive ideologies including homophobia, transphobia, sexism, classism, anti-Black and anti-Indigenous racism, etc.
- “All Lives Matter”, “Police Lives Matter” or “Not-All White People...” is not the conversation!

# Objectives for our time together

01

Deepen one's awareness of the structures that uphold systemic-structural racial oppression within Canadian institutions

02

Create critical dialogue to assist in the dismantling and rebuilding of thought and practice to achieve equity for all

03

Provide ways to envision equity within institutions as a journey of the self and a journey of the organization.

# Truth & Reconciliation

It is important to note that Indigenous peoples understand themselves as peoples or nations, not as racial or ethnic groups. There are many consequences that flow from this distinction, including Indigenous peoples' rights to land and rights to self-determination, which includes rights to self-government. These rights have been recognized at the international level through the United Nations Declaration on the Rights of Indigenous Peoples. To respect these distinct entitlements, Indigenous peoples must be distinguished from other communities and recognized as unique. We encourage CASs, government and others to clearly recognize Indigenous peoples as distinct peoples and nations when considering data collection and other aspects of service delivery.

# Emotional Intelligence – What is it?

- Emotional intelligence describes the ability to understand one's own feelings. It also provides great insight on how emotions influences motivation and behavior.
- The concepts of Emotional Intelligence have been around since the early 20th century, but the term was first introduced by Wayne Payne in 1985

# Emotional Intelligence

If your emotional abilities aren't in hand, if you don't have self-awareness, if you are not able to manage your distressing emotions, if you can't have empathy and have effective relationships, then no matter how smart you are, you are not going to get very far.

- ~ Daniel Goleman

# Unconscious Bias: Definition

The attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.

Also referred to as implicit bias.

Kirwan Institute

# What Supports Structural Oppression?

- Privilege and dominance
- Systemic oppression
- Internalized oppression
- ✓ Correction of oppression will require **'NAMING IT'** as a factor for exploration and action

03/22/2021

# The Roots of Oppression

## At the Branch Level:

The Personal Level  
*How people treat one another*



## At the Soil Level:

The Unconscious Level



## At the Root Level:

The Structural or Systemic Level  
*Power - Privilege - Status*



# Key factors which influence population health are...

## **Social Determinants of Health**

- Income & Social Status
- Social Support Networks
- Education & Literacy
- Social environments
- Physical environments
- Employment/Working conditions
- Personal health practices/coping skills
- Childhood development
- Biology/Genes
- Health Services
- Gender
- Culture

# Social Determinants of Health

Conditions in which people are born, grow, live, work and age through, which includes the health system. These systems are shaped by distribution of money and power, and resources at the local, regional, national and global levels and are themselves influenced by policy changes and choices. Social determinants of health are mostly responsible for health inequities...

[www.who.int/social\\_determinants](http://www.who.int/social_determinants)

# **The Child, Youth and Family Services Act (CYFSA)**

# Child, Youth and Family Services Act

The Act governs certain programs and services for children, youth, and families, including:

- child welfare

amongst other programs such as:

- residential care
- adoption
- youth justice
- children's mental health
- First Nations child and family services
- Inuit child and family services

- The **purpose of the CYFSA** is to promote the best interests, protection and well-being of children.
- The legislation puts children and youth at the centre of decision-making, and supports more accountable, responsive and accessible child, youth and family services.
- It also strengthens oversight for children's aid societies and licensed residential services.

The 2008 Ontario Incidence Study of Reports on Child Abuse and Neglect (OIS) describes the primary forms of reported maltreatment for children investigated by child welfare services.

The OIS report showed that the primary category for substantiated maltreatment is highest amongst children with exposure to intimate partner violence (39%), followed by neglect, physical abuse, emotional maltreatment and sexual abuse (Fallon et al., 2010).

The recent changes to the Divorce Act Bill C-78 provides a list of factors to consider in determining what is in a child's best interests.

Section 16 (3) In determining the best interests of the child, the court shall consider all factors related to the circumstances of the child, including

(j) any family violence and its impact on, among other things,

(i) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child.

## Principles of CYFSA

- respect diversity and human rights
- maintain connections to community whenever possible
- consider child's physical, emotional, spiritual needs
- consider child's race, family diversity, sexual and gender identity, culture and other personal characteristics
- allow child, parents, relatives and community involvement when possible

- Section 125(1) (CYFSA) defines a child in need of protection
- Children Aid Society (CAS) usually gets involved, if a CAS worker thinks a child is **in need of protection**
- Section 74(2) provides for when a child is in need of protection. **This** means when a child **is harmed** or **is at risk** of being harmed and it includes: Abuse and Neglect of the child.
- Section 74(3) provides for the best interests of a child.

