

Ice-berg: Criminalization of Indigenous women (IW) in Canada

Event

- **Over-representation** of IW in all prisons
- IW in prison who are single mothers **have their children taken away** by the child welfare system

Patterns

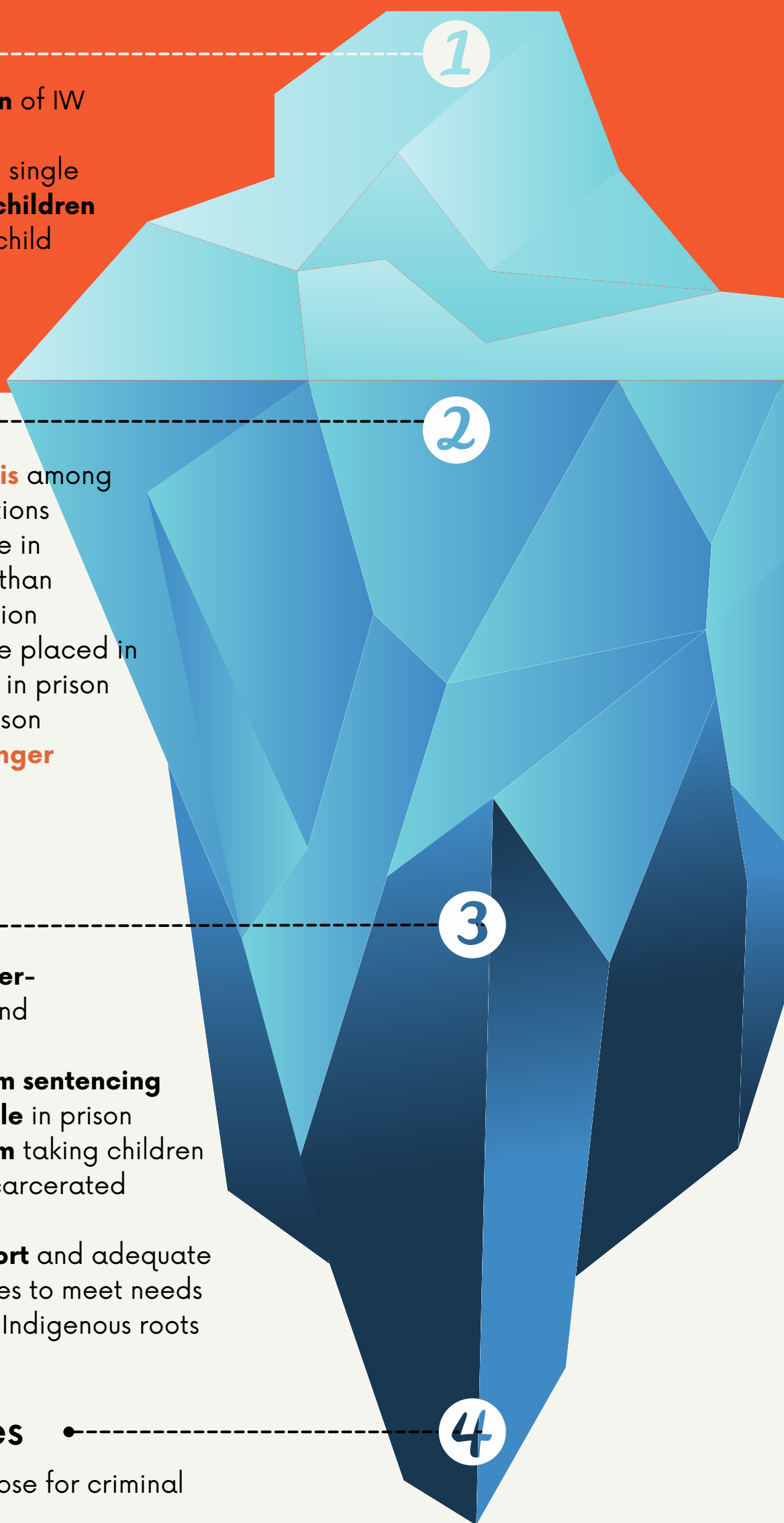
- **Mental health crisis** among Indigenous populations
- IW more likely to be in **custodial settings** than community supervision
- IW more likely to be placed in **maximum security** in prison
- IW are entering prison **younger**, facing **longer sentences**

Structures

- Racial profiling, **hyper-responsibilization** and **victimization** of IW
- **Mandatory Minimum sentencing**
- **Custody Rating Scale** in prison
- **Child welfare system** taking children away from single incarcerated mothers
- **Lack of social support** and adequate mental health services to meet needs
- **Disconnection** from Indigenous roots

Mental modes

- **Punishment** as purpose for criminal justice system
- **Tough on Crime** mindset
- Normalization of **racialization of crimes**
- **Stereotypes** stemming from deep-rooted mental modes of settler **colonialism**:
Control, Paternalism, White supremacy, Racism, Sexism, Capitalism
- **Internalized inferiority** among Indigenous women



Historical Timeline: Indigenization of Canadian prisons

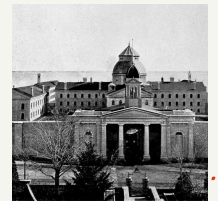
1831-
1996

Indian Residential Schools (IRS) began in 1831, and made mandatory for all Indigenous children in 1920. Families that failed to send their children risked criminalisation.



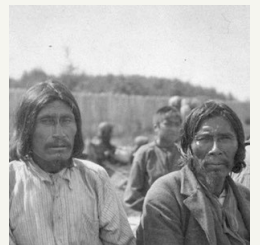
1835

While local gaols existed prior to this, Canada's **first penitentiary** was built in Kingston for "individual reformation" (Chartrand 2019).



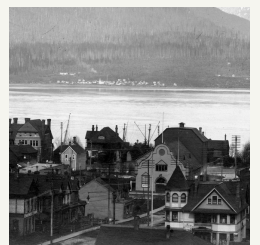
1876

The Indian Act was enacted, allowing the Crown to exert systemic control over Indigenous peoples in all aspects. For instance, women leadership in Indigenous communities were dismantled. Failure to comply with the Act risked criminalisation.



1951

The Indian Act was amended to remove the harshest laws around banning Indigenous ceremonies and potlatch, but also gave provinces power to **enforce child welfare laws on reserves**.



1951-
1984

Sixties Scoop. An estimated 20,000+ Indigenous infants and children were taken from their families by child welfare authorities and mostly adopted into non-Indigenous households. Parents and families were rarely notified about the locations of their children until 1980s.



1995-
1999

The first **Healing Lodge** was built, an alternative to incarceration for Indigenous persons sentenced to prison. **Gladue principles** were also introduced in 1999 by Supreme Court of Canada to mitigate sentencing for Indigenous persons.



2006-
2015

"Tough on Crime" Policy implemented under Stephen Harper. Federal offences with mandatory minimum sentencing rose from 24 to 72. While the crime rate went down during this period, experts assert the rate was falling prior to the policy already and was not a result of the policy (Doob 2015).



2015

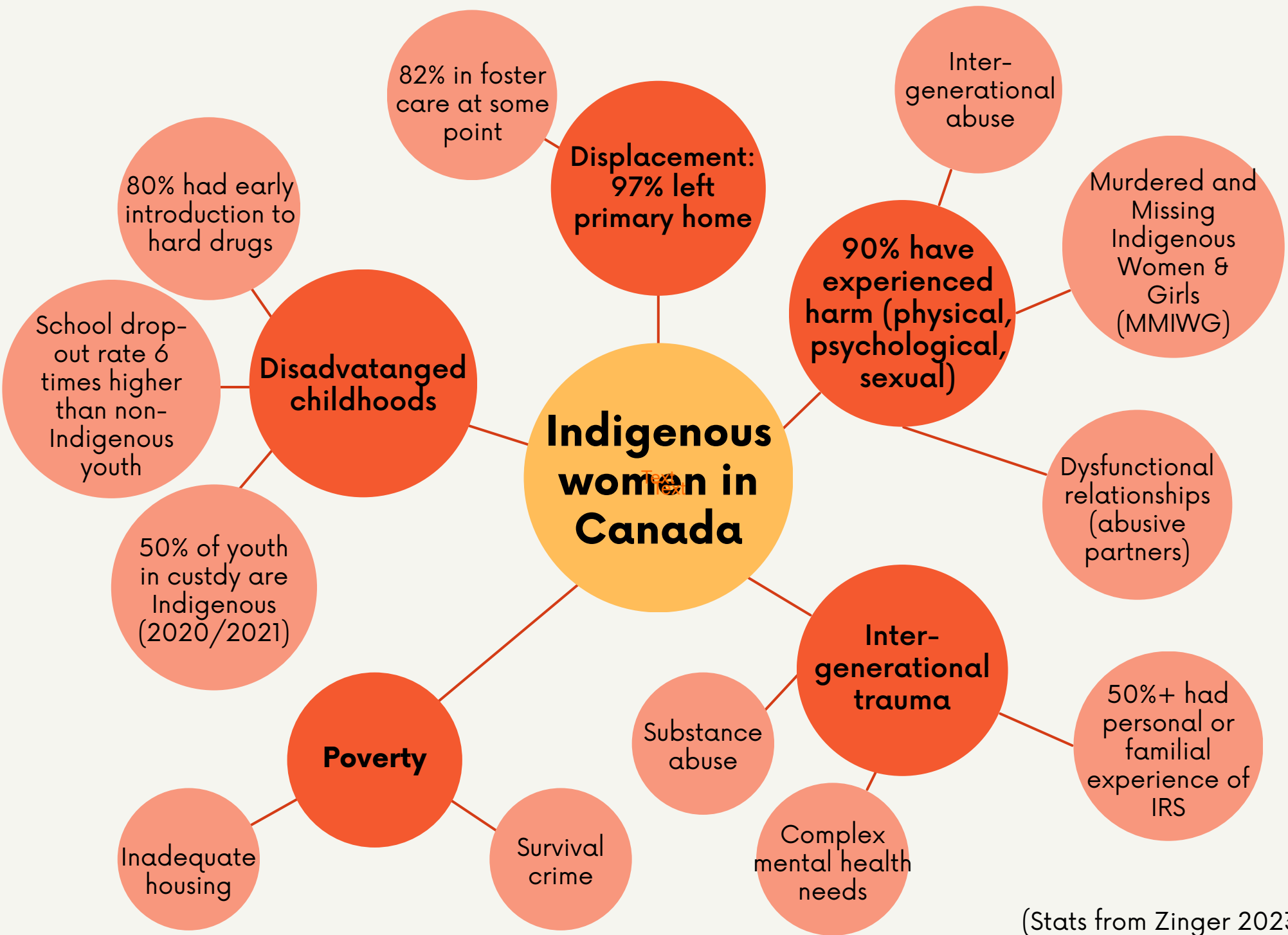
As the **Truth and Reconciliation Commission of Canada** concluded its final report. **Call to action 30** calls upon governments at all levels to commit to eliminating the overrepresentation of Indigenous peoples in custody over the next decade.



2022

Indigenous women reached **50% of federal incarceration rate** in Canada. They are also 3 times more likely to be put in **maximum security**, and made up more than 70% of maximum security placement from 2018-2021 (Zinger 2023).





(Stats from Zinger 2023, NAWC Youth report 2)

Journey Mapping: Prison Pipeline of an Indigenous woman

This is an illustration of a general journey that an Indigenous woman may experience as she gets into conflict with the law.

Childhood

Half of Indigenous youth are growing up in child welfare institutions. They are at much greater risk of becoming involved in juvenile criminal justice system (OHRC 2018).

1

2

Education

First Nations' young adults aged 15+ are 2 times more likely to not hold any diploma or degree than non-Indigenous young adults (Assembly of First Nations).

3

Mental health

Access to free mental health services for Indigenous communities is cumbersome, slow and limited (McGuire 2022).

4

Conflict with the Law

Getting arrested

Police exercise racial profiling. Biases have led to Indigenous people being seen as less worthy victims by the police, having their credibility questioned, and their requests for assistance ignored or not adequately supported (Dept of Justice Canada 2023).

5

Legal support

Legal aid support is limited. Inadequate defence representation leads Indigenous women to plead guilty even when they have a legal defence (Pate 2022).

6

At the court

Prosecutors do not exercise enough discretion with charges carrying mandatory minimum penalty. They also lack understand victimization, such as by calling the man who sexually abused an Indigenous woman as witness to challenge her credibility at her trial (Pate 2022, 17).

7

Sentencing

Judges give harsher sentences to Indigenous persons in comparison to non-Indigenous for similar crimes. Gladue process is not adequate to mitigate sentencing for Indigenous women (Oudshoorn 2023).

8

In prison

There is inadequate cultural programming for Indigenous women, who have lesser access to programs and Healing Lodges due to higher security designations, and thus are forced to stay in custody longer before being eligible for parole application (Wesley 2012).

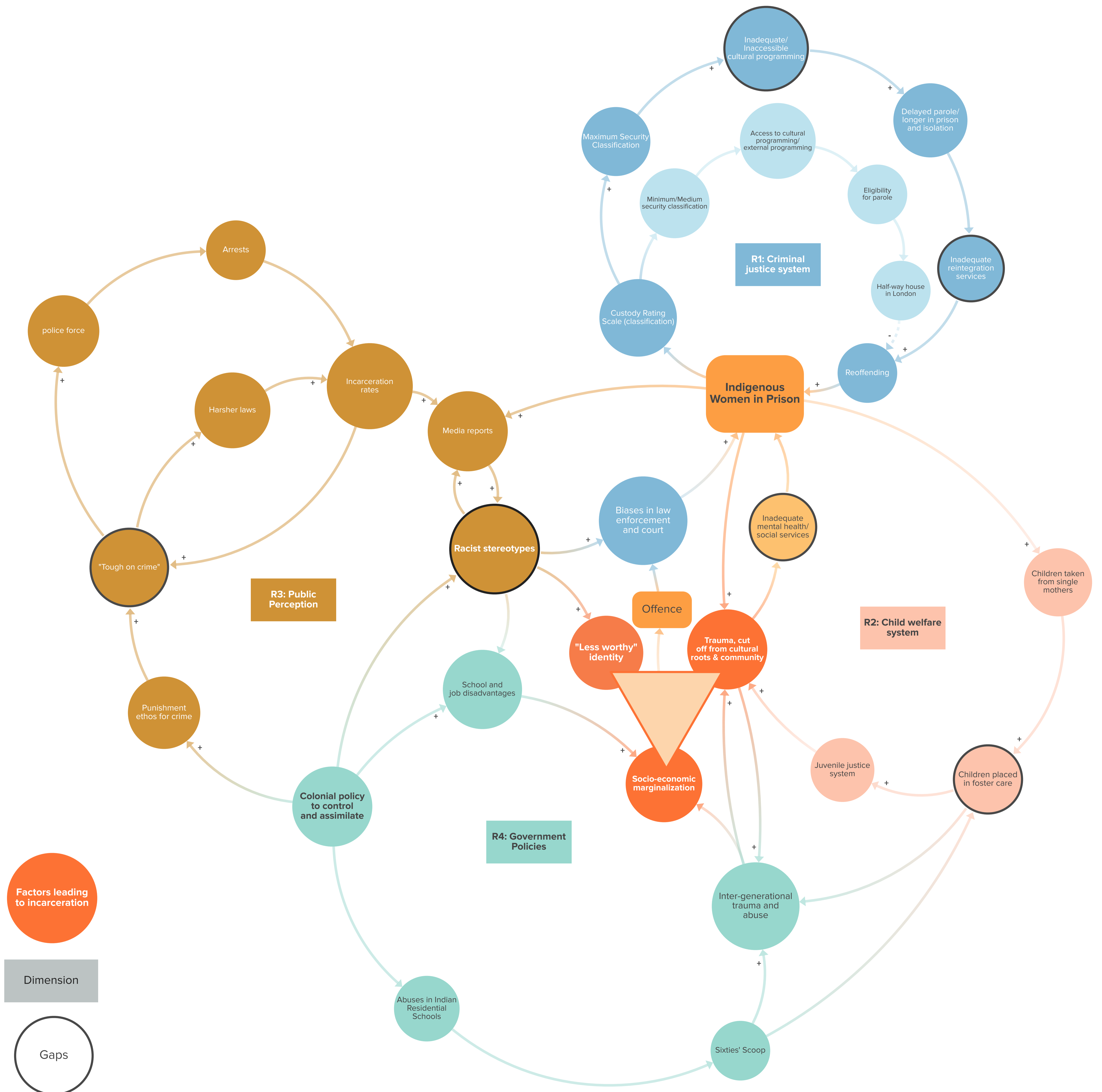
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Release

Lack of support to help Indigenous women reintegrate and live independently upon release

10

Systems Mapping: The Full Picture

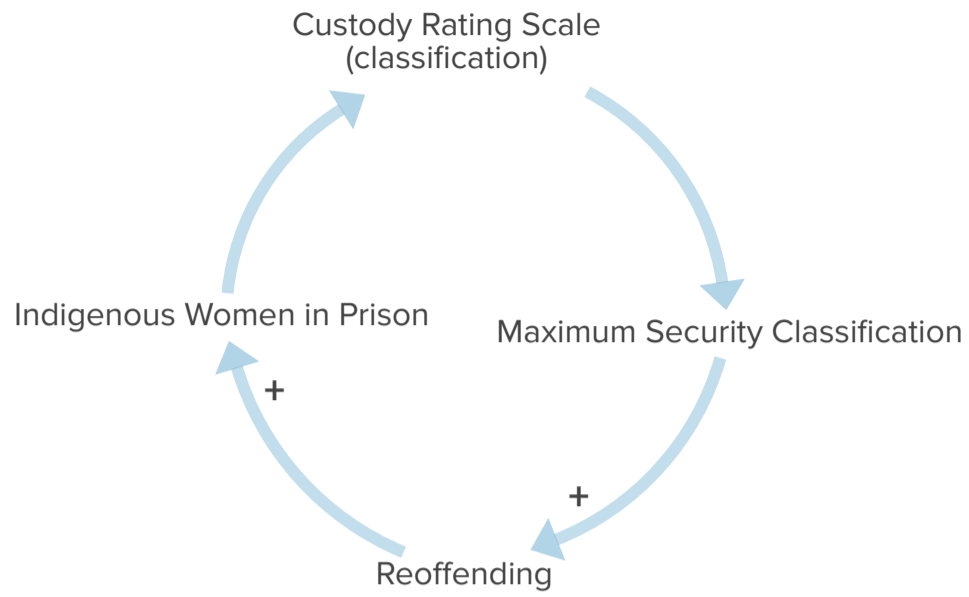


Legend

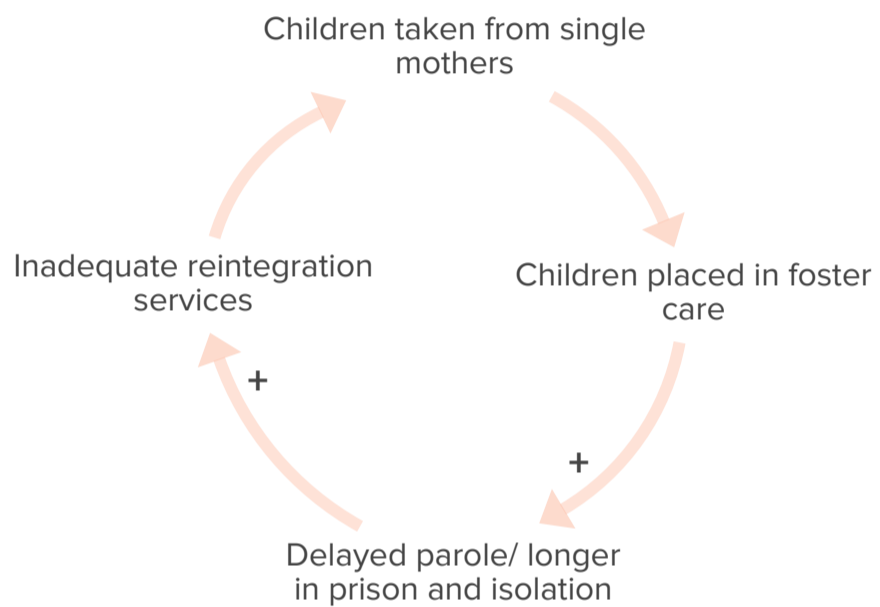
--- Opposite

Causal Loops

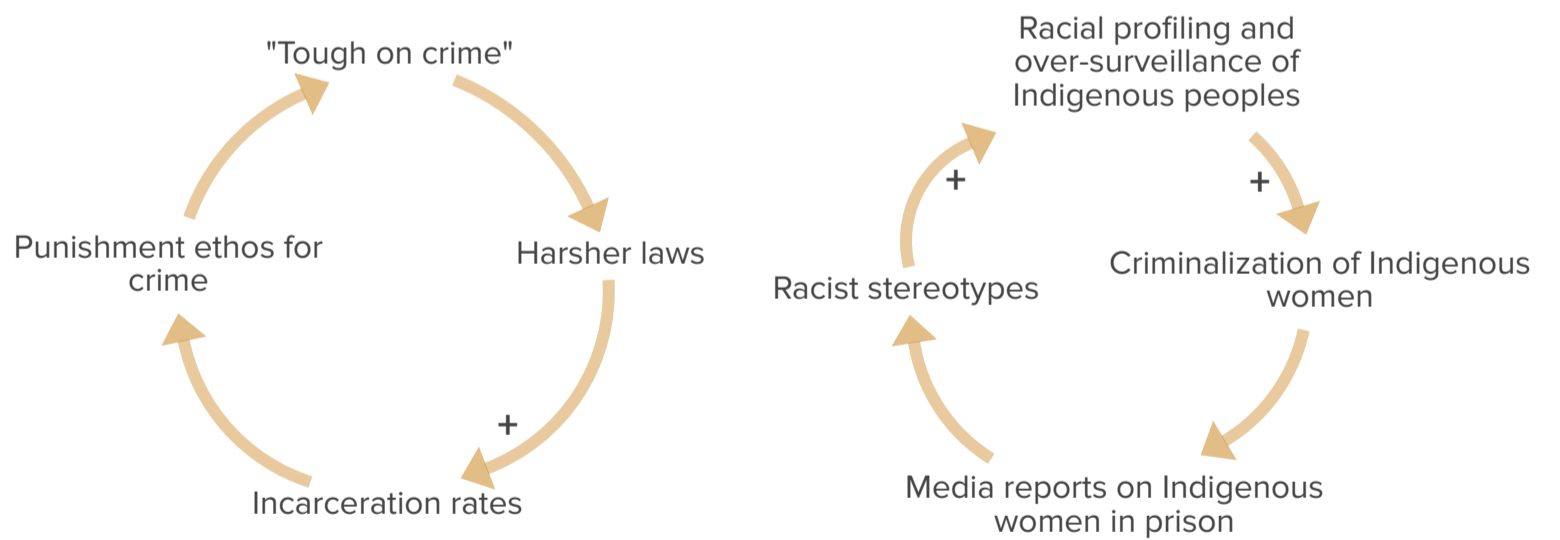
Inadequate/ Inaccessible cultural programming



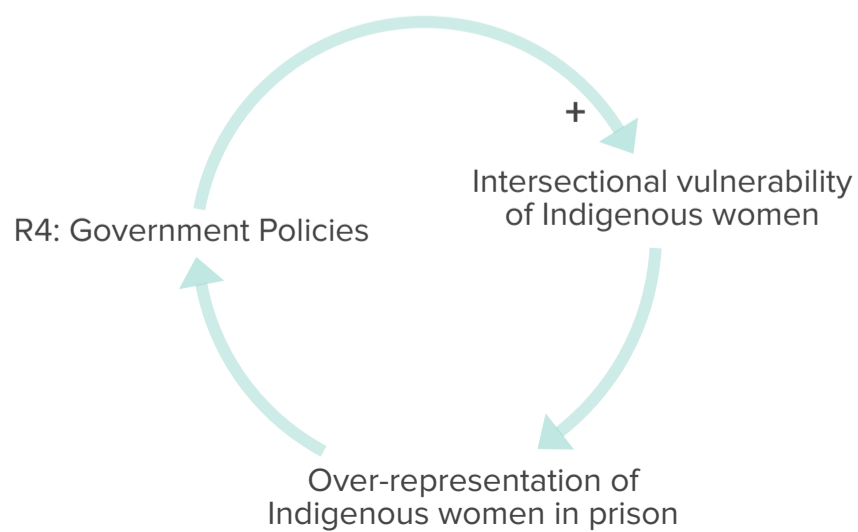
R2: Child welfare system



R3: Public Perception



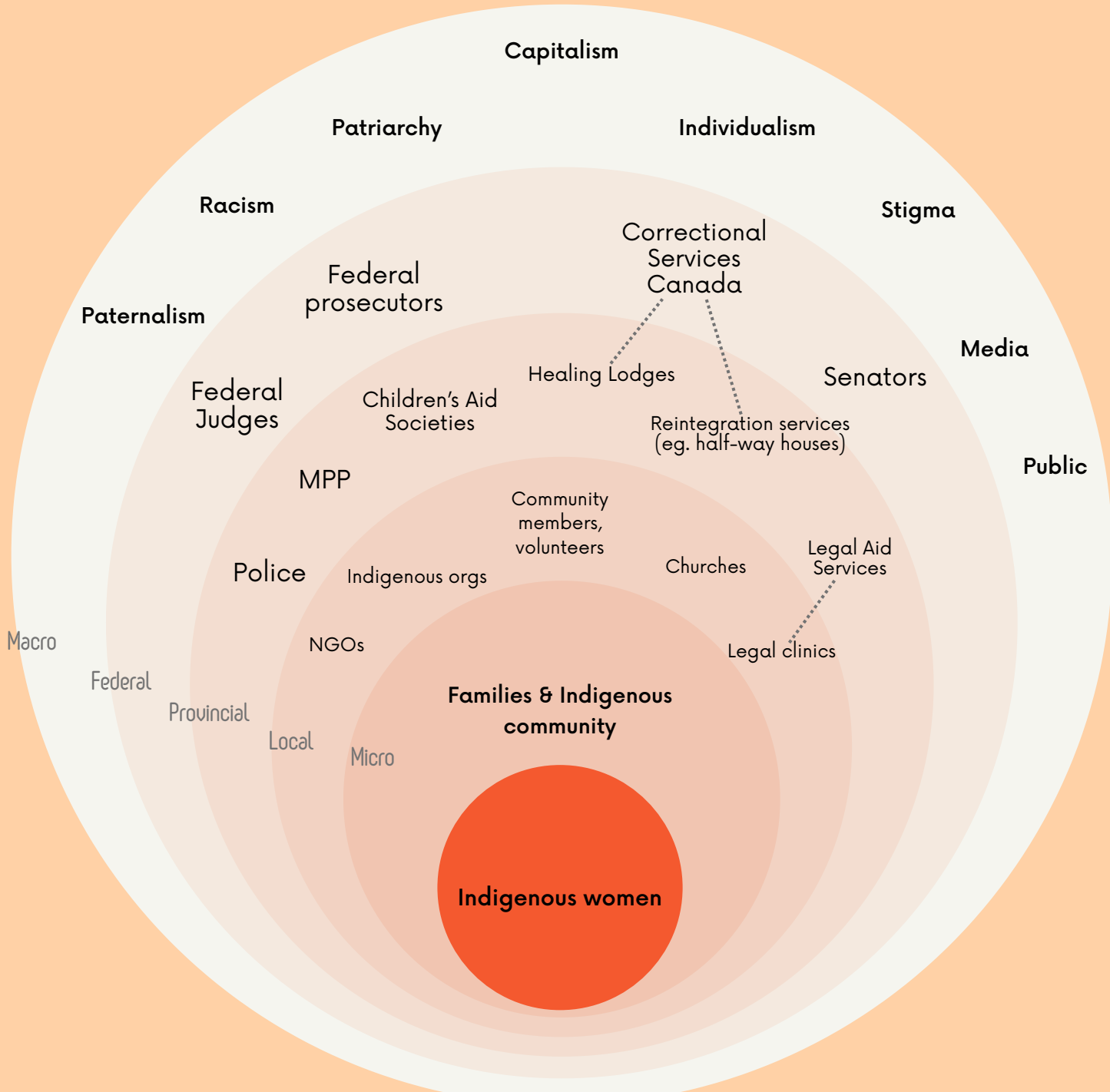
R4: Government Policies



Legend

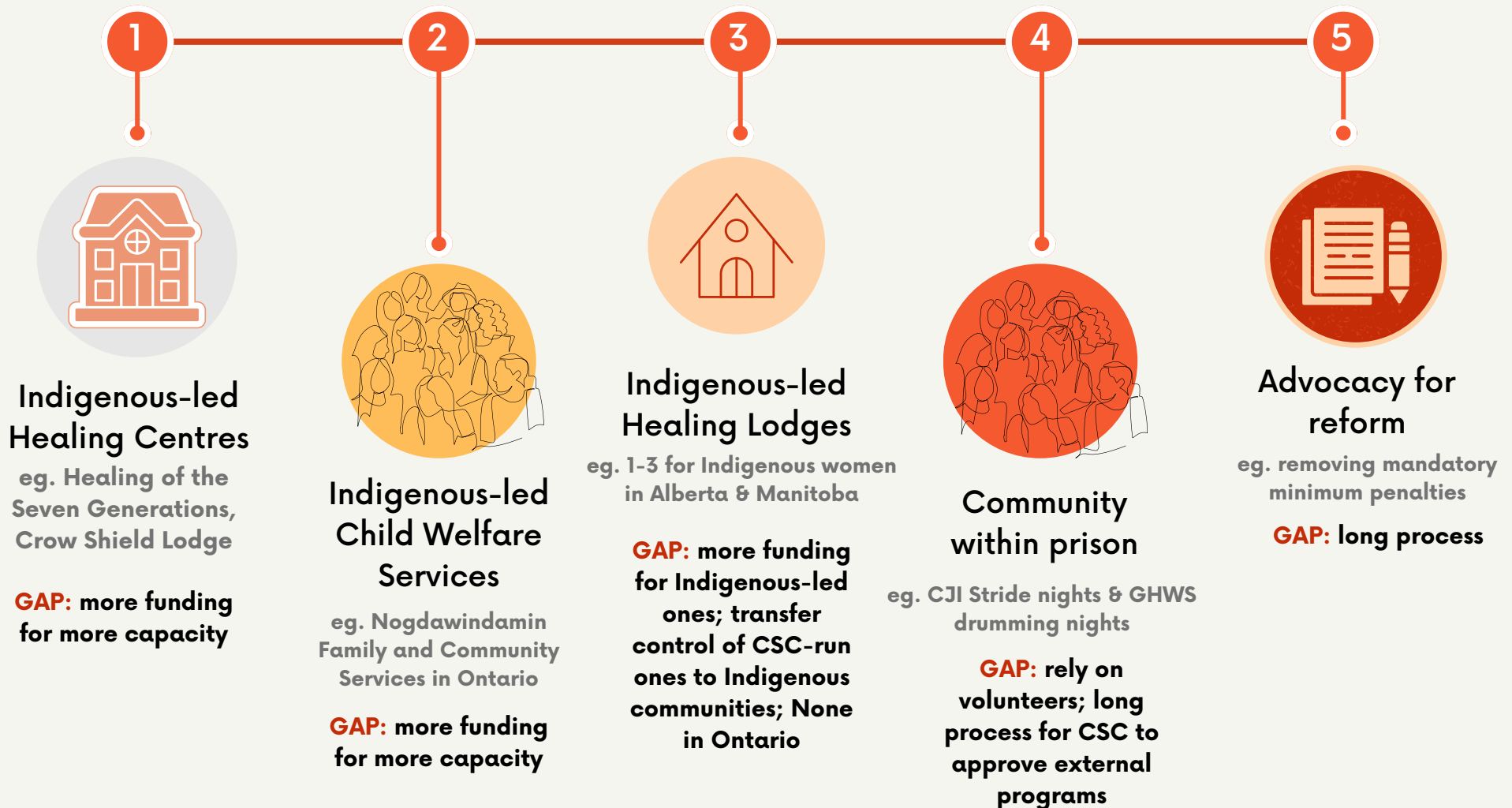
- Adds to / same direction
- Subtracts from / opposite direction

Stakeholder Relations



Solution Landscape & Gaps

The Solution Landscape maps out existing solutions and gaps in Kitchener/Waterloo in relation to Indigenous women placed in GVI in Kitchener.



Levers of Change

Trauma Healing

Allow Indigenous women to heal and **break the cycle of inter-generational trauma**

Upstream

- Funding for affordable, timely **mental health services** with **culturally and trauma-informed** counsellors to meet needs of Indigenous women
- More support for Indigenous-run **healing centres** in all communities

Downstream

- **Culturally specific correctional interventions** for Indigenous women in prison, including for classification and rehabilitation progress assessments
- More **mental health services in prison**

Action points

- Support mental health services for Indigenous women and communities
- Support existing and call for new healing centres in all communities

Community Building

Provide Indigenous women with **supportive and safe communities** and to **connect with cultural roots** and identity

Upstream

- More funding for **Indigenous-led child welfare agencies** for children to be connected to community
- **Build connections** with Indigenous women and communities

Downstream

- Provide adequate **reintegration services**, such as half-way houses close to the prisons
- Adequate cultural programming in prison and CSC to allow access to **community-based programming**

Action points

- Create **funding pools** to support Indigenous-led initiatives and communities
- Educate community on the issue to **change public perception and stereotypes**
- **Build community** with Indigenous women in and outside of prison (eg. through CJI Stride, Good Hearted Women Singers, MCC)

Advocacy

Advocate for policies that **stop criminalizing unmet needs** and explore alternatives that **honour self-determination of Indigenous communities**

Reforms

- Remove measures that **penalize the needs** of Indigenous women
- Increase **Indigenous representation** within all systems - eg. transferring all Healing Lodges to Indigenous communities

Alternatives

- Explore alternatives **to incarceration** that can allow mothers to stay with their children
- **Implement alternative justice systems that are Indigenous-led and run**

Action points

- Support advocacy organizations that are working on these issues (eg. NAWC, Elizabeth Fry Societies, MCC Canada)
- Research to focus on alternative justice systems that honour self-determination of Indigenous communities