## Children's Aid Society has a duty to:

- Investigate allegations of abuse and neglect
- Protect children who are “in need of protection”
- Provide guidance and counseling to families for the protection of their children
- Care for or supervise the care of children in CAS care
- Establish foster care options
- Place children for adoption

## Intersectionalities (When/How)

- Identify,
- recognize,
- sensitivity,
- Awareness,
- Best interests of a child,
- The Ontario Incidence Study report showed that the primary category for substantiated maltreatment is highest amongst children with exposure to intimate partner violence (39%).

If the CAS worker is concerned about the child's safety, the CAS may do a full investigation

Collecting information to find out if the child is "in need of protection" under the law

Steps in the investigation are:

- try to give the family support
- think about actions that disrupt the family as little as possible
- include the child or youth in decisions
- include the child's family and community in supports, where possible

## When CAS determines a Child is in need of protection:

- CAS may suggest developing a Voluntary Service Agreement
- Parents may voluntarily agree to accept services such as:
  - in-home visits
  - parenting course
  - drug therapy or testing
  - counselling or supportive services to parents and child
  - child assessment

# CYFSA - Sections Highlighting Equity

Section 74 (3) in *Best Interest of the Child*:

- **Consider a child's views and wishes** in accordance with their maturity;
- **Consider importance in recognition of First Nations, Inuit and Métis cultures, heritage and traditions...cultural identity and connection to community;**
- Circumstances of the case, i.e. **race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity, gender expression and child's development, mental state**, etc.

## Understanding the CYFSA from an Intersection Lens

- **Societies have a duty to support best practice according to the mandate of CYFSA**, and the CYFSA exists to support effective decision-making within the child welfare system.
- Understanding the CYFSA **and its alignment to the human rights and equity of all children**, is critical to providing support and advocating for families and children engaged with GBV service providers to ensure there are serviced in a way which fosters their unique identity and needs.

# Challenges in Child Protection

- **Denial of the colonial context** in Ontario's child protection system and the **role of lawyers and other legal professionals** in maintaining this system of colonialism in its legislation, policies, and practices;
- **No mandatory requirement** to use anti-colonialist, anti-racist, anti-Indigenous, anti-Black, anti-oppressive or equitable practices in all levels of child protection work as an expectation of maintaining employment;
- **Inconsistencies** of equitable child welfare practices across agencies;
- **Focus on worker compliance** with social control activities that feed into dominance and oppression
- **Lack of referrers and stakeholders (including GBV organizations) understanding** of oppression, dominance, white privilege, anti-racism, anti-Indigenous racism, anti-Black racism, and anti-colonialism

# Looking at Oppression through INTERSECTIONALITY

- To clearly understand the impacts of oppression across all social identities, we need to examine oppression in all of its forms.
- By educating ourselves on how each marginalized identity can intersect and operate together simultaneously, and how our individual social identities and location shape how we see, interpret and navigate the world around us, we are better able to fully understand the impacts of oppression and the lived experiences of the marginalized.
- Building an intersectional analysis of oppression helps us to fight for liberation and equity for all.

# Issues These Challenges Have Presented

- Over-representation of Indigenous, African-Canadian and other marginalized youth within Ontario's child welfare system.
- Inadequate spaces within the system of child welfare for children, youth and families to address challenges and inequities causing disparity of experiences.
- Continual research within systems, including GBV organizations with very few agencies collecting and using data on disparity and disproportionality to affect real change for the very vulnerable who are targets of child welfare surveillance.

# Impacts of Privilege

- You are treated with **less courtesy than other people**
- You are treated with **less respect than other people**
- You receive **poorer service than other people**
- People **act as if they think you are not smart**
- People **act as if they are afraid of you**
- People **act as if you are dishonest**
- People **act as if they are better than you**
- You are **called names and insulted**
- You are **threatened and harassed**

# Privilege Identity Exploration (PIE) Model (Sherry K Watt)

Eight defensive reactions (distress patterns) often displayed in difficult dialogues when we are asked to reflect on our social, political, and economic position in society

# Privilege Identity Exploration (PIE) Model (Sherry K Watt)

## Recognizing Privileged Identity

- Denial
- Deflection
- Rationalization

## Contemplating Privileged Identity

- Intellectualization
- Principium
- False Envy

## Addressing Privileged Identity

- Benevolence
- Minimization

# What can You Do?

- Encourage each other to speak in your own voices and share personal stories with one another, and with members of your organization. Your stories help to effect change, sketch a vision and align others behind you.
- E.I. (Emotional Intelligence) is just as important **or even more important** as your I.Q. (Intelligence Quotient) when it comes to fostering an equitable and inclusive workplace culture and equitable practices.
- Help to infuse equity targets into strategic priorities & objectives for your organizations and institutions.

# Dismantling Oppression: WHO AM I?

Power relationships and dominance must be dismantled through analysis and understanding of who you are and how your identity is formed and maintained... you must critically analysis and answer the question...



## Who Am I?

### At the personal level

Through messages, experiences and socialization processes I receive about my identity in society

### At the societal level

Through messages, experiences and socialization processes I receive about my identity in society

### At the institutional/ structural level

Through the messages I receive from my organization through its policies, practices and procedures

# Tips for Changing the Course of Oppression

01

Demonstrate nuanced understanding of systemic oppression, including racism, anti-Indigenous racism, anti-Black racism

02

Enact a continual process of self-reflection about your own social identity and positionality

03

Don't be afraid to *call-in* acts of oppression and racism when you hear or see it operating in your organizations at the branch, soil and root levels

04

Express a sense of responsibility and commitment to using your privilege in ways that promote equity and to dismantle oppression

05

Participate in coalition-building and work in solidarity with marginalized and racialized colleagues and communities

*Adapted from* Spanierman, Lisa B and Laura Smith (2017) Roles and Responsibilities of White Allies: Implications for Research, Teaching and Practice.

# Missing in the Solution to Achieve Equity in Child Welfare

- Revision of the CYFSA to include legislative mandate holding the sector accountable for inequitable practices which have caused poor outcomes for children and youth;
- Review and rewrite of the Risk Assessment to remove markers of inequities for marginalized people and communities;
- Integration of equity analysis into all programs, policies and service programs prior to implementation;
- Dismantling of systemic-structural oppression, including anti-Black racism, anti-Indigenous racism, within child welfare and mainstream institutions like police, education, healthcare and criminal justice, and Gender-Based Violence – we must redefine the responsibilities as their ***"Duty to Support vs Duty to Report"***.

# Importance of Equity in GBV Systems

- Child welfare professionals (including all levels of leadership, board members and senior executives), foster parents and volunteers, as well as all other stakeholders working with the child welfare system in Ontario need to critically understand the impacts that marginality and oppression has on families and their children.
- **We must become more comfortable having critical and uncomfortable dialogue to dismantle individual, systemic and structural oppression BUT WE MUST UNDERSTAND MORE DEEPLY THE ROOTS OF OPPRESSION... starting with this critical dialogue at the most senior levels within organizations.**

## **Preventing Bias in Service Delivery: A Child Welfare Lens**

1. Foster a culture of inclusion, diversity and equity for ALL
2. Don't be afraid of the discomfort that critical dialogue on the issues of inequity brings
3. CALL-IN individuals into to anti-oppressive and anti-racism dialogue
4. Look at what you have done and continue to do to remain oblivious to systems and structures that uphold White Supremacy
5. Integrate anti-oppressive and anti-racism strategies into all aspects of your work.
6. Collect, use and continually review data to address issues of disparity and disproportionality of service

## Parting Words

• *“The real culprit appears to be our own desire to do good and to protect children from perceived threats and our unwillingness to come to terms with our fears, deeply ingrained prejudices, and ignorance of those who are different from us”*

- (Cross, 2008)

# Resources

- The *Child, Youth and Family Services Act (CYFSA)*
- *The Divorce Act Bill C-78*
- *Children's Law Reform Act (CLRA)*
- The Ontario Incidence Study of Reported Child Abuse and Neglect-2008 (OIS-2008) (Fallon et al., 2010).  
<http://cwrp.ca/publications/2293>.
- Ministry of Children, Community and Social Services  
<http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/modern-legislation.aspx>

# Questions?

## **Estella Muyinda**

Interim Legal Director, METRAC: Action  
on Violence



## **Jean Samuel**

Diversity, Equity & Inclusion  
Consultant





**Thank you!**

# METRAC



158 Spadina Rd  
Toronto, ON, Canada  
(416) 392-3135

info@metrac.org | [www.metrac.org](http://www.metrac.org)

***This information is accurate as of  
March 22nd, 2021***

Funded by:

