

UNIVERSITY OF DEUSTO

European Master's Programme in Human Rights and Democratisation  
A.Y. 2022/2023

# INDIGENOUS PATHWAYS OF TRANSITIONAL JUSTICE;

THE ROLE OF STORYTELLING IN THE TRUTH AND  
RECONCILIATION COMMISSION OF CANADA

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Word Count Declaration: 28,963

## ABSTRACT

In 2008, in effort to acknowledge the atrocities committed and heal from the consequences of the Indian residential school system, the Truth and Reconciliation Commission (TRC) of Canada was established, with a mandate to travel nationally collecting the testimonies of survivors and the communities affected by the residential school system, in pursuit of transitional justice in Canada. Collecting the testimonies of Indigenous peoples who traditionally practice oral history as a form of documentation and knowledge sharing through storytelling summons questions on how the collection of survivor stories was organised, and if the approach of the TRC was adequate in adopting Indigenous pathways in the collection and sharing of information. Ultimately, through establishing the historical context of the Indian residential school system, and in asserting the relevance of storytelling values in truth-seeking/sharing initiatives, this research highlights barriers of the TRC such as the lack of education and engagement from the Canadian public, environments of events and testimony collection, and influence of settler narratives, stunting the ability of the Commission in adequately incorporating Indigenous pathways of storytelling in the restorative justice process outlined by the mandate. Consequently, the education and recognition of the atrocities that were the cause of Indian residential schools have not been addressed or recognized beyond the Indigenous population to the extent that they deserve. Specifically the mass scale and intent of the Canadian Government to eliminate the Indigenous population through genocidal practices, has not been properly discussed through the perceived pursuit of reconciliation and dominant settler narratives, creating a need for further consideration of Indigenous pathways of healing and justice. Although the TRC represents a positive action in an attempt to amplify the voices of Indigenous peoples in Canada, addressing its shortcomings is a necessity in highlighting the importance of decolonization in education and learning efforts, in order for Canada and Indigenous nations to move forward with positive nation to nation relations. For this, settler populations need to start listening to Indigenous voices, this research aims to express why.

## ACKNOWLEDGEMENT

Thank you to my support system, those who inspired me, believed in me, made me laugh when I needed it the most, shared their insight and knowledge with me, and who let me share my passion with them throughout this journey. I am thankful for the opportunities I have had throughout my education, and am grateful to be able to present this research.

To my family, my parents, my three sisters, and my grandparents, who always cheer me on and remind me how loved I am even when we are oceans and hours apart. Your support is the foundation of my ability to work hard towards my goals and passions, I am forever grateful for your unconditional love and unwavering belief in me.

To my friends, Sant' Elena roommates, Bilbao buddies, and everyone who made me smile and feel at home while so far away from home, I am so grateful to have learnt from and with you throughout this year, and will always hold your friendships close to my heart.

To my boyfriend, who listened to me talk about my thesis for hours on end and who always reassured me of my ability to tackle the tasks in front of me. You made the distance between us feel smaller and always reminded me you were right beside me even when you couldn't be.

To my mentors throughout my academic and professional endeavours, to the EMA team, and especially my supervisor Dr. Felipe Gómez, thank you for all of your insight, advice, and guidance which helped me feel confident in my ideas and enthusiasm for this research. I am inspired by the knowledge and passion you carry with you throughout your work, and I am grateful for all your time and help.

## TABLE OF CONTENTS

ABSTRACT	II
ACKNOWLEDGEMENT	III
TABLE OF CONTENTS	IV
PERSONAL STATEMENT/ DISCLAIMER	VI
INTRODUCTION	VII
METHODS	X
CHAPTER 1	1
INTRODUCTION TO INTERNATIONAL FRAMEWORKS AND INDIGENOUS PEOPLES OF CANADA	1
1.1 BRIEF ANALYSIS: INTERNATIONAL CONSIDERATIONS OF INDIGENOUS PEOPLES	2
1.2 INDIGENOUS PEOPLES OF CANADA	6
CHAPTER 2	10
HISTORICAL CONTEXT: THE INDIAN RESIDENTIAL SCHOOL SYSTEM IN CANADA	10
2.1 THE INDIAN ACT AND INDIAN RESIDENTIAL SCHOOLS	10
2.2 THE SIXTIES SCOOP	14
2.3 GENERAL CONDITIONS OF THE INDIAN RESIDENTIAL SCHOOLS	15
2.4 THE CLOSURE OF THE INDIAN RESIDENTIAL SCHOOL SYSTEM	17
CHAPTER 3	21
TRANSITIONAL JUSTICE AND THE IMPORTANCE OF STORYTELLING	21
3.1 TRANSITIONAL JUSTICE AND THE ROLE OF TRUTH SEEKING/SHARING	21
3.2 STORYTELLING: THE PRACTICE OF INDIGENOUS DOCUMENTATION AND ORAL HISTORY	25
3.3 STORYTELLING AND TRUTH SEEKING/SHARING; HOW THEY RELATE	28
CHAPTER 4	34

THE TRUTH AND RECONCILIATION COMMISSION: MANDATE, APPLICATION AND STORYTELLING PRACTICES	34
4.1 WHO, WHAT, AND HOW? THE TRC MANDATE AND STRUCTURE	35
4.1.1 <i>The Commissioners</i>	35
4.1.2 <i>Mandate Goals and Language</i>	37
4.1.3 <i>Events</i>	39
4.2 APPLICATION OF THE MANDATE; TRADITIONAL ELEMENTS AND CEREMONIES	41
4.3 STORYTELLING THROUGH VALUES AND VOICES	44
4.4 STORYTELLING AND THE ROLE OF THE LISTENER IN THE TRC	47
CHAPTER 5	51
TRC FINAL ACTIVITIES AND THE PURSUIT OF RECONCILIATION IN CANADA	51
5.1 THE END OF THE TRC MANDATE AND PUBLICATION OF THE FINAL REPORT	52
5.2 CONFLICTING NARRATIVES OF THE TRC	57
5.3 UNDERSTANDINGS OF RECONCILIATION	61
CONCLUSION AND RECOMMENDATIONS	66
BIBLIOGRAPHY	71

## PERSONAL STATEMENT/ DISCLAIMER

My name is Marcie Brunhild Schlick, I am writing this thesis as a second generation immigrant, with family who moved to Canada from Germany after the Second World War and in the 1970's. I grew up in Prince George, British Columbia, Canada on the traditional, ancestral and unceded territory of the Lheidli T'enneh First Nation peoples, as well a part of the Dakelh (Carrier) peoples territory. As a white, European settler living on the stolen lands of Indigenous peoples, I want to recognize my position as a disclaimer to this thesis. I am thankful to the Lheidli T'enneh First Nation peoples who throughout my life and education in Prince George, have shared their land, stories, history, culture, language, food, and traditions with me and the Prince George community.

Additionally, I would like to acknowledge that in pursuit of my undergraduate degree at the University of British Columbia in Vancouver, I lived, studied, worked, participated in sports and explored on the traditional, unceded and ancestral lands of the xwməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish) Stó:lō and Səl̓ílwətaʔ/Selilwitulh (Tsleil- Waututh) Nations. The education I was able to pursue at the University of British Columbia helped me develop a strong passion to embark in studies and research in history and genocide, with focus on the importance of survivor testimony and voices of individual experience in the process of transitional justice, healing, and remembrance. I am thankful for the experiences and growth I endured while on the lands of the xwməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish) Stó:lō and Səl̓ílwətaʔ/Selilwitulh (Tsleil- Waututh) Nations.

In pursuit of this research, it is my intention to emphasize the importance of storytelling in the process of transitional justice, and in doing so, I rely upon the experience, knowledge, and insight of Indigenous peoples, leaders, and academics as much as possible while addressing these topics. I recognize my point of privilege in this pursuit as a settler, and will be mindful of the narrative I provide in this research, as to not take away from the voices of Indigenous peoples, but to learn about the importance of listening and supporting truth through consultation of Indigenous sources, with great attention to not perpetuate additional colonial narratives. This thesis presents a topic that requires and calls on a process of learning and awareness for myself and hopefully also those who read it. It does not intend to state the end of a discussion, but aims to propose one that is continued past the pages of this research.

## INTRODUCTION

Throughout history, nations have fought wars between and within their borders, unleashing violence and mass atrocities on populations, creating circumstances seemingly beyond repair. Particularly after World War II and the establishment of international human rights standards, recognition of major atrocities such as genocide, torture, and crimes against humanity, and the need for prevention of and protection against them, was developed worldwide. In December of 1948, the Genocide Convention was the first human rights treaty to be adopted by the General Assembly of the United Nations in the aftermath of the Holocaust, establishing obligations of prevention, punishment of the crime, and prohibition of committing genocide.<sup>1</sup> Unfortunately, the presence of these crimes has not disappeared with their international recognition as the utmost horrific human rights violations, but have instead highlighted the need for further international treaties, institutions and processes, to fight developments of these crimes, punish those who participate in their implementation, and support those who are victims. The process of transitional justice is a representation of a development in international law which arose as a need to help nations and populations affected by major atrocities in finding ways to seek justice, strengthen institutions, and to create a process of meaningful reparation and reconciliation for the victims. Transitional justice occurs under two main conditions, including the end of a dictatorship and/or the end of a conflict. The process greatly relies on the participation of victims in establishing and sharing the truth of their experiences, and therefore, generally includes forms of truth commissions as a form of restorative justice, often adopting victim centered initiatives which serve to collect the stories and voices of victims and the communities affected. This allows for the victims to lead the narrative of healing, and by sharing information with the wider public, create recognition and seek responsibility from those involved in the perpetration of the crimes.

In Canada, the crime of genocide has not been recognized beyond the scope of cultural genocide, which is not included in its official definition, meaning there has been no

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<sup>1</sup> United Nations, “Genocide Convention, Legal Framework,” United Nations Office on Genocide Prevention and the Responsibility to Protect, Accessed July 1<sup>st</sup>, 2023. <https://www.un.org/en/genocideprevention/genocide-convention.shtml#:~:text=The%20Genocide%20Convention%20was%20the,during%20the%20Second%20World%20War.>

legal recognition of the crimes of genocide committed against Indigenous peoples in Canada despite a variety of tactics used in the pursuit of eliminating the population. One of the violent and racist attempts to eliminate Indigenous communities through forced assimilation is represented in the case of Canada and the Indian residential schools, where the process of transitional justice is an on-going effort. The transitional justice process in Canada has included the establishment of the Truth and Reconciliation Commission of Canada (TRC) in 2008, and their five year mandate centered around the collection of stories and truth from the voices of Indian residential school survivors, families, and communities of victims of the system. The TRC of Canada is a representation of the effort to include voices of Indigenous peoples in the transitional justice process, but whether Indigenous storytelling was considered as a vital principle in the TRC and was adequately implemented in the Commissions work, and how challenges of incorporating Indigenous pathways of healing and justice has impacted the pursuit of meaningful efforts of transitional justice and reconciliation in Canada, is to be considered throughout this research.

Prior to addressing the established truth commission in Canada, the first chapter will cover a brief introduction to international law and legal definitions of Indigenous peoples, establishing a basis of understanding of how Indigenous peoples are characterized through international law, as well as outline the diversity of Indigenous populations in Canada. The legal context of this chapter provides insight as to how international narratives concerning Indigenous peoples, particularly in the early stages of the International Labour Organization Convention, had an influence on the way Indigenous peoples were perceived and treated domestically. This rings true in the case of Canada, as the assimilationist narratives concerning Indigenous populations were implemented through a variety of policies, such as the Indian Act and Indian residential school policy which was developed and adapted for over 150 years, addressed in Chapter two. Chapter two provides crucial context of the need for the TRC in Canada, highlighting a variety of key topics of the history of Indian residential schools, the implementation of assimilationist policies, and mention of the conditions and treatment faced by Indigenous children registered in residential schools. Then, Chapter three introduces key concepts, including Indigenous pathways of healing and knowledge, discussing the role of storytelling and its applicability to the truth commission and truth-seeking/sharing initiatives, providing an analysis of how storytelling represents an essential element of transitional justice in Canada and affirms the relevance of alternative methods to



Western concepts. Chapter four follows to apply the information provided in the earlier chapters in order to elaborate on the mandate of the TRC and the results of its application. The analysis of how the TRC carried out its mandate highlights specific ways that Indigenous pathways of healing, and storytelling specifically, were included or lacked consideration. An analysis of cultural considerations in event organization, values of storytelling in testimony collection, and the role of the listener at TRC events depicts the success as well as shortcomings of the Commission and its mandate. Finally, Chapter five presents a final analysis on the end of the TRC mandate and the final report published by the Commission, highlighting the importance of the research and collection created by the Commission, while emphasizing external challenges to the TRC's ability to fully pursue its outlined purpose. Specifically, the role of narratives inflicting limitations to the Commissions work, and in addressing the conflict of defining goals of reconciliation, questioning who is in control of the narratives influencing the goals of transitional justice in Canada. The perspectives and voices of Indigenous peoples incorporated in the organization, application, and conclusions of the Commissions mandate, calls attention to the strengths and challenges of the TRC process in Canada, especially in its ability to truly consider alternative ways of approaching transitional justice through Indigenous pathways, specifically in storytelling.

## METHODS

The nature of this research is based on qualitative research, driven by the aim to develop a better understanding of Indigenous storytelling as well as Indigenous pathways of healing and justice aligning with restorative justice practices, to then assert the importance of considering Indigenous ways of knowing as alternative approaches to Western concepts, that are complimentary to the pursuits of transitional justice and truth commission structures in particular. Therefore, this research is compiled by an analysis addressing the agenda of the Commission and how effective the process was in being inclusive of the values of storytelling, emphasizing the importance of Indigenous voices through a process intended to foster healing and justice. As a Canadian settler conducting this research, I am aware of my inability to express an understanding of the meaning of storytelling and Indigenous pathways of healing and justice from my own perspective, with a risk of imposing as a settler, on the values of Indigenous peoples. Therefore, this research relies on the perspectives and knowledge shared by Indigenous peoples, leaders, and scholars of a variety of academic, professional, personal, and Indigenous backgrounds in order to build a deeper understanding of the importance of storytelling to assert its applicability and relevance as a tool of truth-seeking/sharing initiatives and its invaluable role in transitional justice in Canada. Hence, following decolonizing methodological practices, focus is allocated to considering perspectives outside of Western ideas, to promote “challenging the belief that Western methods and ways of knowing are the only approach to knowledge generation,” in relation to this research, particularly in topics of transitional justice, truth seeking/sharing, and reconciliation.<sup>2</sup> The decolonization method is not defined in one single way, instead it supports strategies of research that consider the importance of unlearning and re-imagining how knowledge is constructed, produced, and valued, while approaching research by recognizing other ways of knowing through the inclusion of people with deeper insight and familiarity of a particular groups culture.<sup>3</sup> In respecting the intentions of this methodology, an assessment of experiences and opinions shared by Indigenous peoples, communities, and

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<sup>2</sup> Vivetha Thambinathan and Elizabeth Anne Kinsella, “Decolonizing Methodologies in Qualitative Research: Creating Spaces for Transformative Praxis,” *International Journal of Qualitative Methods* 20 (January 1, 2021): 5, <https://doi.org/10.1177/16094069211014766>.

<sup>3</sup>Thambinathan and Kinsella, “Decolonizing Methodologies in Qualitative Research,” 4-5.

academics on the process of storytelling and collection of the stories of residential school victims and survivors through the TRC is consulted to aid in building an understanding of the success and limitations of the TRC in recognizing and respecting the importance of storytelling. These experiences are collected through research developed around the perspectives of people with deeper insight on Indigenous culture, where the inclusion of Indigenous voices was prioritized, in addition to academics and sources from a variety of backgrounds to ensure for a well-rounded analysis of the topics in this research which are multifaceted. The limitations of this research are present in the inability to personally engage with Indigenous peoples through conversation beyond my ability to work with the documents and research accessible to me, which serve as a knowledge sharing tool. However, in respecting the decolonizing method, and in my own reflections, the more I learnt about storytelling and the importance of continuation of relationships and respectfully engaging with Indigenous peoples while doing research, I realized that the timeline and resources I had for this research was not adequate to proceed in this manner. This limited my research to the resources I was capable of using, including books, journal articles, reports, and testimony, all in written form. The resources used are appropriate and relevant to the topic addressed, however very importantly, represent only a small amount of the diverse perspectives and traditions of Indigenous peoples in Canada, which is crucial to address. Finally, the process of the TRC is considered through a variety of sources including, the TRC mandate, the TRC final report, and additional reports created by the TRC to analyse the organizational aspects of the Commissions work, as well as consider how testimonies were collected and how the information was presented at the end of the mandate. The organizational aspects of the TRC and the mandate has also been analysed in conjunction with academics who express strengths and critiques of the TRC process, expressed through articles and books written throughout the active mandate of the TRC and the participation of the scholars in the TRC events, providing perspectives of audience members.

## CHAPTER 1

# INTRODUCTION TO INTERNATIONAL FRAMEWORKS AND INDIGENOUS PEOPLES OF CANADA

The term Indigenous is often generically used without the intention to generalize the experiences or the identity of distinct cultures and histories of those who are classified as Indigenous peoples, but instead, is used to identify with the common struggle and fight for Indigenous rights internationally. Indigenous peoples cannot be defined by a single source, and instead, should be left to define themselves. Therefore, through laws and international declarations, Indigenous peoples are not defined, but rather recognized by a variety of characteristics, such as the key element of self-determination and membership.<sup>4</sup> Indigenous peoples are also recognized, mainly in sources of legislation to create boundaries of origin, as the original inhabitants of the land of a given state, pre-colonialism. The International Labour Organization Convention on Indigenous and Tribal Peoples No. 169 Article 1.2 asserts that self-identification as Indigenous or tribal is a fundamental criteria which defines whom the Convention and its provisions is applicable to.<sup>5</sup> Various policies and laws in national legislation address Indigenous peoples native to the land of the given state in different ways, and will often specify the group in which is being addressed directly. The personalization of national legislation and policy to particular groups of Indigenous peoples often offers higher levels of protection as it may consider particular needs through historical and cultural considerations for the given nation or region. However, national approaches to Indigenous peoples rights have also historically exploited Indigenous peoples, considering the population as being national problems rather than positive contributors to the development of the state's society and culture. In considering the complexity of characterizing Indigenous peoples in order to aid in the protection of diverse Indigenous groups internationally and nationally, this

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<sup>4</sup> United Nations, "Indigenous Peoples, Indigenous Voices," United Nations Permanent Forum on Indigenous Issues, Factsheet, New York, 2006, [https://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf)

<sup>5</sup> "C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)," International Labour Organization (1989) [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:REV,en,C169,/Document](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C169,/Document).

chapter will briefly address the developments of international law and the basic evolution of Indigenous rights internationally, specifically taking into consideration how early developments of international narratives influenced domestic affairs concerning Indigenous peoples. Furthermore, the introduction of Indigenous peoples in Canada, highlighting the diversity of Indigenous peoples from coast to coast, provides insight into the important considerations of identity, tradition, history, and geographical locations influencing the unique identities of Indigenous peoples in Canada. In addressing Indigenous peoples in Canada, the evolution of terminology, and use of particular identification of Indigenous peoples also contributes to the importance of Indigenous led narratives concerning identification and assertion of Indigenous heritage. Terminology and appropriate identification is essential in beginning to understand the unique histories, experiences, and cultures of Indigenous peoples in Canada, relevant to discussions of Indian residential schools, storytelling practices, traditions and rituals, and access to transitional justice in Canada, themes which will be explored in later chapters of this research.

## 1.1 Brief Analysis: International Considerations of Indigenous Peoples

Prior to discussing the case of Indigenous peoples in Canada, this research will first aid in building an understanding of the development of Indigenous peoples recognition internationally, as well as an awareness of the timeline of these developments as they play significant roles in the perception and treatment of Indigenous peoples both in the past and in current day. Indigenous peoples, though often times representing a minority of the population in national statistics, represent a significant 370 million peoples throughout the world across 70 different countries.<sup>6</sup> Indigenous peoples have historically been discriminated against and often still face significant underrepresentation in politics and participation. Due to these realities, the needs and the rights of Indigenous peoples are often overlooked and/or ignored. The need to recognize cultural considerations of Indigenous way of life, and eventually, rights to their lands, territories and natural resources, could be considered a natural progression of the international efforts regarding human rights and special protections of

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<sup>6</sup> United Nations, “Indigenous Peoples, Indigenous Voices.”

particular interest groups deemed more vulnerable. However, in the case of Indigenous populations, the efforts to recognize the population as *peoples* with rights to self-determination and jurisdiction over their land, territories, and resources in the international community created a conflict of interest for many powerful actors of the UN and other significant international organizations, especially those with Indigenous populations. Therefore, the initial steps in recognizing the presence of Indigenous peoples came about as more of a challenge to be dealt with, rather than a population in need of special protections and particular rights. Special considerations to Indigenous populations were first significantly taken on in the international community by the International Labour Organisation (ILO). The ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, Convention No. 107 (1957), was one of the first international documents to mention the rights of Indigenous populations in its agenda, expanding the framework to include rights to life, education, health, and participation.<sup>7</sup> However, although a key development in the recognition of Indigenous people in the international arena, the scope of application, as well as the intentions of the document, were far from establishing recognition of Indigenous *peoples* as holders of rights with the purpose to protect cultural identity as well as historical and ancestral ties to land, territories and resources. Instead, ILO Convention No.107 enforced various vague laws in regards to how Indigenous populations should be treated through national policy and laws. One of such laws is Article 2(2), which speaks to the process of integrating Indigenous populations into the population of the national majority in order to create a more cohesive and ‘inclusive’ national identity, in return, protects Indigenous populations from ‘artificial assimilation’ by suggesting tolerance of non-artificial assimilation.<sup>8</sup> With no clear conditions as to how integration was to be implemented, the application of this law in many states was enforced in an assimilationist and forceful way, with little to no regard of any laws that may have attempted to protect the language, culture, and way of life of Indigenous populations worldwide. The narrative that was developed in addressing Indigenous populations through ILO No.107 gave national authorities the liberty to interpret the meaning of integration, which led to policies of discriminatory and violent practices, such as the Indian residential

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<sup>7</sup> Alexandra Xanthaki, “The ILO Conventions,” In *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land* (Cambridge: Cambridge University Press, 2007) 49,

<https://doi.org/10.1017/CBO9780511494468.003>

<sup>8</sup> Xanthaki, “The ILO Conventions,” 55.

school system in Canada, aiding in efforts to erase Indigenous cultures, and assimilate the population into the majority settler Euro-Canadian population. In 1989, ILO Convention No.169 was adopted, with a shift away from assimilationist policy to a recognition of Indigenous populations as subjects of rights, including collective rights, particularly in relation to resources.<sup>9</sup> ILO Convention No.169 also established developments in terminology, referring to previously addressed Indigenous populations as Indigenous peoples. However, due to opposing states, most significantly Canada, the term ‘peoples’ was explicitly addressed in Article 1.3 of the Convention, as having no implication to the rights associated to the term through international law, mainly, that of self-determination in which the term peoples is connected with.<sup>10</sup> Nonetheless, the Convention subtly supports protection and intention to not restrict aspects of self-determination that were being defined at the time, leaving room for positive developments and interpretations of the law.<sup>11</sup> ILO convention No.169, as the current framework of the ILO, has been ratified by only 23 states, the majority being Latin American countries with significant Indigenous populations, in addition to states with no Indigenous populations, meaning a large majority of states in which Indigenous rights and protection are deeply needed, are still bound to ILO Convention No.107.<sup>12</sup>

Significant developments in international recognition of Indigenous rights were continued through the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 with 144 votes in favour, 11 abstentions and 4 States against.<sup>13</sup> The votes against included nations with deep histories of colonisation and injustice against Indigenous populations, United States, Australia, New Zealand, and Canada.<sup>14</sup> Previous developments in advancing recognition and consideration of Indigenous peoples and their rights within the UN prior to the UNDRIP, included the establishment of the Working Group on Indigenous Populations (1982) and the UN Permanent forum on Indigenous Issues (2000), which aided, and continue to serve, in bringing Indigenous voices and issues to the international stage as they had never been before, allowing the space for the UNDRIP to be recognized as an essential development

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<sup>9</sup> Siegfried Wiessner, “The Cultural Rights of Indigenous Peoples: Achievements and Continuing Challenges,” *The European Journal of International Law* 22, no.1 (2011): 134, <http://www.ejil.org/pdfs/22/1/2128.pdf>

<sup>10</sup> Xanthaki, “The ILO Conventions,” 71.

<sup>11</sup> Xanthaki, “The ILO Conventions,” 71.

<sup>12</sup> Wiessner, “The Cultural Rights of Indigenous Peoples,” 134.

<sup>13</sup> United Nations, “Indigenous Peoples, Indigenous Voices.”

<sup>14</sup> United Nations, “Indigenous Peoples, Indigenous Voices.”



within the UN system. The UNDRIP, whose development was dominantly headed by Indigenous peoples, provides a combination of existing and new rights which reflect the needs of Indigenous peoples worldwide, with special considerations beyond individual rights, with the inclusion of rights to land, territory, and natural resources, as well as reference to historical injustices as contextual considerations to the Declaration. Despite the non-legally binding nature of the UNDRIP, its widely accepted status by UN States has helped establish it as a point of reference for UN bodies, regional human rights mechanisms, and national legislation. Due to the international recognition of UNDRIP, the rights of the Declaration have served to strengthen the understanding of the rights of Indigenous peoples globally, as well as inspired mechanisms put in place to support its influence and motivate nations to respect, protect, and promote the rights imbedded in the UNDRIP. In effect, the understanding of who Indigenous peoples are, explicitly expressed in the preamble as defined through self-identification, and indivisible connection to land, territories, and natural resources, in connection to culture and right to self-determination, has strengthened the understanding of why Indigenous peoples are subjects of rights that are both collective and individual.<sup>15</sup> Additionally, the UNDRIP has served as a tool of reparations for many Indigenous communities which, through the UNDRIP, were recognized as peoples who, due to colonization, were prohibited to exercise their right to development and government of their traditional and ancestral lands, territories, and resources.<sup>16</sup> The causal nexus between colonisation and the inherent inability to exercise these rights, among other rights, as expressed in the preamble of the UNDRIP, is a recognition of historical injustices that Indigenous peoples have endured internationally.<sup>17</sup> As a result of this recognition, it has become much harder for states to ignore the consequences of colonisation of Indigenous peoples within a national context, and therefore, has served as a catalyst in furthering agendas acknowledging the contemporary consequences of historical injustice faced by Indigenous peoples. In the case of Canada, a process of transitional justice has been pursued through the establishment of the Truth and Reconciliation Commission, alongside other programs and

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<sup>15</sup> Alexandra Xanthaki, "Emerging law: The United Nations draft Declaration on indigenous peoples," in *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land* (Cambridge: Cambridge University Press, 2009) 105-106, <https://doi.org/10.1017/CBO9780511494468.004>

<sup>16</sup> Ken Coates and Carin Holroyd, "Indigenous internationalism and the emerging impact of UNDRIP in Aboriginal affairs in Canada," *The Internationalization of Indigenous Rights* (2014) 5, <http://www.jstor.com/stable/resrep05242.5>

<sup>17</sup> Coates and Holroyd, "Indigenous internationalism," 5-6.



policies aligned with the rights enshrined in the UNDRIP, with efforts to pursue reconciliation between Indigenous and non-Indigenous people.

## 1.2 Indigenous Peoples of Canada

Canada is a settler colonial state, meaning foreign states attempted to replace/remove the original populations, Indigenous peoples, resulting in violent and discriminatory practices towards the Indigenous peoples in efforts to do so.<sup>18</sup> Foreign populations who have settled in the lands of what is now known as Canada, are referred to in this research interchangeably as non-Indigenous, meaning non-Indigenous to Canada, used to centre the conversation around Indigenous peoples, or as settlers, defined relationally as people who have and continue to occupy or settle on the lands of the original inhabitants of Canada, Indigenous peoples.<sup>19</sup> Indigenous peoples in Canada are defined by three distinct communities, First Nations, Metis, and Inuit peoples, recognized as the Aboriginal peoples of Canada in the *Constitution Act* of 1982.<sup>20</sup> Indigenous peoples account for approximately 5.0% of the total population of Canada, at a population of 1.8 million people as of 2021, representing a very diverse demographic, centered around culture, language, history, and land.<sup>21</sup> Indigenous peoples live throughout Canada in all provinces and territories, making Indigenous affairs relevant and necessary nation-wide. First Nations, Metis, and Inuit peoples in Canada were originally colonized by European settlers starting as early as the 1400's, and since that time, have been

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<sup>18</sup> Katelin H. S. Neufeld et al., “‘The More You Know’: Critical Historical Knowledge About Indian Residential Schools Increases Non-Indigenous Canadians’ Empathy for Indigenous Peoples,” *Political Psychology* 43, no. 4 (2022): 618, <https://doi.org/10.1111/pops.12783>.

<sup>19</sup> Chelsea Vowel, “Settling on a Name: Names for non-Indigenous Canadians,” *âpihtawikosisân* (blog), February 28, 2020, <https://apihtawikosisan.com/2020/02/settling-on-a-name-names-for-non-indigenous-canadians/>. Chelsea Vowel is a Métis scholar and author of the book *Indigenous Writes: A guide to First Nations, Métis & Inuit Issues in Canada*. Through this blog platform she discusses modifications to the her books second chapter discussing terminology used to address the non-Indigenous populations in Canada, highlighting the importance of recognizing the role terminology plays in dialogue, through the recognition of events and individual impacts of events on certain groups, as well as commonalities found between diverse peoples. She also discusses the limitations to common terms such as non-Indigenous and settler, depending on the context they are used, and the groups these terms exclude, which require deeper discussions of colonialism and slavery. (Chelsea Vowel, as cited above)

<sup>20</sup> Constitution Act 1982, Canadian Charter of Rights and Freedoms, Section 35 (2), 56 [https://laws-lois.justice.gc.ca/PDF/CONST\\_TRD.pdf](https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf)

<sup>21</sup> “Indigenous Population Continues to Grow and Is Much Younger than the Non-Indigenous Population, Although the Pace of Growth Has Slowed,” *The Daily-Statistics Canada* no. 11 (2022), 3. <https://www150.statcan.gc.ca/n1/en/daily-quotidien/220921/dq220921a-eng.pdf?st=1CcECZ9->

victim to subtle and blatant forms of racism and discrimination in the attempt to colonize and assimilate the population, one of the most predominant examples of this being the Indian residential school system.<sup>22</sup> The history of Indigenous peoples in Canada demonstrates the relentless, consistent, and intentional actions taken by the Canadian Government and Anglo-European religious institutions in eliminating Indigenous peoples physically, biologically, and culturally. It is a history that is not only recent in practice, but on-going, through forms of systemic racism and violence that persist against Indigenous peoples in Canada, making it not only an issue of the past, but also of the present.

First Nations, Metis and Inuit peoples in Canada are often addressed individually in national, provincial, territorial, and local levels as a way of acknowledging the distinct historical, cultural, and linguistic differences between them. However, when addressing all three of these peoples, the term Indigenous is used as a general term, recognizing common characteristics, goals, and challenges among distinct differences. Additionally, the term Aboriginal is referred to in various policies and reports in recent years as it was coined the preferred terminology by Indigenous peoples in Canada. The term Indigenous is a more contemporary and widely accepted term by the Indigenous community in Canada and internationally as of current, and therefore, the term Aboriginal is only applied throughout this research when referring to relevant documents where this terminology is used. Additionally, the term *Indian* was previously used to characterize the Indigenous population in Canada throughout complex and oppressive political and legal colonial practices such as the Indian residential schools, and is therefore risks being considered an offensive and outdated term, especially when used by non-Indigenous peoples and institutions, and will only be used in reference to specific documents, testimony, and institutions as a direct reference.<sup>23</sup> In most cases, the term Indian is referred to in relation to the name of a band, indicating legal status of an individual or a group under the Indian Act, such as the Musqueam Indian Band from the land that is now known as Vancouver, British Columbia.<sup>24</sup> In referring to terminology used to address the Indigenous peoples in Canada, it is important to note that the evolution of terminology and preference in international, national, provincial, territorial and local levels, must be made in consultation with Indigenous peoples as it is their

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<sup>22</sup> Neufeld et al., “The More You Know,” 33.

<sup>23</sup> “Terminology,” Indigenous Foundations, accessed June 30<sup>th</sup>, 2023, <https://indigenousfoundations.arts.ubc.ca/terminology/>

<sup>24</sup> “Terminology,” Indigenous Foundations.

right to self-determination, and subsequently, identification. In Canada, there are more than 600 First Nations/Indian bands, who collectively speak over 60 different languages, representing the diversity and unique identification and culture of each of the First Nation bands.<sup>25</sup> Whenever possible, the specific identification and use of the Indigenous nation or band will be referred to in order to recognize the distinct identities, history, and cultures of different Indigenous nations, while also recognizing the collective identity and vulnerabilities faced by Indigenous identifying peoples. The acknowledgement of the linguistic, geographical, historical and cultural differences of different First Nations in Canada is a key consideration to be made when addressing the process of the Truth and Reconciliation Commission of Canada (TRC), as recognition of these differences while collecting testimony through the practice of storytelling and truth sharing is essential in the process of establishing the truth as per the experiences of the survivors and communities affected by the residential schools. This cannot be done without the acknowledgement of both the collective identity of the Indigenous peoples in Canada as well as their inherent differences, creating dynamic and distinct individual experiences.

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Although there are many significant topics that should be addressed to understand Canada's complex colonialist history with Indigenous peoples, through this research, the study of the Indian residential school system provides an established framework of truth seeking through the TRC, which allows for an assessment of the important role of truth-seeking and sharing in the process of transitional justice in Canada. Significantly, the recognition of historical and contemporary frameworks of international law aid in creating context of the narratives that were and are dominant when it comes to the rights of Indigenous peoples. Moreover, it is crucial to create an understanding of who is being addressed when referring to Indigenous peoples in Canada, as addressing the history of Indigenous peoples in Canada and the evolution of terminology, forms of identification, and diverse identity, aids in recognizing the need for Indigenous led narratives in topics of transitional justice. Without this recognition, the discussion around the history of Indigenous

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<sup>25</sup> Canada. Statistics Canada. *Aboriginal Peoples in Canada: First Nations People, Métis and Inuit*, National Household Survey (Ottawa, 2011) 9, <https://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/99-011-x2011001-eng.cfm#a3>.

peoples and the importance of moving forward in addressing historical and contemporary systemic racism and discrimination against Indigenous peoples in Canada, cannot be addressed in a meaningful and intentional way, not only through governmental institutions, but also throughout the general public population of Canada.

## CHAPTER 2

# HISTORICAL CONTEXT: THE INDIAN RESIDENTIAL SCHOOL SYSTEM IN CANADA

Prior to delving into an analysis of Indigenous practices of storytelling practices and its relevance to the work of the Canadian Truth and Reconciliation Commission, discussed in the following chapters, it is crucial to first build a deeper understanding of the history of the Indian residential school policy in Canada to provide context to the necessity of this research. As such, this chapter aims to assert that the Indian residential schools were a part of a wider colonial history and narrative in Canada, as a policy of violent and racist assimilationist goals which contributed significantly to the genocidal practices unleashed against Indigenous peoples in Canada by the Canadian Government and various religious institutions, mainly headed by the Catholic Church. In exploring the policies and practices developed specifically to undermine Indigenous culture, tradition, systems, languages, and ways of life, a clearly intentional and orchestrated process for the attempted assimilation of Indigenous peoples in Canada is asserted as deep historical injustices with severe and systematic contemporary consequences. Additionally, by elaborating on the general conditions of the Indian residential schools, highlighting in particular the traumatic nature of the environment and treatment Indigenous children endured, as well as the process of the closure of the residential schools, this chapter aims to emphasize the long term reverberations of the residential school system and the challenges in commencing the truth-sharing processes, even prior to the establishment of the Truth and Reconciliation Commission, through the power of survivor stories and the pursuit of legal action.

### 2.1 The Indian Act and Indian Residential Schools

The Indian residential school system was established, financed and enforced by the Canadian Government in partnership with Catholic, Anglican, United, Methodist and

Presbyterian churches over the span of more than 150 years.<sup>26</sup> With the aim to assimilate Indigenous peoples, previously perceived as an uncivilized and uneducated community, into the majority Euro-Canadian settler population, the establishment of the Indian residential schools was a forceful and violent attempt to remove Indigenous children from their families and communities, with the intent to eliminate all forms of Indigenous identity from the youth. The policy of the Indian residential schools was engrossed in eradicating opportunities for Indigenous children to express themselves through their inherent identity, with strict prohibition of Indigenous languages, traditional practices, clothing and foods, while enrolled in the institution. For the young Indigenous children removed from their homes, the assault on their Indigenous identity began as soon as they entered the boundaries of the residential schools, where children were renamed, often referred to as only a number, and their hair, braided and often of spiritual significance, was cut as they were told they were “no longer an Indian.”<sup>27</sup>

The first church run Indian residential schools were established in 1831, prior to the development of the federally funded policy that would enforce the establishment of residential schools nationwide, in the 1880’s.<sup>28</sup> In 1876, the Indian Act was enacted in Canada, a legal framework that provided the Canadian Government exclusive power to create legislation in regards to Indian land as well as policy on Indian identity, including defining who was considered to be Indian and the rights they could claim.<sup>29</sup> The Indian Act has had a huge impact on the way that Indigenous peoples have had the capacity to self-govern and self-identify. Rampant limitations to traditional structures, including the “Potlatch Law,” enacted in 1884, which banned potlatches, altered the way in which Indigenous communities were once freely able to communicate and organize themselves within and among communities.<sup>30</sup> Potlatch, meaning “to give” in Chinook trade jargon, are ceremonies primarily practiced by Indigenous peoples of the Kwakwaka’wakw peoples of the North Pacific Coast

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<sup>26</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), 3

[https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

<sup>27</sup> Truth and Reconciliation Commission of Canada, “School Days: The Residential School Experience,” in *They Came for the Children: Canada, Aboriginal Peoples and Residential Schools*, (Winnipeg: TRC, 2012) 21, [https://publications.gc.ca/collections/collection\\_2012/cvrc-trcc/IR4-4-2012-eng.pdf](https://publications.gc.ca/collections/collection_2012/cvrc-trcc/IR4-4-2012-eng.pdf)

<sup>28</sup> “Residential School History - NCTR,” National Centre for Truth and Reconciliation, December 21, 2020, <https://nctr.ca/education/teaching-resources/residential-school-history/>

<sup>29</sup> “Residential School History - NCTR,” National Centre for Truth and Reconciliation.

<sup>30</sup> “The Indian Act,” Indigenous Foundations, accessed April 12, 2023. [https://indigenousfoundations.arts.ubc.ca/the\\_indian\\_act/](https://indigenousfoundations.arts.ubc.ca/the_indian_act/).

of British Columbia, and Pacific Northwest of the United States.<sup>31</sup> The Potlach Ban criminalized the practice of the ceremonies which play an important role in celebration, recognition of class structure, the passing on of family inheritance and rights, exhibition of regalia and object indicating leadership in the community, renewal of community ties to ancestors, and honour those who have passed, among many other cardinal practices.<sup>32</sup> Judge Alfred Scow, a hereditary Chief of the Kwicksutaineuk Tribe, in a presentation at the Royal Commission on Aboriginal Peoples in 1992, commented on the destructive nature of banning ceremonials, stating it “prevented the passing down of our oral history. It prevented the passing down of our values. It meant an interruption of the respected forms of government that we used to have, and we did have forms of government be they oral and not in writing before any of the Europeans came to this country.”<sup>33</sup> The Potlach law was one of the many assimilationist and discriminatory policies inflicted on the Indigenous population by the Canadian Government which also demonstrates a narrow minded way of thinking about the definition of political structure, authority, and documentation. The ways in which the Indigenous peoples in Canada had established their communities and way of life, prior to colonization, including forms of oral history and documentation, have been criticized and targeted throughout history, affecting the challenges of legitimacy that these practices face in current affairs.

Beginning in the 1880’s, in concurrence with various other federal assimilationist practices and policies, residential schools were authorized, organized, and funded by the federal government under Prime Minister John A. Macdonald, and carried on under the jurisdiction of other national leaders until the last residential school closed in 1996.<sup>34</sup> Under the terms of the Indian Act in 1920, attendance of residential school became compulsory for all Indigenous children, not only by forcibly removing children from their homes if resisting, but also by making attendance of Indigenous children in any other educational institution

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<sup>31</sup> “Living Tradition, The Kwakwaka’wakw Potlach on the Northwest Coast,” U’mista Cultural Society, November 1, 2015, <https://umistapotlatch.ca/potlatch-eng.php>.

<sup>32</sup> “Living Tradition,” U’mista Cultural Society.

<sup>33</sup> Alfred Scow, Transcriptions of Public Hearings and Round Table Discussions, 1992-1993, Royal Commission of Aboriginal Peoples (RCAP), (Ottawa, Ontario. Thursday, November 26, 1992) 344-345, <http://scaa.sk.ca/ourlegacy/permalink/30466>.

<sup>34</sup> Katelin H. S. Neufeld et al., “‘The More You Know’: Critical Historical Knowledge About Indian Residential Schools Increases Non-Indigenous Canadians’ Empathy for Indigenous Peoples,” *Political Psychology* 43, no. 4 (2022): 619, <https://doi.org/10.1111/pops.12783.their>



illegal, a law that continued until 1951.<sup>35</sup> The strategic choice to remove Indigenous children from their families was done in a way to ensure that there was an absolute separation between the child and their connection to their cultural identity which was dominantly fostered and taught through the family and community setting in which many Indigenous children were raised. The intentions of the authorities to create physical isolation was not an ambiguous ambition at the time, instead was stated plainly and confidently by high officials of the Canadian Government, such as the Public Works Minister of Canada in 1883, Hector Langevin, who said, “in order to educate the children properly we must separate them from their families. Some people may say that this is hard but if we want to civilize them we must do that.”<sup>36</sup> By 1951, the Indian Act was amended, removing the ban of potlach and allowing for a new agreement between the federal government, provincial governments, and the school boards to have Indigenous students be integrated into the public education system.<sup>37</sup> Although expanding the realm of educational facilities available for Indigenous students at the time, the academic structure of public schools were not inclusive to Indigenous ways of learning, instead following a Euro-Canadian rhetoric, often including racist and discriminatory attitudes towards Indigenous peoples, as expressed through national policy. The intention of this new integration model was to have younger grades still be taught in the Indian residential schools, and then, after some time in the assimilationist facilities, the students were to be integrated at an older age into the dominantly white public education system.<sup>38</sup>

Although residential schools are no longer in commission in Canada the inclusion of Indigenous learning as well as history of Indigenous peoples in Canada, are not core principles of the current public education system, continuing concerns of inclusionary and accurate representations of Canadian history, especially in addressing colonisation and assimilation. The inclusion of residential school history in the curriculum throughout the provinces and territories of Canada is not a mandatory topic, and is regulated by provincial and territorial jurisdiction of the school system, leading to inconsistent modes and content of

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<sup>35</sup> Erin Hanson Daniel P. Games, and Alexa Manuel. “The Residential School System,” Indigenous Foundations. <https://indigenousfoundations.arts.ubc.ca/residential-school-system-2020/>

<sup>36</sup>TRC, *They Came for the Children*, Cover page.

<sup>37</sup> Truth and Reconciliation Commission of Canada, “The History” in *A Knock on the Door: The Essential History of Residential Schools from the Truth and Reconciliation Commission of Canada, Edited and Abridged* (Winnipeg: Univ. of Manitoba Press, 2015) 66, Google Play Books.

<sup>38</sup> TRC, “The History,” in *A Knock on the Door*, 66.



education accessed by youth.<sup>39</sup> The lack of education surrounding the history of the Indian residential school system in Canada, not only among youth, but all generations of non-Indigenous populations, represents a continuation of minimized priority and importance placed on Indigenous education, specifically through accurate, transparent, and inclusive avenues centered around the voices of Indigenous peoples in Canada. Additionally, lack of inclusion of Indigenous teaching and history in public school curriculum flags concerns of a continuation of repressive policy, as raising uneducated generations on the history of Indigenous peoples in a mandatory and consistent fashion, prevents the ability of Canada's youth, among other generations, to recognize and confront not only the historical wrongdoings against Indigenous peoples, but the current challenges faced as a result of past and present discrimination.

## 2.2 The Sixties Scoop

In addition to an assimilationist “schooling” program, starting in the in the 1940’s, Indigenous children in residential schools were also being housed in the facilities under the concept of welfare services. By the 1960’s, an estimated 50 percent of children who were attending residential schools were registered under child-welfare services.<sup>40</sup> Under the period that is known as the “Sixties-Scoop”, Indigenous children were removed from their families under the assumption that their home life was not adequate for raising children. Facing the inhumane conditions and abusive forces of the residential school system, with no regard to the emotional needs of children beyond the “teachings” of the institution, which were still centered around assimilationist policy, Indigenous children in the welfare program were not in a temporary placement, but could spend the entirety of their childhood in a residential school institution.<sup>41</sup> Lack of supervision of the Indigenous children in the welfare programs, within and outside of the authorities of the institutions, created an environment of rampant mistreatment and violence towards them, with no accountability of the supervisors beyond their own rules and regulations. Growing up completely isolated from Indigenous culture,

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<sup>39</sup> Truth and Reconciliation Commission of Canada, “The Challenge of Reconciliation,” in *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), 236-237, [https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

<sup>40</sup>TRC, “The History,” in *A Knock on the Door*, 67.

<sup>41</sup> TRC, “The History,” in *A Knock on the Door*, 68.

from their community and family, meant that many of the Indigenous children who were admitted into residential schools during the 60's scoop, lost most, if not all, of their cultural heritage, in fear of repercussions, and over time, due to the unwavering and brutal assimilationist program they were subject to during their most impressionable years. The judgement of what conditions were deemed to be unfit homes of Indigenous children were often made by officials who did not have an understanding of indigenous families and culture, and subsequently, effort to provide support in keeping families together as opposed to removing Indigenous children from their families, did not take priority.<sup>42</sup> The removal of Indigenous children from their homes was done without warning or consent of the family, and it wasn't until the 1980's that the Child, Family, and Community Services Act of Canada ensured that social workers were required to notify the band council if a child was being removed from a home in the community.<sup>43</sup> Unfortunately, the nature of the 60's scoop has not been an isolated period in the Canadian welfare system; a continuation of its patterns representing the systemic repercussions of the residential school system and colonial practices that are present in national social services, is observed through the high numbers of Indigenous children in the child welfare system in Canada today.<sup>44</sup>

### 2.3 General Conditions of the Indian Residential Schools

Due to the nature of how Indigenous peoples were perceived by the authorities of the residential school system, including governmental and religious organizations, there was not a significant undertaking or will to ensure that sufficient resources were being invested into the school's functions and upkeep. Therefore, among the fundamental and structural wrongdoings of the residential schools, the conditions of the residential schools were also horribly inadequate for the wellbeing of children, in a system that relied greatly on the labour of the children for the schools to be more self-sufficient with significant lack of funding to maintain sanitary conditions, paltry food portions and overcrowding, resulting in a significant

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<sup>42</sup> TRC, "To Christianize and Civilize; Canada's Residential Schools" in *They Came for the Children*, 19.

<sup>43</sup> Erin Hanson "Sixties Scoop," Indigenous Foundations, accessed May 2, 2023, [http://indigenousfoundations.arts.ubc.ca/sixties\\_scoop/](http://indigenousfoundations.arts.ubc.ca/sixties_scoop/).

<sup>44</sup> Andrea Cowie, "Anti-Oppressive Social Work Practice in Child Welfare: Journeys of Reconciliation," *Critical Social Work* 11, no. 1 (2010): 47, <https://doi.org/10.22329/csw.v11i1.5815>.

number of children falling severely ill during their time in the residential school system.<sup>45</sup> Children who's physical health conditions did not improve were often "discharged" from the school.<sup>46</sup> Death records from residential schools provide some sources of information, however, a significant number are either poorly done by individuals who had no health care training or little effort was made to provide details such as gender, age, names, or cause.<sup>47</sup> This system of complete neglect, relating to documentation in this specific case, has subsequently created an environment where those who were responsible and/or collaborating in the execution of the residential school system have not been faced with responsibility for their actions in a definitive way, whether legally or socially, largely due to lack of association. The absence of a consistent and mandatory medical and registration documentation procedure for Indigenous children in residential schools, has led to tragic gaps in information relating to the uncovering of mass graves on the premises of former residential schools, where Indigenous children who were a part of the system, were buried without proper markings, reporting, or documentation. The lack of proper procedure, seen as a pattern in the assimilationist system, demonstrates a level of unwillingness and lack of importance that was allocated to the treatment and safety of Indigenous children in the residential schools. In 1935, a policy adopted by Indian Affairs outlined a procedure for more efficient reporting in the case of the death of a student, including communication with parents and a board of inquiry; however, the policy was not always followed, and student deaths were often indicated by a form based on information from the school principal with little detail.<sup>48</sup> In 1907, P.H. Bryce, a government medical inspector, reported that 24 percent of Indigenous children who were previously healthy prior to their registration in residential school, were dying in the schools, and that between 47 percent (Peigan Reserve, Alberta) to 75 percent (File Hills Boarding School, Saskatchewan) of children who had recently been discharged died shortly afterwards at home.<sup>49</sup>

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<sup>45</sup> TRC, "School Days: The Residential School Experience," in *They Came for the Children*, 28

<sup>46</sup> TRC, "School Days: The Residential School Experience," in *They Came for the Children*, 28.

<sup>47</sup> Truth and Reconciliation Commission of Canada, "Statistical Analysis" in *Canada's Residential Schools: Missing Children and Unmarked Burials: The Final Report of the Truth and Reconciliation Commission of Canada, Volume 4* (MQUP, 2016): 22, [https://publications.gc.ca/collections/collection\\_2015/trc/IR4-9-4-2015-eng.pdf](https://publications.gc.ca/collections/collection_2015/trc/IR4-9-4-2015-eng.pdf)

<sup>48</sup> TRC, "Executive Summary," in *Canada's Residential Schools: Missing Children and Unmarked Burials*, 9.

<sup>49</sup> Hanson et. al "The Residential School System".

In addition to insufficient resources, the ill treatment of Indigenous children in the residential schools added to the heightened mortality rates, in addition to causing mental and physical trauma that has been carried beyond the closure of the schools through intergenerational trauma reflected in health issues, family violence, and significant overrepresentation of Indigenous children in foster care, the sick, injured, and imprisoned, IN Canada today.<sup>50</sup> Rampant forms of physical, sexual and mental abuse against students as well as practices of discriminatory and racist behaviour by authorities, were unleashed against Indigenous children in residential schools, causing significant and long-lasting affects to the Indigenous community in Canada. Details of systemic mistreatment as well as individual experiences of trauma endured in the residential schools, is best brought to light and discussed through the testimonies and truths shared by the survivors of the Indian residential school system, and therefore, highlights the importance of having Indigenous voices at the forefront of the truth sharing efforts through Canada's process of transitional justice. Although it is by no means the responsibility of Indigenous peoples to educate the public on the reality of the Indian residential school system, the opportunity for residential school survivors to share the stories of their experiences, needs to be supported and respected for the efforts of transitional justice, healing, and reconciliation between Indigenous and non-Indigenous communities in Canada to be pursued.

## 2.4 The Closure of the Indian Residential School System

The last residential school in Canada was closed in 1996 in the province of Saskatchewan, after over one hundred years of the Canadian Government implementing assimilationist policies which kept the institutions in control of the early years of Indigenous children's lives.<sup>51</sup> The end of the residential school system did not mark the end of the discriminatory and systemic violence against Indigenous peoples in Canada, additionally, the closure of the institutions did not result in the immediate accountability and recognition of perpetrators, including members of the Canadian Government or the churches. Although certain symbolic measures of recognition and responsibility were carried out, such as the first

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<sup>50</sup>TRC, "The Legacy," in *A Knock on the Door*, 167.

<sup>51</sup> Hanson et. al "The Residential School System".

apologies from some of the churches in the late 1980's and early 1990's, significant actions to aid in healing, recognition and reparations for Indigenous peoples took significant time to develop, and in many ways, continue to be lacking.<sup>52</sup> The Canadian Government took over ten years after the closure of the last residential school to acknowledge the residential school system as a policy and program that was in need of a truth commission as an essential component of the transitional justice process. The pressure for the Canadian Government to act was eventually influenced by the voices of Indigenous people who experienced the consequences of the system in their personal, familial, and communal lives, and who came forward through legal actions in order to hold perpetrators accountable for cases of dominantly sexual abuse of Indigenous children in the care of the residential schools.<sup>53</sup> Due to the increased number of former residential school students who were publicly speaking against the sexual, physical, and mental abuse they endured in the schools, as well as seeking legal prosecution, the Indian Residential Schools Settlement Agreement (IRSSA), Canada's largest class action lawsuit, came into effect in September of 2007 to address the multitude of legal cases from residential school survivors.<sup>54</sup> The class action lawsuit included payments available to any individual who was enrolled in a federally operated residential school depending on the duration of their time enrolled in the institution, as well as outlined mandatory steps to be taken by the Canadian Government in relation to the recognition of their responsibility for the residential schools and subsequently, the trauma and continuation of challenges Indigenous peoples have and do suffer.<sup>55</sup> On June 8<sup>th</sup> of 2008, on behalf of the Canadian Government and in fulfillment of conditions outlined in the IRSSA, Prime Minister Stephen Harper made the Statement of Reconciliation, acknowledging and apologizing for the role of the Canadian Government in the creation and implementation of the racist and discriminatory policies of the Indian residential school system.<sup>56</sup> Additionally, Prime Minister Harper acknowledged the historical implications of the struggles indigenous communities

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<sup>52</sup> Ronald Niezen "The Unfolding" in *Canada's Truth and Reconciliation Commission on Indian Residential Schools, Truth and Indignation, Second Edition*, (Toronto: University of Toronto Press, 2017) 32, Google Play Books.

<sup>53</sup> Niezen "The Unfolding," 28-29.

<sup>54</sup> Niezen "The Unfolding," 28.

<sup>55</sup> Brieg Capitaine and Karine Vanthuyne "Introduction" in *Power Through Testimony; Reframing Residential Schools in the Age of Reconciliation*, (Vancouver: UBC Press, 2017), 19, Google Play Books.

<sup>56</sup> Niezen "The Unfolding," 36.

face in current affairs due to the consequences of the Indian residential schools on Indigenous survivors, families, and communities.<sup>57</sup>

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The establishment of the Truth and Reconciliation Commission of Canada in 2008 catalyzed the development of a more structured and intentional process of healing, recognition and reconciliation efforts with Indigenous peoples. The development of the TRC and its mandate occurred over ten years after the last residential school in Canada closed. Although this signified the end of the residential school system, a truth seeking and healing initiative was long overdue considering the number of Indigenous children who had been through the system and released for longer or shorter periods of time, leading up to the final closure. Therefore, in many ways, the TRC was not established in an urgent fashion in order to aid the survivors and effected communities as efficiently as possible. Indigenous survivors of the residential school system had spoken about the conditions and treatment while in the schools through storytelling, prior to the establishment of the TRC, yet the follow up on the forms of truth sharing were inadequately responded to through lack of action by the Canadian Government and other parties involved. The TRC was thus the beginning of an opportunity to amplify the voices of Indigenous survivors and communities who through the practice of storytelling, were sharing the truth of the residential school system and its impacts with the public and the world. The history of assimilationist policies, including the Indian residential schools, targeted towards the Indigenous peoples in Canada, is a long and difficult history which cannot be adequately summarized in a short introduction. However, in relation to the topic of this research, it is important to note that the practice of assimilation in regards to Indigenous peoples in Canada was intentional, orchestrated in a fashion that was believed to ensure the elimination of Indigenous language, culture, and peoples including targeting of some of the populations most vulnerable, the children. The way in which the Indian residential schools were enforced has created a lasting effect on Indigenous communities in Canada, and has altered the way in which Indigenous peoples have been capable to continue their culture and way of life. This includes the perception of the role of oral history and

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<sup>57</sup> Niezen “The Unfolding,” 36.

storytelling as form of documentation of the experience of residential school survivors, which is challenged in contemporary ways of thinking about documentation, evidence, and truth.

## CHAPTER 3

# TRANSITIONAL JUSTICE AND THE IMPORTANCE OF STORYTELLING

In effort to understand the challenges as well as success of the establishment and process of the Truth and Reconciliation Commission of Canada (TRC), the process of transitional justice and the role of truth-seeking and truth-sharing is introduced in this chapter, with emphasis on the necessity of collecting and recognizing truth in the pursuit of meaningful transitional justice practices. Furthermore, by learning about Indigenous storytelling and the role it plays in Indigenous cultures in Canada, the importance of prioritizing victim lead narratives in truth-seeking and sharing initiatives is affirmed. The introduction of Indigenous storytelling additionally highlights the necessity of considering the adaptability of transitional justice, with specific consideration to truth commissions, as a way to introduce alternative ways of thinking about restorative justice practices in pursuit of healing among and within Indigenous and non-Indigenous communities. The notion of adapting dominantly Western concepts to more inclusive processes of restorative justice in particular, is highlighted through the analysis of how values of Indigenous storytelling align with the important features of truth-seeking and sharing processes typically used in truth commission work, suggesting that incorporating Indigenous practices and narratives into the work of the TRC, would have strengthened the Commissions impact, providing valuable insight and crucial context for the more in depth analysis of the TRCs work, presented in Chapter 4.

### 3.1 Transitional Justice and the Role of Truth Seeking/Sharing

Transitional justice is a framework developed to aid in the process of justice seeking, centered around the needs and rights of victims of major atrocities and human rights violations. Transitional justice includes four major pillars: criminal justice, reparations, guarantees of non-repetition, and truth. The concept of transitional justice provides a general framework which can be applied and adapted to the particular needs of the victims and



society based on the circumstances in which the process is being pursued. In some cases, transitional justice entails the reform of institutions, of security, political, social, economic and cultural affairs, in effort to aid in the confrontation of the violations and the direct and indirect consequences as a result of the violations.<sup>58</sup> In the case of Canada, with the government as a primary perpetrator in the genocide against Indigenous peoples through the creation and implementation of the Indian residential school system, there was not and has not been a complete reconstruction in terms of reform and restructuring of the institutions and authorities involved. Primarily, the political parties, government structure, and even some policies, from the time of the Indian residential school system, still exist in Canada. This does not mean that changes have not been made to be more inclusive of the participation of Indigenous peoples in different political and social levels, but that the process of transitional justice in terms of reform, have not been as extraneous in the case of Canada.

Although there are various avenues to implement and pursue the essential elements of transitional justice, most commonly, the development of a truth and reconciliation commission is established as a fundamental step in collecting the truth and perspectives of victims and/or perpetrators, and fostering an environment of healing and acknowledgement of the atrocities that occurred. Truth commissions offer a foundational approach to the transition process, and exemplify the interconnected nature of the pillars of transitional justice, adapting the process to the needs of the people and communities most affected. The United Nations Set of principles for the protection and promotion of rights through action to prevent impunity, updated and published in 2005, defines the primary principles for commissions of inquiry, stating that through the establishment of a truth commission: “in recognition of the dignity of victims and their families, investigations undertaken by truth commissions should be conducted with the object in particular of securing recognition of such parts of the truth as were formerly denied.”<sup>59</sup> The creation of the TRC of Canada was the result of the demands of survivors of the Indian residential schools, who recognized the need for a process which would not only allow for survivors to share the stories of their experiences as a means of

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<sup>58</sup> “Institutional Reform,” International Center for Transitional Justice, accessed June 7, 2023, <https://www.ictj.org/institutional-reform>.

<sup>59</sup> United Nations, “Updated Set of principles for the protection and promotion of human rights through action to combat impunity” United Nations Human Rights High Commissioner, International Standards, (E/CN.4/2005/102/Add.1) 2005, 8, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>

healing for them and their communities, but also as an opportunity to share their truth through storytelling, with the wider public population of Canada. Whether or not the truth was established throughout the TRCs final report in the most forthright and comprehensive way is to be explored in Chapter 5 through considerations of the narrative of the TRC and the influence of the State.

Additionally, the element of truth seeking in the process of transitional justice is essential for the pursuit of the pillars of criminal justice, reparations, and the guarantee of non-repetition. With the absence of a truth-seeking process, the efforts to pursue the other core elements of transitional justice would be at risk of insufficiency due to lack of accuracy and recognition of the violations and consequences caused. Truth seeking is essential in establishing grounds for addressing atrocities and advocating for the rights of victims. Initiatives of truth-telling and truth-seeking represent the powerful role of victims in establishing the truth of their experiences, documenting the systemic violations of the atrocities faced, and acknowledging the individual and collective experiences of the survivors.<sup>60</sup> The development of effective truth-seeking and truth-sharing initiatives can be, and have been, constructed in many different ways, primarily taking shape to represent the needs and wishes of the victims. Truth and memory collection should serve to amplify the voices of the victims, allowing them to contribute to the documentation of atrocities through a victim led narrative, to voice their demands and needs in terms of reparations and reform, and to collect information in the pursuit of criminal justice.<sup>61</sup> Therefore, truth-sharing and truth-seeking rely on the creation of a process that enables the most secure, supportive, and legitimate collection of the truth, in order to ensure that all victims feel welcome and safe in sharing their experiences. Due to the topics of discussion around major atrocities including experiences of extreme violence, torture, mental and emotional trauma, and sexual violence, among other topics, while additionally confronting societal stereotypes and challenging narratives around religion, culture, gender, and ethnicity, often results in long and complicated processes of collection.

Determining the best practice in the collection of the truth and the dissemination of the information collected, without creating an environment of further risk for the victims, is a

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<sup>60</sup> “Truth and Memory” International Center for Transitional Justice, accessed May 8, 2023, <https://www.ictj.org/truth-and-memory>.

<sup>61</sup> “Truth and Memory” International Center for Transitional Justice.

process that takes a significant amount of effort and adaptation to the circumstances of the situation being addressed. Therefore, as all elements of the transitional justice process, the application of the core concepts depends on the needs of the victims and the considerations of the content being covered, which therefore results in the process of transitional justice being represented through a variety of avenues. With the establishment of the Sierra Leone Truth and Reconciliation Commission (SLTRC), the collection of statements by victims and perpetrators on the events of the civil war was commenced in 2002 and was complemented by a subsequent series of exchanges between perpetrators and victims, thematic discussions, and public reconciliation events through what was addressed as the healing phase, in 2003.<sup>62</sup> The approach to include the perspective of perpetrators and allow space for their dialogue has been adopted in other truth commissions, seemingly as an opportunity for victims and public to learn about the motivations and reasonings for their actions, in order to confront the atrocities committed from the perspective of the perpetrators. This form of TRC may also be more relevant where victims wish to have the perpetrators acknowledge their roles in the situation addressed in a public manner to form a sense of accountability that may not be adequately pursued on a large scale through judicial means. In relation to the process of transitional justice in Canada, the approach to truth-seeking and truth-sharing was adopted by the establishment of the TRC of Canada which was centered dominantly by the voices of victims and their immediate families and communities, with very few perpetrators or others sharing their perspectives. As a part of the registration process for witnesses sharing testimony, forms for those who wished to share their stories had to be filled out, with an indication of their “Relationship to Indian Residential Schools,” including the options of “Survivor,” “Intergenerational Survivor,” “Former Staff,” and “Other” with the need to specify.<sup>63</sup> The process did not include any explicit option for Canadian Government officials or employees, which concerningly does not directly address the involvement of Canadian Government officials in the Indian residential schools, yet, also creates a space that is dominantly victim centered. In this sense, there was an opportunity to support more exclusively the voices of Indigenous peoples without an over representation of perpetrator

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<sup>62</sup> William A. Schabas, “The Sierra Leone Truth and Reconciliation Commission,” in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*, ed. Javier Mariezcurrena and Naomi Roht-Arriaza (Cambridge: Cambridge University Press, 2006): 26, <https://doi.org/10.1017/CBO9780511617911.003>.

<sup>63</sup> Ronald Niezen, “Templates and Exclusions” in *Truth and Indignation: Canada’s Truth and Reconciliation Commission on Indian Residential Schools, Second Edition* (Toronto: University of Toronto Press, 2017), 78, Google Play Books.

perspectives and people in the effort to prioritize safe spaces for survivors. Whether this process was best adapted to the needs and voices of Indigenous peoples and the practice of storytelling as a truth seeking and sharing process, is to be discussed through the consideration of what storytelling entails through the Indigenous lens, and how this understanding did or did not transfer to the mandate and actions of the TRC to collect and share the truths of Indian residential school survivors, topics which are explored through the succeeding sub sections and chapters.

### 3.2 Storytelling: The Practice of Indigenous Documentation and Oral History

Storytelling, and subsequently storytelling methodology, is a living history and expression of truth.<sup>64</sup> Indigenous peoples in Canada practice storytelling as a form of communication of traditional values, of identity and community, of documentation, and of language and history. In this way, storytelling functions as a form of truth-telling, and of resistance through re-storying.<sup>65</sup> It is a way in which Indigenous peoples define identity and community, and through the empowerment of Indigenous voices, create space for the continuation of documentation, celebration, and remembrance of those who can no longer share their stories on their own. In effort to find paths of healing, storytelling plays a role in engaging with Indigenous culture, and through these experiences, empowers processes of reclaiming Indigenous identity and community, as “a part of an understanding of cultural continuity.”<sup>66</sup> Storytelling therefore is not simply a practice valuable in aiding Indigenous narratives persist through transitional justice measures in truth seeking and sharing, but is complimentary to the process through the deeply cultural practice of Indigenous traditions of oral history and documentation. In contemporary understandings of truth sharing, especially in colonial practices and the establishment of law that is exclusive in its legislation without significant consideration to Indigenous practices of government and law, oral history that is

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<sup>64</sup> Jeff Corntassel, Chaw-win-is, and T’Lakwadzi, “Indigenous Storytelling, Truth-Telling, and Community Approaches to Reconciliation,” *English Studies in Canada* 35, no. 1 (2009): 141, <https://ojs.lib.uwo.ca/index.php/esc/article/view/9788>.

<sup>65</sup> Corntassel, Chaw-win-is, and T’Lakwadzi, “Indigenous Storytelling,” 147.

<sup>66</sup> Adrienne S. Chan, “Storytelling, Culture, and Indigenous Methodology,” in *Discourses, Dialogue and Diversity in Biographical Research* (Brill, 2021), 179, [https://doi.org/10.1163/9789004465916\\_012](https://doi.org/10.1163/9789004465916_012).

dependent on the practice of storytelling, dominantly through elders and leaders of communities, does not fulfill the normalized requirements of establishing legitimacy or fact in Western practice. In this regard, storytelling cannot be understood for its significant role of documenting cultural and historical elements of the community and experiences by those who do not attempt to learn about its role in not only the organization of Indigenous communities, but in the survival and continuation of their culture and existence through passing down important traditions, values, and knowledge through generations. Among the Nuu-chah-nulth peoples, represented by fourteen Nuu-chan-nulth First Nations whose lands are located on the Pacific Coast of Vancouver Island BC, haa-huu-pah, the Nuu-chan-nulth word for storytelling, translating to truth telling, is relied upon for “teaching stories or sacred living histories that solidify ancestral and contemporary connection to place.”<sup>67</sup> Additionally, haa-huu-pah is used as “a form of truth-telling in order to demonstrate how Indigenous stories of resilience are critical to the resurgence of our communities” and represent, “a starting point for renewing Indigenous family and community responsibilities in the ongoing struggle for Indigenous justice and freedom.”<sup>68</sup> The oppression that was enforced on Indigenous peoples in Canada through assimilationist policies has challenged the way in which some generations of Indigenous peoples have been able to connect with the past. With barriers in the way in which storytelling was able to be practiced, “some elders say that knowledge was ‘put to sleep’ when North American laws established residential schools for Indigenous children and placed them in care away from their families.”<sup>69</sup> Sharing the power of storytelling, as led by Indigenous survivors and community leaders, creates opportunities for greater understanding of the practice and legitimacy of its exercise in Indigenous communities, to non-Indigenous peoples who are seeking the chance to hear the truth of Indigenous experiences in the residential school system as survivors and victims of the assimilationist violence. Although it is not the responsibility for Indigenous peoples to educate non-Indigenous populations on their culture and history, it is the responsibility of non-Indigenous populations to listen to the voices of Indigenous peoples who are willing to share their experiences, culture, and knowledge, in order to gain a better understanding of history and contemporary dynamics and issues in Canada. “When Indigenous Peoples find their talk, or their language, they can open

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<sup>67</sup> Jeff Corntassel, Chaw-win-is, and T’Lakwadzi, “Indigenous Storytelling,” 137.

<sup>68</sup> Jeff Corntassel, Chaw-win-is, and T’Lakwadzi, “Indigenous Storytelling,” 139.

<sup>69</sup> Chan, “Storytelling, Culture, and Indigenous Methodology,” 179.

up a dialogue to share the core pieces of themselves. Indigenous peoples have been searching, re-kindling, and discovering their cultural practices since they were banned,” and the TRC and its mandate to collect the testimonies of Indigenous survivors and affected people of the Indian residential schools, should have been framed around the support of this process in order for the most appropriate and meaningful search for truth and healing for Indigenous communities throughout Canada.<sup>70</sup>

Addressing the role of storytelling, primarily in consulting Indigenous peoples perspectives and learning from their knowledge rather than speaking for or about Indigenous peoples from a non-Indigenous and colonial perspective, is an on-going and continuous effort to pursue. The true importance of storytelling cannot be captured merely through the observations of a non-Indigenous person, and as a researcher, can only be attempted to be addressed by sharing the points of view and understanding of storytelling as per the experiences and voices of Indigenous peoples. Instead, storytelling should be shared through its practice, a demonstration of the power of oral history and documentation within Indigenous culture, organization, and practice, as well as through the aid of Indigenous leaders, educators, and academics who are experienced in sharing the perspectives of their culture and communities. Through its mandate, the Truth and Reconciliation Commission of Canada was tasked to collect the stories and truths of Indian residential school survivors and their communities with the intention, among many key developments, to provide a process and resource that would enable Indigenous peoples to share their knowledge and experiences through oral testimony, with the Indigenous community as well as the wider public population.<sup>71</sup> In order to implement the goals of the mandate, the organization of appropriate conditions and spaces to aid in the process of storytelling and truth sharing, was essential, including opportunities for survivors to discuss their experiences and speak with health support workers who were well trained, making it easier for survivors to share their stories at hearings and other events as they wished.<sup>72</sup> Understanding rituals and conditions of storytelling practice, through a more formal avenue due to the additional documentation requirements of the TRC, could not be replaced by administrative and information

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<sup>70</sup> Seren Friskie “ The Healing Power of Storytelling: Finding Identity Through Narrative” *The Arbutus Review* 11, no.11 (2020): 23, <https://doi.org/10.18357/tar111202019324>

<sup>71</sup> “Schedule ‘N’, Mandate for the Truth and Reconciliation Commission” *Indian Residential Schools Settlement Agreement* (2008) 1., [https://www.residentialschoolsettlement.ca/schedule\\_n.pdf](https://www.residentialschoolsettlement.ca/schedule_n.pdf)

<sup>72</sup> “Lessons Learned; Survivor Perspectives,” 16.

extractive practices. The voices of Indigenous peoples were and are continuously essential in the collection of survivor testimony and storytelling practices in support of this effort, however, the goals and narrative of the TRC were also considered throughout the process in collaboration with the Indigenous peoples who participated in sharing their stories, and the information they provided.

With the intention to collect the experiences of residential school survivors, in pursuit of creating a greater understanding of the reality and consequences of the Indian residential school system among Indigenous and non-Indigenous communities, the TRC relied on the willing participation and trust of Indigenous communities to share their stories with the committee, community, nation and world. It must also be recognized that the process of storytelling entails not only the sharing of story, but of the preparation of the vulnerable and often sacred practice of storytelling which is reliant on the storytellers willingness and ability to share themselves beyond intellectual capabilities, but through a personal journey that “includes developing trust, empathy, and self-understanding.”<sup>73</sup> The process of storytelling and sharing of truth by residential school survivors creates a space in which Indigenous peoples have the power to find strength and healing through cultural practice and reclaiming of a cultural identity which was so forcefully attempted to be stripped from them. The establishment of the TRC of Canada was an opportunity to create space for Indigenous voices and empowerment through their practices of sharing their experiences in residential schools. By creating an environment that allows and encourages the practice of storytelling, the TRC ideally would encourage the development of these practices and their legitimacy through Indigenous culture beyond the system of the community, in order to aid in the education and recognition of the truth through the point of view of Indigenous peoples, by the wider Canadian population and beyond.

### 3.3 Storytelling and Truth Seeking/Sharing; How they Relate

The role of storytelling as known and practiced by Indigenous peoples does not create an exclusivity to who is and was encouraged to share their personal or intergenerational

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<sup>73</sup> Chan, “Storytelling, Culture, and Indigenous Methodology,” 178.



experiences regarding Indian residential schools. Instead, the intention of considering the importance of storytelling in Indigenous culture is not to say that the practice of storytelling in its most traditional form had to be embodied in the TRC and their efforts to collect the stories of survivors and Indigenous communities, however, awareness of the cultural significance, symbolic elements, and conditions of respect and safety in the space, aspects embodied in storytelling, should have been. Ultimately, understanding the significance of storytelling in Indigenous practice adds an additional layer of importance and relevance to the collection of survivor accounts, as it should be understood that the process of sharing stories is a practice that is sacred and deeply imbedded in Indigenous culture and practice. Additionally, through the recognition of diversity of Indigenous culture, it must also be considered that each Indigenous community has “particular traditions, protocols, and rules concerning stories and the ways that stories are to be told for teaching and learning purposes,” thus, storytelling cannot be limited to one understanding of a certain way stories should or can be told, but instead, be asserted for the value in its practice through the diversity of its practice.<sup>74</sup> Contemporary understandings of truth-sharing cannot contribute to de-legitimizing the importance of storytelling in this context. Instead, the practices should be seen as complimentary, one does not overrule the other, but compliments the pursuit of the truth through the voices of the victims with storytelling aiding in supporting the Indigenous community in this vulnerable practice, in an expression and process that is highly significant to communities and their cultural and historical identity. Storytelling is a form of truth-sharing, aiding in truth-seeking, and is celebrated for its important role in Indigenous culture. The practice of storytelling did not need to be an exclusive process in the conditions of the TRC’s mandate, but in order to aid in the fulfillment of the mandate and the intentions of the TRC to collect survivor accounts of their experiences in Indian residential schools, an understanding of the cultural relevance of the process should have been deeply considered. The intention of the TRC was centered in the collection of testimony and the practice of truth sharing, therefore, it is the voices of Indigenous peoples who should have the power to determine what the process of truth sharing entails, as well as the space, cultural customs and narrative that is pursued.

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<sup>74</sup> Jo-Ann Archibald, “The Power of Stories to Educate the Heart” in *Indigenous Storywork: Educating the Heart, Mind, Body, and Spirit* (Vancouver: UBC Press, 2008), 100, Google Play Books.



One of the potentially greatest obstacles that truth commissions have to face is the legitimacy of the information that they are collecting through what is often a victim centered approach, and how to present the information collected with a wider audience. In contemporary teachings, the testimony of those most affected is often thought of critically, as trauma, age and timelines often play a part in risking heightened distortion of memory. In the case of the TRC of Canada, the mandate that was developed for the process did not include a strictly judicial element, and therefore, the mandate was instead lead with an intention of collecting the truth of events through the voices of the Indigenous community whose voices are often not at the forefront of narratives that are in discussion about Indigenous peoples in Canada. Therefore, traditional understandings of testimony or truth sharing, including fact-based approaches, were not as relevant in the mandate of the TRC of Canada. This is not to say that the information collected was not truthful or indicative of the truth of Indigenous peoples and communities, but that due to the lack of judicial pressure on the collection of the stories shared, there was a greater opportunity to consider the variety of individual experiences, of practices of self-expression and of more traditional avenues of storytelling imbedded into the work and process of the TRC. Scholar Rosemary Nagy participated in the TRC events as an audience member and listener of testimony, and expresses her experience of hearing from survivors as active role beyond hearing, as feeling and receiving knowledge through testimony, specifically recalling that:

the TRC also went beyond factual truth: the inclusion of ceremony signaled to me, as an outsider, the sacred nature of what was occurring. Sharing sessions opened with a prayer, lighting a qulliq (an Inuit oil lamp), the burning of sweetgrass, and sometimes a drum song, while a sacred fire burned outside throughout the three or four days of the event. Survivors, through their stories, imparted the profound hurt, pain, and damage caused by residential schools. In some ways, it was the onslaught of testimony itself, for hours at time—hearing someone’s voice, registering their emotions, feeling at times like you could not breathe yourself—that was deeply impactful.<sup>75</sup>

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<sup>75</sup> Rosemary Nagy, “Settler Witnessing at the Truth and Reconciliation Commission of Canada,” *Human Rights Review* 21, no. 3 (September 1, 2020): 233, <https://doi.org/10.1007/s12142-020-00595-w>.

The power of oral testimony and the impact of the truth of what was being shared from the speaker to the listener represents one of the main purposes of the TRC through the sharing of a victim centered narrative.

Additionally, the awareness of the intention of the TRC process and the organizational aspects of its creation are crucial to consider when addressing the topic of truth sharing, as the ‘truth’ is most commonly recognized through a variety of perspectives, which although may believe in the same overarching theme or idea as being the truth, the process of determining a conclusion, and the important details which construct the validity, do not always converge and present the same way. During the opening speech of a National Event in Saskatoon, Commissioner Murray Sinclair highlighted the difference between quantitative and factual truths versus relative truths which express how individuals feel and experienced residential schools and their aftermath, asserting that the TRC’s purpose and intention is to both heal, come to terms with and recognize the impact of the Indian residential schools, all while asserting and establishing the historical truth of the past.<sup>76</sup> In a process that was built with a victim centered approach in mind, the expectations of the TRC in finding a balance between the expectations of the Commission in their truth-seeking, truth-sharing initiatives, and the narratives in which they were additionally pursuing, the process of storytelling in its authentic and intentional form, was not so easily developed or nurtured. In this regard, and as will be discussed further in the proceeding chapters, the mandate of the TRC faced the challenge of conforming to the narratives of the colonialist search of a definition of reconciliation that did not truly embody or promote the space or value of the Indigenous peoples and voices who came forward to share their stories and the stories of their communities. Specifically, some critics of the TRC argue that a dominant aesthetic of the TRC events and the collection process became problematic in the way that it enabled the consumption of trauma, creating a narrative that although important to recognize, was encouraged seemingly as a way to steer discussions away from feelings of anger and deeper concepts of on-going colonialism, to create a more manageable environment for reconciliation to be pursued, ultimately to influence the complexity of what the State would

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<sup>76</sup> Ronald Niezen, “Testimony” in *Truth and Indignation: Canada’s Truth and Reconciliation Commission on Indian Residential Schools, Second Edition* (Toronto: University of Toronto Press, 2017), 83, Google Play Books.

have to deal with as the aftermath of the TRC's conclusions.<sup>77</sup> Overall, storytelling as a crucial practice of sharing the truth and documentation of the legacy of the Indian residential schools could not be fully realized as a legitimate form of truth telling within the TRC without the acceptance of its role in this regard, beyond the understandings or considerations of non-Indigenous peoples, and as considered in its whole form, especially in unsettling and pushing the confines of the narratives the State was more willing to support.

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The role of truth seeking and truth sharing, as well as memory initiatives in preserving survivor narratives, is fundamental for the pursuit of a multitude of layers in the transitional justice process and beyond its recognized pillars. Without establishing the truth and recognizing the possibility and opportunity of multiple avenues of experiences and consequences of major atrocities such as genocide, the pursuit of criminal justice, reparations and grantees of non-repetition, risk being insufficient. Transitional justice cannot move forward in an intentional and meaningful way without consultation with survivors and the legitimate investigation of the truth through a multitude of avenues that best serve the collection, documentation, and dissemination of the truth. In the case of Canada and the Indigenous survivors and communities of the Indian residential schools, the process of truth-seeking, truth-sharing, and memory is embodied in the practice of storytelling, which is foundational to the culture, organization, and survival of Indigenous communities. The practice of storytelling is central to Indigenous identity, and therefore was not a foreign concept when the TRC of Canada commenced their collection of testimonies. However, the mandate of the TRC and the way in which the testimonies of Indigenous peoples were collected and then shared in the TRC final report, posed challenges to the environment, practice, and intentions of storytelling. Ultimately, through an analysis of the TRC mandate, the recognition of the role of storytelling as a form of truth telling, aiding in the mandate's truth seeking initiatives, is essential, with additional consideration of the TRC mandate in the realization that not all truth seeking and truth telling practices are representative of storytelling as expressed, known, and practiced by Indigenous communities. This is key in understanding the requirements of a more meaningful transitional justice process in Canada, especially in sharing truth through Indigenous voices with non-Indigenous populations. As

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<sup>77</sup> Nagy, "Settler Witnessing," 233-34.

researcher Adrienne Chan states in her chapter about storytelling, culture and Indigenous methodology, “storytelling is a process of reclaiming the story, to own the story, rather than be defined or storied by others. Colonisers have historically told and shaped the stories of Indigenous peoples.”<sup>78</sup> As this research aims to highlight, the TRC should have been the space and mandate that fostered a change in the narrative which has suppressed Indigenous voices and cultures, resulting in genocidal acts in assimilationist policies that created the need for the TRC, of which the consequences have continued through systemic racism and discrimination. An analysis of the TRC mandate and the dominant narrative the committee was tasked to pursue is to be addressed further in the following chapter, building a deeper understanding of how Indigenous pathways to healing, justice, and truth-sharing were implemented in the TRC events and mandate, as well as the shortcomings in the same regard which limited the ability for the TRC to pursue its mandate in the most substantial and impactful ways.

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<sup>78</sup> Chan, “Storytelling, Culture, and Indigenous Methodology,” 171.

## CHAPTER 4

### THE TRUTH AND RECONCILIATION COMMISSION: MANDATE, APPLICATION AND STORYTELLING PRACTICES

In the wake of the Indian Residential Schools Settlement Agreement lawsuit (IRSSA), approved in May 2006, and the momentum of residential school survivors who were seeking reparations and justice, the need for a truth seeking and sharing initiative became recognizably essential in the process of transitional justice in Canada. Voices of Indigenous survivors had been silenced for too long, and there was a significant lack of awareness of the residential school system, and the contemporary implications of the assimilationist policy, throughout the Canadian population, including generations of Indigenous peoples whose family or community members had not spoken openly of their experiences before. Therefore, the mandate of the TRC of Canada was established and tasked with the collection of testimonies throughout Canada, from residential school survivors, intergenerational survivors, and in some cases, former residential school staff who came forward to share their perspectives and experiences. Although there was the option for perpetrator perspectives to be included in the TRC testimony collection, the narrative of the perpetrator perspective, excluding State officials, was not as paramount as the victims. The mandate of the TRC outlines the purpose of the TRC's establishment and the process in which the Commission was to pursue its goals, creating a framework of testimony collection as a truth-seeking initiative, supporting organization of healing events and practices, and promoting education and awareness of the Indian residential schools throughout Canada. The ways in which the mandate was designed to consider cultural and traditional perspectives and practices, and how the mandate was carried out in consideration of these elements, is crucial in understanding the realistic ability for storytelling to be practiced, recognized, and honoured throughout the mandate, while additionally highlighting the challenges faced by recognizing the role of listeners in storytelling practices.

## 4.1 Who, What, and How? The TRC Mandate and Structure

The mandate of the TRC was developed as a result of the IRSSA, and was designed to fulfill the requirements outlined by the lawsuit in addressing the reality of the Indian residential school policy through the perspective of survivors, their families and communities who experienced the direct consequences and repercussions of the assimilationist policy. Therefore, the TRC was not created as an incentive by the State on its own, but instead, through the mandatory conditions of a lawsuit the State was facing as a result of the Indian residential school system and the harm that was caused by the governments own policies and practices. This is not to say that the State did not support the creation of the TRC, but that the mandate in itself represents the fulfillment of a required action on behalf of the State. Consequently, there were limitations in the TRC's ability to fully pursue some of its goals, especially in recognizing the understanding of the goals of the TRC from a variety of perspectives, including survivors, intergenerational survivors, former staff, the State, and settlers. In considering the allocation of Commissioners, the language used to outline the goals and purpose of the TRC and the development of events and their respective pursuits, considerations of Indigenous perspectives are addressed both directly and indirectly, creating strengths and weaknesses in the possibility of Indigenous lead storytelling practices to be pursued.

### *4.1.1 The Commissioners*

The mandate of the TRC outlines the important aspects regarding the organization of the Commission and the appointment of the Commissioners. The question of whom, significantly impacts the perspective and approach taken by Commissioners of truth commissions in fulfilling their role. A mandate outlines the goals and logistics of a truth commission, but it becomes the responsibility of Commissioners to take the mandate and apply it in the best way they see fit, within the boundaries provided. In the case of the TRC of Canada, Commissioners were appointed through a pool of nominated candidates by former students, Aboriginal organizations, churches and government, with the assertion that at least

one of the three members, including a Chairperson and two Commissioners, be Aboriginal.<sup>79</sup> In appointing the Commissioners, there was an effort to consult with Indigenous peoples and organizations in order to ensure representation in the Commission as stated in the mandate, however, this followed with the consultation of churches and the Federal Government, as perpetrators, in the nomination of the Commission candidates. As a process of transitional justice, there is an element of necessity in collaborating with the State and church members in order to close the circle of communication and allow for open and honest discussions among relevant actors of the Indian residential school system, be they victims, perpetrators, or bystanders. However, in analysing the role of storytelling in the TRC mandate and applied process, considering the members of the Commission and the perspectives they provided in how the mandate was to be carried out, forces the recognition of diversity in opinions and tactics in approaching the tasks assigned.

The Commissioners of the TRC included Justice Murray Sinclair, an Ojibwe judge from Manitoba, Chief Wilton Littlechild, a Cree lawyer from Alberta, as well as Marie Wilson, a CBC broadcaster from the Northwest Territories.<sup>80</sup> The appointment of the Commissioners and finalized decision of the positions were additionally made in consultation with the Assembly of First Nations (AFN), as outlined in the TRC mandate. The representation within the Commission, with Indigenous and settler members, allowed for a variety in perspectives in the implementation of the TRC mandate, with the essential focus on the application of the mandate in a way that was most accessible and welcoming to Indigenous peoples and their voices in participating in the TRC initiatives. The Commissioners represented and provided three distinct perspectives, with Commissioner Wilton Littlechild as a survivor, Chief Commissioner Murray Sinclair as an inter-generational Survivor, and Marie Wilson as the spouse of a survivor, they each demonstrated a high level of cultural awareness and personal competency of the content the Commission was mandated to address.<sup>81</sup> Additionally, the Commissioners were assisted by the Indian Residential School Survivor Committee (IRSSC), composed of ten members selected from Aboriginal

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<sup>79</sup> Truth and Reconciliation Commission of Canada “Honouring the Truth, Reconciling for the Future” in *Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015) 344, [https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

<sup>80</sup> Ry Moran, “Truth and Reconciliation Commission,” *The Canadian Encyclopedia* (2015), <https://www.thecanadianencyclopedia.ca/en/article/truth-and-reconciliation-commission>.

<sup>81</sup> “Lessons Learned; Survivor Perspectives” *National Centre for Truth and Reconciliation* (2020) 15, [https://nctr.ca/wp-content/uploads/2021/01/Lessons\\_learned\\_report\\_final\\_2020.pdf](https://nctr.ca/wp-content/uploads/2021/01/Lessons_learned_report_final_2020.pdf)

organizations and survivor groups based on regional representation, the majority of which were former students.<sup>82</sup> The IRSSC were responsible for supporting the Commissions work, especially in providing input and advice on criteria of national and community events. As per the mandate, substantial efforts to ensure Indigenous participation and representation within the TRC administration and development were pursued, and thus, ensured a certain level of consideration for the needs and appropriate procedures in fulfilling the goals of the Commission. However, this did not eliminate the shortcomings the Commission would face due to the influence of the State in the development of the TRC mandate and its pursuits, especially in addressing topics of criminal allegations, discussed comprehensively in Chapter 5.

#### *4.1.2 Mandate Goals and Language*

The fundamental objectives of the TRC Commissioners, as outlined in the mandate, included the primary intention to create opportunities for survivors, intergenerational survivors, and communities of Indigenous peoples effected by the Indian residential school system to share the truth of their experiences with a wider audience through testimony. The TRC mandate therefore outlines a variety of goals to be achieved in the pursuit of the Commissions activities, stating that the goals of the Commission shall be to “provide a holistic, culturally appropriate and safe setting for former students, their families, and communities as they come forward to the Commission.”<sup>83</sup> Throughout the outlined goals of the Commission, there are multiple occurrences where terminology addresses an awareness of the culturally significant role of oral history and storytelling in Indigenous culture without explicitly using the term storytelling in the mandate. Instead, goals are outlined by the importance of being ‘culturally appropriate’ and the Commissions powers are characterized by the importance of recognizing “the significance of Aboriginal oral and legal traditions in its activities.”<sup>84</sup> In this way, the TRC mandate provides room for interpretation of what testimony and its collection entails, through the logistics of both what is feasible and what is required for the intentions of the Commission to be fulfilled. In some ways, the open nature

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<sup>82</sup> “Schedule ‘N’, Mandate for the Truth and Reconciliation Commission” Indian Residential Schools Settlement Agreement (2008) 7, [https://www.residentialschoolsettlement.ca/schedule\\_n.pdf](https://www.residentialschoolsettlement.ca/schedule_n.pdf)

<sup>83</sup> TRC, “Honouring the Truth, Reconciling the Future,” 340.

<sup>84</sup> TRC, “Honouring the Truth, Reconciling the Future,” 343.



of the mandates definitions allows for the acknowledgement of various forms of truth seeking and sharing practices, through testimony and Indigenous storytelling, as interpreted and embodied by those who participated in the TRC events. Therefore, the practice of storytelling, in oral testimony and in truth sharing, could take form in a way that is best expressed by the individual who is vulnerably speaking their truth. As Stó:lō scholar Jo-ann Archibald explains, the traditions and rules around stories and the ways in which they should be shared for learning and teaching purposes, varies among Aboriginal Nations, as well as the content and types of stories, from “the sacred to the historical, from cultural traditions to personal life experiences and testimonials.”<sup>85</sup>

As previously discussed, storytelling in its most authentic form is not a role in which all Indigenous peoples take on or are capable of pursuing as a role in their community, yet, the important elements of storytelling, such as addressing topics of identity, language, tradition, history, and land, in an expression of sharing knowledge and the continuation of Indigenous culture, can be embodied through the testimonies of those who chose to come forward in the TRC events and testimony collection. It is the sensitivity and awareness of the TRC and its mandate in acknowledging that there are deep understandings and traditions of storytelling which are practiced and understood in a variety of ways among Indigenous Nations in Canada, that was essential in the expression of the Commissions goals. Thus, when addressing the mandate of the TRC and the outline of the Commissions goals and structure, there is no direct assertion of the importance of storytelling, but instead, mention of cultural considerations which suggest an open interpretation of the addition of Indigenous truth telling and sharing practices. Whether considerable consideration to the values of Indigenous storytelling was incorporated into the mandate in practice or not is dependent on circumstances and personal opinions, varying by experience and interactions with the TRC, which will be addressed through the analysis of the mandate’s practical application and interpretation below.

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<sup>85</sup> Jo-Ann Archibald, “The Power of Stories to Educate the Heart” in *Indigenous Storywork: Educating the Heart, Mind, Body, and Spirit* (Vancouver: UBC Press, 2008), 100, Google Play Books.

### 4.1.3 Events

Finally, in consideration of the logistics of the TRC mandate, three forms of events were outlined to indicate how the goals of the TRC and duties of the Commissioners were to be carried out. Each of the events are outlined by various distinct yet complimentary purposes, consistently centered around the collection and documentation of the truth as shared by Indian residential school survivors and other participants outlined by the mandate, including intergenerational survivors and former staff. The three modes of events organized by the TRC included National Events, Community Events and Individual Statement-Taking/Truth Sharing, creating a variety of avenues for carrying out the goals of the mandate and providing access to the TRC.<sup>86</sup> Due to the conditions and intention of each event, as well as varying locations in which they were conducted, the content and organization of the events resulted in a variation of experiences and dynamics created in the TRC collection process. Overall, the logistics of each of the three event categories and subsequent organized sessions for each of them, were designed to take into consideration the locations and communities in which they were being held, demonstrating an awareness in the mandate of the variety of needs, perspectives, and sensitivities to be addressed dependent on the type of event and where it was to be held.

First, national events are outlined in the mandate as being “a mechanism through which the truth and reconciliation process will engage the Canadian public and provide education about the IRS system, the experience of former students and their families, and the ongoing legacies of the institutions.”<sup>87</sup> With the Commission to fund and organize seven national events, common components of the national events included ensuring the opportunity for regional communities to share experiences and impacts, and the “ceremonial transfer of knowledge through the passion of individual statement transcripts or community reports/statements” with emphasis that “ownership over IRS experiences rests with those affected by the Indian Residential School legacy.”<sup>88</sup> The additional common components and highlighted purposes of the national events dominantly reflect the importance of empowering

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<sup>86</sup> “Honouring the Truth, Reconciling the Future,” 346.

<sup>87</sup> “Schedule ‘N’,” 8.

<sup>88</sup> “Schedule ‘N’,” 9.

and supporting former residential school students and others affected by the system in conjunction with the education of the Canadian public through these efforts.

Alternatively, the intent of the community events differed slightly from national events in their nature of adjusting the lens from addressing wider regions with a focus on public education, to a more local and community centered outlook. Community events are outlined in the TRC mandate as being “designed by communities and respond to the needs of the former students, their families and those affected by the IRS legacy including the special needs of those communities where Indian Residential School were located.”<sup>89</sup> Within the community events framework, the mandate is formulated to support greater participation opportunities and influence on the elements and organization of the events by the Indigenous communities in the hosted area. The conditions of the events were driven by the communities, however, with clear consideration to the plans of reconciliation, helping pursue the Commissions mandate within their own local process, and in doing so, were tasked with submitting their plans to the Commission for budget and planning.<sup>90</sup> The mandate of the community events highlights an opportunity of greater control over the narrative of the event while developing “collective community narratives about the impact of the IRS system on former students, families, and communities.”<sup>91</sup> In this regard, through the organization and participation in community events, the TRC aimed to collect and highlight the diversity in community experiences and impacts of the Indian residential school in an attempt to help honour and recognize the truth through individual and communal perspectives. In particular, the community events created an opportunity of collaboration between the TRC Commissioners and organizations, with local community members, where the “TRC employed a common approach to the organization of events, local peoples and Elders dictated the protocol and ceremony that occurred.”<sup>92</sup>

Finally, the inclusion of individual statement-taking/truth sharing in the TRC mandate provided an opportunity for individuals regardless of their location, ability and or comfortability in participating in other TRC events, to nonetheless share their statement through a variety of avenues. The statements collected through the individual sessions are

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<sup>89</sup> “Schedule ‘N’,” 9.

<sup>90</sup> “Schedule ‘N’,” 10.

<sup>91</sup> “Schedule ‘N’,” 9.

<sup>92</sup> “Lessons Learned; Survivor Perspectives,” 15.

outlined in the mandate to be “unpublished and inaccessible for use in the Commissions processes unless consent was clearly expressed by the individual.”<sup>93</sup> The individual statement taking element of the TRC mandate created a tool in the testimony collection process which enabled individuals who wished to provide a statement to the Commission without the considerable impact of external factors that were actively present in the other event formats, which for those who preferred a more individualized and controllable environment, was a significant alternative. Additionally, as will be explored at a greater length in the subsequent sections of this chapter, in the practice of storytelling, the audience plays a significant role in how oral testimony is received, impacting the speaker’s perception of the sharing experience. The individual statement taking/ truth sharing process therefore enabled speakers to be empowered by their choice in environment while sharing their truth, with a greater control on the audience in which their story would be received by. The individual statement taking/ truth-sharing option outlined in the TRC mandate additionally provided a framework which was enforced beyond the timeline of the TRC’s collection period for the other events, ensuring that the individual statement option would continue beyond the five-year mandate of the Commission. Ensuring that individual statements could continue to be collected beyond the TRC mandate allows for a continuation of the truth sharing and collection process, specifically through the establishment of the National Centre for Truth and Reconciliation (NCTR) as a hub of research, education, and space for testimony collection and preservation.<sup>94</sup>

## 4.2 Application of the Mandate; Traditional Elements and Ceremonies

As previously outlined, the mandate of the TRC of Canada was created with consideration for the need of diversity in the collection process, in terms of themes, structure, and cultural aspects. Additionally, language used in the organization of the Commissions goals and purpose suggest an awareness and value of Indigenous knowledge, culture, and practice of oral history, allowing space for interpretation by the Commissioners and associated organizations, in decisions regarding the creation of appropriate collection processes. Storytelling, specifically the value and tradition in which storytelling is defined,

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<sup>93</sup> “Schedule ‘N’,” 10.

<sup>94</sup> National Centre for Truth and Reconciliation, University of Manitoba, <https://nctr.ca>

was possible to recognize through the mandate without the explicit indication that storytelling was to be of a central importance to the TRC. In some cases, explicit definition can create restrictions in the possibility of expression. This rings true in the case of storytelling, a practice which through similarities in its value, is unique in practice to different Indigenous communities. Therefore, the representation of storytelling through the oral testimony of residential school survivors and their communities, was to be defined by those who came forward to share their stories. In terms of sharing testimony, speakers were encouraged to come forward at the TRC events, yet, their stories were to be shared in circumstances and an environment which was dominantly out of the direct control of the speakers, and instead, in the hands of the Commission and their own external pressures. Despite the purpose and goals of the TRC as outlined by the mandate, articulating the importance of Indigenous perspectives and consideration to traditional methods of knowledge and sharing of truth, the understanding of these values, or lack thereof, posed a challenge to the TRC.

The limitations of the TRC with regard to storytelling and the practice of truth-seeking and sharing, lie most commonly in the pursuit of colonialist ideas and methods, which overall limit the ability of Indigenous ways of expression and methods. The processes in which the testimony of those who spoke at TRC events were conveyed through written reports also minimize the possibility of authenticity in presenting the story that is being shared, as “using the English language to portray a story can be very problematic to Aboriginal storytellers because its framework (principles, values, and format) may be different from the Aboriginal framework.”<sup>95</sup> The inclusion of a diversity of tactics used to balance the pursuit of collecting testimony and honouring Indigenous cultural practices, in conjunction with trying to use the information collected from testimonies to educate the Canadian public and raise awareness of residential schools and their contemporary implications, posed to be difficult. Additionally, the pursuit of education in some ways imposed on the ability for indigenous peoples to share their ways of oral history and expression. In this case, it is important to assert that the legitimacy of testimony for purposes of education and developing an understanding of the legacy of Indian residential schools does not rely on the disregard of storytelling when addressing Indigenous ways of truth seeking

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<sup>95</sup> Jo-Ann Archibald, “The Journey Begins” in *Indigenous Storywork: Educating the Heart, Mind, Body, and Spirit* (Vancouver: UBC Press, 2008), 43, Google Play Books.

and sharing, instead, the practices are complimentary, and could have been asserted accordingly in a more sincere and direct way throughout the TRC mandate.

Moreover, the environment in which testimony is shared has a significant impact on the willingness and ability for those sharing their truth to be vulnerable and sincere within their capacity. This holds true in many situations where individuals are encouraged to speak up and provide a personal account of their experience, especially in addressing topics of high sensitivity, including trauma related content. In regard to the environments in which testimony was collected during national and community events of the TRC, the Commissioners, in consultation with survivors, Indigenous organizations, and community members, employed the creation of exhibits, activities, workshops, and practice of cultural elements and traditions, to honour and support survivors in their journeys of participating in the TRC.<sup>96</sup> The inclusion of rituals that are important to Indigenous culture, helped build an environment within the TRC events that encouraged the expression of tradition, with the aim of a safe, encouraging and healing process of truth-sharing. Various events included unique elements depending on the region or community it was being held, organized in collaboration with local peoples and Elders. At the inaugural National Event in Winnipeg, before the opening prayers, there was a sunrise ceremony, in addition to the lighting of a sacred fire by the Midewiwin (Grand Medicine) Society of the Ojibwa, in which Commissioner Murray Sinclair is a member, alongside community leaders and healers.<sup>97</sup> The incorporation of Indigenous traditional ceremonies, spiritual, and cultural practices, aided in creating a victim centred process which took into consideration different layers of organization and cooperation needed between the Commission and their administrative requirements of the mandate, and the significant community and relationship based aspects. The inclusion of Indigenous tradition within the TRC, especially through national events, was modeled through “pan-Indian spirituality,” a political and philosophical concept which supports and empowers unity and common values between Indigenous communities, influencing the

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<sup>96</sup> “Lessons Learned; Survivor Perspectives” *National Centre for Truth and Reconciliation* (2020) 15, [https://nctr.ca/wp-content/uploads/2021/01/Lessons\\_learned\\_report\\_final\\_2020.pdf](https://nctr.ca/wp-content/uploads/2021/01/Lessons_learned_report_final_2020.pdf)

<sup>97</sup> Ronald Niezen, “Templates and Exclusions” in *Truth and Indignation: Canada’s Truth and Reconciliation Commission on Indian Residential Schools, Second Edition* (Toronto: University of Toronto Press, 2017), 62, Google Play Books.

presence of significant cultural ceremonies and practices, spreading throughout the development and duration of the Commissions work and events.<sup>98</sup>

### 4.3 Storytelling Through Values and Voices

In many ways the process of sharing testimonies at the TRC events was an immensely emotionally difficult task for speakers; not only due to the nature of the discussion, but also because of the confessional structure of the process for survivors “revisiting the experiences of powerlessness and pain that was the focus of most of their narratives.”<sup>99</sup> The process was most commonly hosted in an environment full of a large number of strangers, within the physical space of the room or through the role of cameras in broadcasting the testimonies online. In order to consider the limitations of including Indigenous storytelling practices in the testimony collection process, it must be recognized that the nature of the TRC in itself poses a challenge to traditional storytelling practices, especially in having the stories shared broadcasted to a wider audience, not only through video recordings and live links, but also later through written reports of testimony, a form often perceived by Indigenous peoples as the medium of the Western colonizer.<sup>100</sup> The question then becomes how the TRC of Canada could create a process of justice through the Commissions work, in which supported Indigenous ways of justice, incorporating storytelling into the efforts as a key form of knowing, documentation and identity. As Archibald expresses “colonized assimilation and acculturation predominantly through education forced Western literacy, values and ways of thinking upon generations of Aboriginal people. Aboriginal languages and hence our forms of orality (oral tradition in practice), were prohibited in the residential schools.”<sup>101</sup> In recognizing the detrimental and systemic consequences of assimilationist policy in Canada, and in particular, the Indian residential schools, the TRC and its purpose in recognizing and

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<sup>98</sup> Dennis Kelley, ““Ancient Traditions, Modern Constructions: Innovation, Continuity, and Spirituality on the Powwow Trail,”” *Journal for the Study of Religions and Ideologies* 11, no. 33 (2012):108, [https://www.academia.edu/8589227/Ancient\\_Traditions\\_Modern\\_Constructions\\_Innovation\\_Continuity\\_and\\_Spirituality\\_on\\_the\\_Powwow\\_Trail](https://www.academia.edu/8589227/Ancient_Traditions_Modern_Constructions_Innovation_Continuity_and_Spirituality_on_the_Powwow_Trail).

<sup>99</sup> Niezen, “Testimony” in *Truth and Indignation*, 88.

<sup>100</sup> Francesca Mussi. “Land and storytelling: Indigenous pathways towards healing, spiritual regeneration and resurgence,” *The Journal of Commonwealth Literature* (2021): 34, <https://journals.sagepub.com/doi/epub/10.1177/00219894211031716>

<sup>101</sup> Archibald, “The Journey Begins,”31.



listening to the voices of those most effected by the policy, relied on the Commission and its mandate to enforce the importance of Indigenous storytelling as a form of resistance, re-storying, and empowerment of Indigenous voices. In this way, the process of truth seeking and sharing is most authentic and accurate to the experiences of residential school survivors as they are empowered to express themselves and share their truth through the traditional ways they were forced to suppress and forget through assimilation. Recognizing Indigenous storytelling as a function of truth telling and sharing in the truth seeking motives of the TRC helps establish commonality between storytelling and testimony, through the comprehension that in their own ways, both seek to share perspective and truth from the speaker beyond what is known. Both Indigenous storytelling and testimony “have multiple layers of meaning, where we must pay attention to the metaphorical, not just the literal” and in doing so, challenge listeners to engage with what is being shared and to consider the information they may draw from it.<sup>102</sup>

In honouring the importance of storytelling in the TRC, the format of some the events allowed for a more authentic and survivor lead narratives. The Commission offered various opportunities for residential school survivors, intergenerational survivors, former staff, and others to share their perspectives and experiences through private testimony sessions, public events, sharing panels, and sharing circles. In particular, the sharing circles in the physical structure of the meeting space, with placed chairs in a circle, created a structure of more intimate conversation between speakers, active listening, and dialogue. This format was drastically different from the more juridical-style of other organized hearings, and was instead lead by a more inviting structure, at times including the passing of an eagle feather or talking stick between people in the circle as they shared their story with the other participants and audience.<sup>103</sup> The sharing circles at the TRC were a representation of traditional Indigenous healing ceremonies, with some modification in terms of the presence of a larger audience, but nonetheless, creating a space where stories were shared and heard through a more open and less daunting physical experience. The approach of providing options in sharing testimony, demonstrating the diverse possibilities in truth commission structures, in

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<sup>102</sup> Rosemary Nagy, “Settler Witnessing at the Truth and Reconciliation Commission of Canada,” *Human Rights Review* 21, no. 3 (September 1, 2020): 230, <https://doi.org/10.1007/s12142-020-00595-w>.

<sup>103</sup> Naomi Angel, “Before Truth: The Labors of Testimony and the Canadian Truth and Reconciliation Commission” *Culture, Theory and Critique* 53, no.2 (2012):207, <https://www.tandfonline.com/doi/epdf/10.1080/14735784.2012.680257?needAccess=true&role=button>



addition to ceremonial practices before and during testimony sharing sessions, asserts a certain level of effort from the Commission in attempting to engage with Indigenous storytelling practices, acknowledging the significant educational and healing influence Indigenous stories and storytelling practices have.<sup>104</sup> Additionally, the development and presence of culturally inclusive protocols among the TRC events demonstrate the emphasis that the TRC placed on employing Indigenous staff, notably in senior leader positions, and in collaboration with Indigenous advisory committee's and survivor groups.<sup>105</sup>

Finally, the perception of space in storytelling practices as perceived by survivors and those who shared their testimonies reflects the importance of the TRC events and how collection was approached. The National Centre for Truth and Reconciliation (NCTR) has worked on various reports and projects to continue work in gathering testimony, sharing archival and educational materials, and conducting research, among other initiatives. One of the reports of the NCTR published in 2020, *Lessons Learned: Survivors Perspectives*, provides a compilation of information gathered at engagement sessions throughout Canada, where survivors shared their perspectives on the IRSSA and subsequently, the TRC. The report highlights key topics including positive aspects of the TRC events, including the integration of cultural elements and the independent nature of the TRC in the truth telling process, allowing space for survivors to engage with the Commission without government or judicial interference. However, the report also highlights the shortcomings of the TRC, where survivors from a focus group meeting expressed opinions on cultural practices and worldviews, where some survivors felt "TRC hearings should have integrated more traditional ceremonial practices, such as holding circles, smudging or utilizing an eagle feather, survivors stated that having time set aside during the reconciliation process for storytelling could help with healing, mentioning the ways that stories about the Creator have been useful for generating resilience."<sup>106</sup> In his own reflections on the impact of the TRC as a Commissioner and survivor, Commissioner Willy Littlechild shares in an interview his own symbolic forms of healing throughout TRC hearings, stating;

I used to have an empty chair beside me (during the TRC hearings) and I did it for a purpose. I would have a little chair beside me ... empty. (He stops as tears pool in his

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<sup>104</sup> Angel, "Before Truth: The Labors of Testimony, 210.

<sup>105</sup> "Lessons Learned; Survivor Perspectives," 28.

<sup>106</sup> "Lessons Learned; Survivor Perspectives," 33.

brown eyes) But it wasn't empty because I had called in the child's spirit to sit beside me. And not only to prop me up, to give me strength, but to honour and then send them back to the place of forever happiness after that hearing.<sup>107</sup>

#### 4.4 Storytelling and the Role of the Listener in the TRC

The TRC was primarily created to ensure that the voices of Indigenous survivors and communities affected by the Indian residential school system had the chance to share their perspectives, experiences, and truths with a wider audience, including Indigenous and non-Indigenous peoples, and in the process, pursue healing through the expression of Indigenous storytelling and oral history. However, the awareness of Indigenous storytelling in the creation of the TRC mandate and process of carrying out the mandate itself, posed challenges to fully prioritizing storytelling through an Indigenous lens, creating limitations of the TRC which reassert that “response-ability and responsibility require an openness to and nurturing of Indigenous ways of knowing and being.”<sup>108</sup> The way in which storytelling is practiced does not solely rely on the environment, format, or individual who is sharing the story, but also on the active participation of the listeners. The listeners and storytellers become interconnected through their engagement in “meaning making,” where an understanding of the story being shared is received and in a way, validated, for the truth and perspective it shares, by the listeners, through the practice of storytelling by the storyteller.<sup>109</sup>

Lenape/Potawatami author Susan Dion explains that within Aboriginal culture there is an established understanding between the storyteller and listener where the listener knows what is expected of them in the relationship.<sup>110</sup> The understanding of the role of listeners in the storytelling process within Indigenous communities strengthens the importance of sharing stories as a form of healing and empowerment, which had the possibility of existing within the TRC space. Thus, acknowledging the importance of Indigenous storytelling also

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<sup>107</sup> Brandi Morin “‘A Healing Journey’: Residential School Survivors and the Church” *Indigenous Rights, Al Jazeera*, 2022, <https://www.aljazeera.com/features/2022/6/12/a-healing-journey-residential-school-survivors-and-the-church>.

<sup>108</sup> Rosemary Nagy, “Settler Witnessing,” 237.

<sup>109</sup> Archibald, “The Journey Begins,”

<sup>110</sup> Susan D. Dion “(Re)telling to Disrupt: Aboriginal People and Stories of Canadian History,” *Journal of the Canadian Association for Curriculum Studies* 2, no.1 (2004): 62, <https://jcacs.journals.yorku.ca/index.php/jcacs/article/view/16869>.

highlights the lack of understanding and/or lack of willingness to understand, by non-Indigenous peoples in recognizing and pursuing a more positive ability to listen to Indigenous voices. Storytelling, as assessed through the role of the listener, reflects a significant element in the truth seeking and sharing process through the ability of non-Indigenous peoples in intentionally seeking the importance of Indigenous storytelling practices. In this way through the TRC, storytelling needed to be recognized through an Indigenous lens, allowing Indigenous speakers to assert that “the stories both inform and reflect who we are. While the stories have everything to do with us, in contrast, they call Canadians to attend to a story they would rather forget.”<sup>111</sup> The fundamental role awareness and active listening by audience members and fellow participants of the TRC played is not limited to the space of the TRC mandate and real time collection of testimony, as engagement with the TRC collection of testimonies and final reports provide a continuation of the listener role as a process that does not have a definitive end. The continuation of the TRC in terms of the preservation of testimony in this sense serves to honour a value of Indigenous storytelling through the opportunity to preserve stories shared, allowing them to be heard, re-told, interpreted, and inspired, into the future. Through the practice of re-telling, Dion explains,

we (re)tell the stories in a way that reflects who we are and why we are telling this particular story. The power of the stories is situated partly in our ‘telling.’ The hope for accomplishing an alternative way of knowing lies partly in our ability to share with our readers what the stories mean to us, and a critical space/moment lies within that potential for engagement between reader and (re)teller.<sup>112</sup>

In addressing active participation of listeners as a part of storytelling, the aspect of accountability and acknowledgement also plays a significant role in the full realization of storytelling as a tool of healing and seeking justice through the transitional justice process. In pursuit of these advancements in the relationship between Indigenous and non-Indigenous communities, the government and churches as perpetrators in the residential school system also play a role in the actualization of the storytelling process in their accountability of what is being shared. As scholar Francesca Mussi explains, “the restoration of balance, harmony, and healthy relationships within the community through storytelling on the one hand, and

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<sup>111</sup> Dion “(Re)telling to Disrupt,” 61.

<sup>112</sup> Dion “(Re)telling to Disrupt,” 62.

through accepting responsibility and being accountable for the crime on the other, is a fundamental step in Indigenous pathways towards healing and justice.”<sup>113</sup> This point of view challenges perceptions of the Truth and Reconciliation Commission as primarily an avenue for Indigenous peoples to share their stories and truths with the Canadian public, but presents the important reality that the TRC of Canada also served as a way to hold perpetrators accountable. Although due to legal proceedings statement of perpetrators names could not be included in testimony unless given consent, or the case that an individual was already recognized for their wrongdoings in court for their role in the residential school system, speakers were able to amplify the reality of their experiences by participating in the TRC, and in a way, freed the TRC from a more narrow legalism approach to individual accountability.<sup>114</sup> This relates to one of the most important considerations when analyzing the crucial involvement of the listener in storytelling, as the audience of who the stories of speakers reached throughout the TRC mandated events and reports, had an impact on the ability of the Commission in achieving its purpose. The interpretation of what and who the TRC was created for, demonstrates a complex multitude of considerations as to who the audience members were, and how testimony was received by them. Survivors were able to challenge the perceived expectations of the Commission by speaking to various audiences, and through the use of testimony, and more importantly storytelling, it was expressed by speakers that “non-Indigenous Canadians were not the intended audience for these testimonies. Indigenous family members and communities were often the direct audience, with non-Indigenous Canadians playing an indirect or secondary role as listeners.”<sup>115</sup>

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The mandate of the TRC allowed for interpretation and development of appropriate practice in the collection of survivor and speaker stories, and outlined the importance of cultural considerations in the Commissions pursuit. However, among the positive developments of culturally significant elements throughout TRC events, as well as efforts to employ Indigenous peoples and culturally aware individuals, the implementation of the mandate resulted in considerable shortcomings. In particular, the pursuit of storytelling

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<sup>113</sup> Mussi. “Land and storytelling,” 11.

<sup>114</sup> Rosemary L. Nagy, “The Scope and Bounds of Transitional Justice and the Canadian Truth and Reconciliation Commission,” *International Journal of Transitional Justice* 7, no. 1 (March 1, 2013): 64, <https://doi.org/10.1093/ijtj/ijts034>.

<sup>115</sup> Angel, “Before Truth,” 208-209.

practices as a form of testimony and truth sharing, was limited due to the lack of awareness of the audiences and listeners of stories expressed by survivors and Indigenous speakers. Additionally, the role of awareness and accountability in storytelling practices, promoting an opportunity of profound healing and feeling of being heard, was limited due to the lack of accountability of perpetrators in the TRC narrative, especially in regard to the role of the State in the perpetration of the assimilationist Indian residential school policy. However, survivors and other Indigenous speakers were given opportunities to share their truth and experiences of the residential schools and their consequences, which was significant in amplifying the voices of those who had never spoken or had not been heard by a wider audience before, creating a process of healing in its own way. Although the mandate of the TRC ended in 2015, the fundamental goals of the Commission, including truth seeking and truth sharing, continue through the work of the NCTR and other projects headed by Indigenous organizations and educational institutions. Therefore, through the analysis of the narrative which drove the TRC mandate and application, in addition to the continuation of truth and reconciliation initiatives, the importance of storytelling remains crucial in understanding what was lost, and what needs to change to create healing and remembrance, topics that will be addressed in the subsequent section.

## CHAPTER 5

### TRC FINAL ACTIVITIES AND THE PURSUIT OF RECONCILIATION IN CANADA

The intentions of the Truth and Reconciliation Commission in Canada were dominantly led by the purpose to promote healing and education in the pursuit of reconciliation among Indigenous and non-Indigenous communities through the organization and support of Indigenous voices. However, without more drastic changes to the political and institutional barriers creating a perpetuation of discrimination and racism against Indigenous peoples in Canada, the ability of the TRC in adopting alternative pathways of restorative justice through Indigenous perspectives and traditional conceptualizations of justice and healing,” comes into question.<sup>116</sup> The analysis of the TRC mandate and its application in Chapter 4 highlights the importance of how Indigenous perspectives of restorative justice in the transitional justice process in Canada are integrated, while addressing the shortcomings of the truth commission model in practically applying Indigenous pathways of truth-sharing through storytelling. Additionally, the structure of truth commissions is arguably not adequately developed to address deeper perpetuating challenges that Indigenous communities face, and is not necessarily equipped for empowering victims to seek and obtain access to their rights of reparations. Therefore, truth commissions have been criticized as serving as a form of distraction from the duties of the State in providing additional aid, and “shift the discourse away from restitution of indigenous homelands and resources and ground it instead in a political/legal rights-based process that plays into [affirming the *status quo*] policies of states and ultimately rewards colonial injustices.”<sup>117</sup> This critique affirms the role of the State in the establishment and support of truth commissions, not through their direct role in the

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<sup>116</sup> Francesca Mussi. “Land and storytelling: Indigenous pathways towards healing, spiritual regeneration and resurgence,” *The Journal of Commonwealth Literature* (2021): 9  
<https://journals.sagepub.com/doi/epub/10.1177/00219894211031716>

<sup>117</sup> Jeff Corntassel and Cindy Holder, “Who’s Sorry Now? Government Apologies, Truth Commissions, and Indigenous Self-Determination in Australia, Canada, Guatemala, and Peru,” *Human Rights Review* 9, no. 4 (2008): 472. <https://doi.org/10.1007/s12142-008-0065-3>

collection of testimony, but in their influence of the limitations of the functions of commissions and the influence on the narrative of the commission's work, to ensure its 'distraction' purposes by limiting the expectations of their duties as a result of the commissions activities. This idea is explored further through this final chapter, as it aims to highlight some of the limitations of the TRC of Canada by discussing the TRC final reports, considering the strengths and shortcomings of the concluding activities of the Commission. The research will then address how storytelling was limited in the TRC not only through the challenges expressed in Chapter 4, such as factors of environment, the role of the listeners, and lack of support, but also through the dominant narratives of the TRC that were out of the hands of Indigenous peoples. Finally, different understanding of reconciliation will be addressed in order to recognize the barriers of transitional justice in Canada including ambiguities in what is actively being pursued through reconciliation and what it means to Indigenous populations. The intention of addressing these topics is not to criticize the importance of the TRC and the important work that was achieved, but to highlight challenges and limitations of the TRC to fully implement the goals of the truth commission framework that was needed in Canada, and how external factors were able to influence the outcome of the Commissions work, primarily, in adequately representing the point of views and values of Indigenous peoples.

## 5.1 The End of the TRC Mandate and Publication of the Final Report

By 2015, the Truth and Reconciliation Commission of Canada completed its mandate which outlined five years of active work in collecting testimony and published a final report to conclude the Commissions work to share their findings. The conclusion of the TRC resulted in questions about how the Commissions mandate was successful in achieving its goals, specifically how the process of collecting testimonies helped in reconciliation and healing efforts with Indigenous communities, and if the non-Indigenous population of Canada truly engaged with the TRC and learnt from the Commissions events, reports, and Calls to Action. Measuring the engagement of the settler population with the TRC is hard to do, especially in considering the role of listeners in the practice of storytelling, as discussed in Chapter 4.4. Participation of wider audiences, whether it be at a TRC event, through a live



stream, or reading a TRC report is hard to conceptualize as participation is defined beyond simply being present or reading a document. Instead, listening requires an open mind about the goals and facts shared by the TRC, and a willingness to recognize the need to engage with the discourse being shared. Moreover, the TRC's goals to collect truth and testimony to then share information with the Canadian settler population as a way to reconcile the relationship between Indigenous and non-Indigenous populations, suggests that settler Canadians would and will continue to be receptive to the information collected and "simply need to hear testimonies of residential school survivors in order to challenge our historical amnesia about the role residential schools have played in the creation of the settler-colonial nation-state now called Canada."<sup>118</sup> As an uncomfortable and effort driven process, settlers must actively reflect and seek opportunities to engage with topics of historical and contemporary colonialism in which we must recognize we are a part of to determine how to change our behaviour in pursuit of reconciliation with Indigenous populations, confronting and challenging power relations in Canadian society. This is not a task that can be tackled passively.

Despite the difficulty in measuring specific aspects of the impact of the TRC on educating and creating awareness of the Indian residential school system on particularly the Canadian public population, the TRC provided an opportunity for the truth to be told through the voices of primarily Indigenous peoples, and created a definitive increase in awareness about the intergenerational harm that is caused by the residential school system, asserting that the system was a part of a larger pursuit of assimilationist and genocidal policies and actions.<sup>119</sup> In 2016 a report was published comparing the awareness of Canadians on the residential school system and of the work of the TRC, from 2008 and 2016 respectively, in order to gauge the impact of the TRC. The data collected suggests that awareness of the Indian residential schools by non-Indigenous population of Canada had risen since 2008, through the work of the TRC and the publicly made recognition of cultural genocide, with 51% of the non-Indigenous population saying they have read or heard about the Indian residential

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<sup>118</sup> Anna Cook, "Recognizing Settler Ignorance in the Canadian Truth and Reconciliation Commission," *Feminist Philosophy Quarterly* 4, no.4 (2018): 10.

<file:///Users/marcieschlick/Downloads/knorlock,+FPQ+446+Cook+final.pdf>

<sup>119</sup> "Lessons Learned; Survivor Perspectives" *National Centre for Truth and Reconciliation* (2020) 6, [https://nctr.ca/wp-content/uploads/2021/01/Lessons\\_learned\\_report\\_final\\_2020.pdf](https://nctr.ca/wp-content/uploads/2021/01/Lessons_learned_report_final_2020.pdf)



schools in 2008, to an increase to 66% in 2016.<sup>120</sup> Additionally, when asked if they had read or heard about the TRC of Canada in 2016, only 42% of non-Indigenous peoples indicated they had, presenting considerable differences of awareness between the provinces and territories, with 87% of non-indigenous peoples of the Territories indicating awareness of the TRC and a low 29% in Quebec.<sup>121</sup> Further, as indicated in the TRC final report, the ability of the events to be livestreamed allowed for the recording of over 93,350 views of National Event streams, from approximately sixty-two different countries.<sup>122</sup> Although these numbers provide some insight to the impact of the TRC, the data is also ambiguous as it does not define a depth of understanding of those who interacted with the TRCs work in some form, or how individuals evaluate their personal level of awareness or understanding. Furthermore, due to the long-term colonial relationship and historical nature of the TRCs addressed content, the case of Canada becomes even more complex to measure the positive impact of transitional justice processes, in this case specifically the work of a truth commission, as the lack of regime change can contribute to on-going human rights violations that are “often more insidiously subtle than those caught by the indicators used in leading international studies,” contributing additional complexities of adapting transitional justice to settler-colonial nations, as the depth of the impact of the process becomes increasingly difficult to gauge and adapt.<sup>123</sup>

Although the engagement with the non-Indigenous Canadian population was fundamental to the work of the TRC, the process also created a space between and within Indigenous communities to heal and come together to share their stories and be seen by one another as survivors and intergenerational survivors. Some survivors stated that the first time some family members witnessed one another’s truths was through the TRC hearings, and that many survivors were found profoundly impassioned by the testimonies shared by others.<sup>124</sup> In

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<sup>120</sup> “Indian Residential Schools and the Truth and Reconciliation Commission,” *Environics Institute* (2016) 29, [https://www.environicsinstitute.org/docs/default-source/project-documents/public-opinion-about-aboriginal-issues-in-canada-2016/indian-residential-schools-and-the-trc.pdf?sfvrsn=25b66577\\_2](https://www.environicsinstitute.org/docs/default-source/project-documents/public-opinion-about-aboriginal-issues-in-canada-2016/indian-residential-schools-and-the-trc.pdf?sfvrsn=25b66577_2)

<sup>121</sup> “Indian Residential Schools,” *Environics Institute*, 32.

<sup>122</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015) 31, [https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

<sup>123</sup> Courtney Jung, “Canada and the Legacy of the Indian Residential Schools: Transitional Justice for Indigenous People in a Non-Transitional Society,” *Social Science Research Network* (2009) <https://ir.lib.uwo.ca/aprci/295>, cited in Matt James, “Changing the Subject: The TRC, Its National Events, and the Displacement of Substantive Reconciliation in Canadian Media Representations,” *Journal of Canadian Studies* 51, no.2 (2017): 364, <http://www.utpjournals.press/doi/pdf/10.3138/jcs.2016-0011.r1>

<sup>124</sup> “Lessons Learned; Survivor Perspectives,” 6.

the closing ceremony of the TRC the end of the mandate was to be recognized for the significance of the events held throughout the life of the Commission, and required the participation of high level church and government officials to aid in the acknowledgment of the process of the truth commission.<sup>125</sup> The closing ceremony, in recognizing the work the Commission was able to do in the bounds of the mandate, helped create of a space that ensured the acknowledgement of the TRCs role by government and church officials with their presence at the event. With Prime Minister Justin Trudeau elected in November of 2015, a new government was being established when the final report of the TRC was published in December of 2015, creating what was perceived to be opportunities for new developments between the Liberal Government and Indigenous peoples, starting with the final report and the recommendations outlined through the actionable policies of the 94-Calls to Action included in the 2015 publication.

As outlined in the mandate, the Commission was to produce a final report of their findings throughout the five years of the TRC events, hearings, and research within the limits of the mandate the TRC was founded by. In the work of the TRC, as discussed previously, there were many challenges in trying to ensure the best practices of collecting testimony and ensuring the inclusion of Indigenous pathways of healing and justice, especially as expressed through storytelling. However, another obstacle the Commission faced the influence of national politics, specifically the lack of cooperation by the federal government under Stephen Harper's administration, where the Commission was unable to access documents from Library and Archives Canada as per agreed through the Court-approved settlement agreement outlining the mandate of the Commission.<sup>126</sup> To ensure access to information and the efficacy of the TRC's work and research the mandate states, "Canada and the churches will provide all relevant documents in their possession or control to and for the use of the Truth and Reconciliation Commission, subject to the privacy and interests of an individual as provided by applicable privacy legislation, and subject to and in compliance with applicable privacy and access to information legislation, and except for those documents for which solicitor-client privilege applies and is asserted", where the Commission will still have access

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<sup>125</sup> "Schedule 'N', Mandate for the Truth and Reconciliation Commission" *Indian Residential Schools Settlement Agreement* (2008) 10, [https://www.residentialschoolsettlement.ca/schedule\\_n.pdf](https://www.residentialschoolsettlement.ca/schedule_n.pdf)

<sup>126</sup> Ronald Niezen, "Epilogue" in *Truth and Indignation: Canada's Truth and Reconciliation Commission on Indian Residential Schools, Second Edition* (Toronto: University of Toronto Press, 2017), 161, Google Play Books.

to documents where privacy interests exist provided privacy is protected.<sup>127</sup> With the government's refusal to share access to millions of documents with the Commission, in January of 2013, a decision from the Ontario Superior Court of Justice ensured the Government of Canada would provide the Commission with all the documents they requested to fulfill the mandate.<sup>128</sup> More than a year later in the summer of 2014, the Commission had access to over 60,000 boxes of documents, pushing the Commission's work one more year to allow proper cross referencing of crucial information needed for the final report, including death certificates of Indigenous children who died in British Columbia which influenced the predicted total number of deaths the Commission was to include in the report.<sup>129</sup>

Despite the set-backs in research and data collection, the TRC's final report was published in 2015 as a comprehensive overview of the important history and topics of reference present in the Indian residential school discourse as collected through testimonies per the TRC mandate. Throughout the final report, testimony is referenced as a way to include the direct perspectives of those who shared their stories with the Commission, addressing topics such as the history and legacy of the Indian residential schools, and the challenges of reconciliation. In pursuit of continued action through the findings of the Commission, the final report includes recommendations, specifically tasking professional societies and institutions with a rhetorical framework to pursue specific measures for change, outlined through actionable policies addressed as the 94 Calls to Action.<sup>130</sup> Some of the applicable Calls to Action are included in the final report throughout the presentation of the legacy of residential schools, where information such as educational reform based on principles of self-government are addressed by explaining the shortcomings and consequences of the education system on Indigenous populations, followed by a Call to Action proposing how to address the issues.<sup>131</sup> The Calls to Action have continued to represent the continuation of transitional justice in Canada through the pursuit of what is defined as reconciliation, but more importantly, they represent ways in which Indigenous

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<sup>127</sup> Schedule 'N', 10.

<sup>128</sup> Niezen, "Epilogue," 161.

<sup>129</sup> Niezen, "Epilogue," 161.

<sup>130</sup> Ravi de Costa, "Discursive Institutions in Non-Transitional Societies: The Truth and Reconciliation Commission of Canada," *International Political Science Review* 38, no. 2 (March 1, 2017): 196, <https://doi.org/10.1177/0192512116667729>.

<sup>131</sup> Truth and Reconciliation Commission of Canada "Honouring the Truth, Reconciling for the Future" in *Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015) 149-150, [https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf)

pathways of healing and justice may be implemented and accessed through the adoption of policy to secure a processes of positive development in this regard. Their recognition as such, deserves more attention and urgency in their implementation. In a statement by Justin Trudeau after receiving the final report of the TRC in December of 2015, and as the new Prime Minister of Canada setting the tone for the new government he shared “we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission, starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.”<sup>132</sup> Since 2015, 13 Calls to Action have been fully completed, and at this rate of implementation, if remaining consistent, it will take up to the year of 2065 to complete all of the Calls to Action, representing the disappointing lack of urgency and priority given to the Calls to Action by the Canadian Government.<sup>133</sup>

## 5.2 Conflicting Narratives of the TRC

Although the State did not have a direct role in the activities of the TRC in terms of organizing events or speaking during testimony collection, the settlement agreement that resulted in the creation of the TRC required the approval of State representatives, providing some influence on the trajectory in which the TRC would partake. The narrative of the TRC in particular, with limitations on what could be discussed, and particular interests of the State of what they wanted to be addressed in the Commissions work, in itself altered the way in which Indigenous peoples were capable of conceptualising their traditional ways of pursuing healing and justice, including storytelling. The framework of the TRC of Canada was

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<sup>132</sup> Prime Minister Justin Trudeau, Statement by Prime Minister on release of the Final Report of the Truth and Reconciliation Commission, Ottawa, December 15<sup>th</sup>, 2015. <https://www.pm.gc.ca/en/news/statements/2015/12/15/statement-prime-minister-release-final-report-truth-and-reconciliation>. This statement is legally significant in addition to politically and socially, as it asserts through the election of Prime Minister Trudeau that the Canadian Government was dedicated to supporting and implementing the UNDRIP which was previously voted against by Canada in 2007 in the UN General Assembly. The Government of Canada fully endorsed the UNDRIP in 2016, and only recently incorporated the Declaration into Canadian law in 2021 through the passing of Bill C-15 by Canada’s senate under Prime Minister Justin Trudeau. (Duncanson et.al, Osler, 2021).

<sup>133</sup> Douglas Sinclair, “Progress on the Calls to Action, Calls to Action Accountability: A 2022 Status Update on Reconciliation,” *Yellowhead Institute* (December 2022): 42-44, <https://yellowheadinstitute.org/wp-content/uploads/2022/12/TRC-Report-12.15.2022-Yellowhead-Institute-min.pdf>

advertised and logistically structured as a victim centered truth commission, with the majority of speakers being Indigenous survivors or intergenerational survivors of residential schools. However, even with the exercise of survivor led discussions and speakers dominating the sharing events, the narrative of what is deemed important information for the goals of the mandate and overall motivations of external pressures, often influenced by the State, was being pursued in subtle yet seemingly intentional ways. The focus on victim centered narratives through testimony collection by truth commissions can be pursued with the intent to establish political, legal, or forensic ‘facts’ related to the actions of perpetrators, in order to address a particular topic or questions which have been deemed relevant by other actors outside of the victims control, creating an environment where the collection of testimony is encouraged in a certain direction in order to address the topics of interest, causing dismissal of other ‘non-related’ truths shared by victims.<sup>134</sup> This process is limiting by hindering survivors full control of the narrative they chose to share as their truth, and in the case of the TRC of Canada, minimized the capacity of Indigenous speakers to fully conceptualize their traditional expressions of truth through storytelling practices which challenge ‘mainstream’ practices of testimony. In this regard, storytelling becomes an inconvenience to the preferred narratives of the TRC, not necessarily by the Commissioners themselves, but through the influence of dominantly the State, as a state sanctioned process.

Following the conclusion of the TRC, Indigenous scholars, many whom are cited throughout this research, have addressed the limiting scope of focus of the TRC, which in addressing mainly the topic of the Indian residential school system and its consequences, allows for the Canadian Federal Government to dismiss the relevance and importance of addressing the long history of settler-colonialism in Canada, and situates its harm as a past issue in Canadian history.<sup>135</sup> This observation of the limitations of the TRC of Canada aligns with critiques of truth commissions, analysed case by case as a contribution to transitional justice processes, as a process that does not adequately address topics of structural violence and inequality, and therefore “neglects the roots and breadth of violence, as well as its

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<sup>134</sup> Matt James, “A Carnival of Truth? Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission,” *International Journal of Transitional Justice* 6, no. 2 (July 1, 2012): 6, <https://doi.org/10.1093/ijtj/ijts010>.

<sup>135</sup>Mussi. “Land and storytelling,” 6.

everyday, ongoing effects.”<sup>136</sup> This critique manifests itself most commonly through the recognition of in-valuable discussions which should have a place at the table when it comes to truth commission, yet, get pushed aside or minimized due to the probable reality that accountability and action in addressing certain issues lies in the responsibility of the State. An example of this type of selective truth commission activity is represented in the case of Chile, where through the truth commissions work, narratives that speakers wanted to present to address their experiences of politically motivated rape, were avoided, as the topic of state ordered murders were deemed of greater urgency and importance for the mandate.<sup>137</sup> For Indigenous peoples in Canada, the TRC did not address other topics of importance with as much detail as the Indian residential schools, brushing aside the importance of land reparations as a necessity for healing as a physical and spiritual component of Indigenous knowledge and tradition. Ultimately, the role of the TRC of Canada should not be viewed as an end, but as a continuation of conversation, where Indigenous leaders and peoples can access the processes of transitional justice as a “bridge rather than a wall,” drawing on history to create conversation that is not limited in spatiality or temporal considerations, but extends to connect the past to current injustices which need to be recognized as a consequence of past and on-going forms of colonialism.<sup>138</sup> Additionally, by not creating space for Indigenous peoples to share their experiences in their most honest and true form, including but not limited to discussions of forced and coerced sterilizations, forced relocations, and missing and murdered Indigenous woman and girls, as other, yet connected, violent experiences Indigenous peoples have and do face in Canada, the magnitude of crimes against Indigenous people becomes minimized. Storytelling, is an enabling form of truth sharing produced and received by Indigenous communities in a meaningful way, carrying its own weight as a form of oral history in the realm of importance in restorative justices’ practices, and through minimizing its possibility to exist and thrive in the TRC process, also diminished the ability for the TRC to thrive to its utmost potential. Thus, the factor of external influence and control over the dominant TRC narrative has resulted in a minimization of colonialist practices and consequences experienced by Indigenous peoples in Canada.

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<sup>136</sup> Rosemary L. Nagy, “The Scope and Bounds of Transitional Justice and the Canadian Truth and Reconciliation Commission,” *International Journal of Transitional Justice* 7, no. 1 (March 1, 2013): 53, <https://doi.org/10.1093/ijtj/ijts034>.

<sup>137</sup> Matt James, “A Carnival of Truth?,” 6.

<sup>138</sup> Jung, “Canada and the Legacy of the Indian Residential Schools,” 13.



One of the most significant ways in which the TRC's mandate influenced the narrative of the truth-sharing process was the inability of the TRC to make judicial conclusions on what the Indian residential schools resulted in. Specifically, the mandate did not allow the Commission to find Canada guilty of criminal activities through the collection of testimony by all speakers involved in the truth-seeking and sharing initiatives. Therefore, although there was "clear evidence that the forcible transfer of Indigenous children violated the United Nations Genocide Convention, and Murray Sinclair publicly argued that the Canadian state and the churches had committed genocide", the TRC was not permitted to draw this conclusion and had to instead state their findings in a less confrontational manner.<sup>139</sup> The final report of the TRC describes the Indian residential school policy and the measures it entailed as "a part of a coherent policy to eliminate Aboriginal people as distinct peoples and to assimilate them into the Canadian mainstream against their will."<sup>140</sup> The limitations in the TRC's abilities to properly address the magnitude of the Commission's findings has resulted in the minimization of the severity of the Indian residential school policy and its impacts, including prior, post, and current forms of colonization in Canada. Additionally, restricting the narrative of the TRC, especially in regard to the practice of storytelling through primarily inadequate education of the public, diminished the opportunity of the TRC to aid in the education of non-Indigenous populations to a larger extent, as outlined in the mandate. However, this raises concerns about the extent in which primarily the State was willing to have the TRC address as a result of the multitude of roles it has played in the racism, violence, and discrimination against Indigenous peoples. Even in the communication of TRC events to the wider public, there was a seemingly inadequate effort in trying to obtain the attention of the public, with survivors expressing that they felt the TRC events were not as high profile as they should have been, in addition to not knowing the avenues of communication that were being used, and how they could contribute to creating a positive impact in public debate.<sup>141</sup> Therefore, not only in limiting the topics of discussion, but through a lack of awareness from both the public and participants on how to interact with

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<sup>139</sup>David.B MacDonald, "Canada's Truth and Reconciliation Commission: Assessing Context, Process, and Critiques," *Griffith Law Review* 29, no.1 (2021): 161

<https://www.tandfonline.com/doi/epub/10.1080/10383441.2020.1868282?needAccess=true&role=button>.

<sup>140</sup> Truth and Reconciliation Commission of Canada "Honouring the Truth, Reconciling for the Future," 2.

<sup>141</sup> "Lessons Learned; Survivor Perspectives," 35.

the TRC and fully make use of the platform to share truth and educate, the narrative of the TRC was altered from its perceived intentions.

### 5.3 Understandings of Reconciliation

In the title of the TRC, the word reconciliation follows after the assertion of truth, as though to suggest the fulfillment of establishing the truth leads to reconciliation. The assumption of this process is not completely unreasonable, however, is challenged by questions inquiring how truth is defined and how reconciliation is understood. In the case of the TRC of Canada, as it has been discussed throughout this research, truth is defined in a variety of ways, and can vary depending on the experiences and perspective of an individual. Truth is also understood differently based on the knowledge of people or communities depending on their access to the truth, defined by those who have the most authentic understanding of what that truth means to them. Throughout the TRC, it was claimed that the intention of the Commission was to collect testimony from a variety of points of view, creating “culturally centered testimonial spaces” where Indigenous survivors and other speakers were to share their truth based off of their own experiences or experiences of those in their family or community.<sup>142</sup> Therefore, the TRC was tasked to establish a process in which the truth as defined by Indigenous peoples would be collected and shared with a wider audience, mainly settler Canadians. This task posed intrinsic challenges, highlighting a key argument made by scholar Ravi Costa that “a public institution like a TRC, which relies on discourse, does have specific potential for mobilizing individuals, communities or institutions that already recognise a need to engage, such as an awareness of one’s own personal history, or a recognition of institutional failure,” suggesting a certain level of awareness or education was required for true engagement with the content covered by the TRC.<sup>143</sup> As previously discussed, the process was not as straight forward as it seemed outlined in the mandate, and faced the challenges of comprehension surrounding topics of Indigenous storytelling and

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<sup>142</sup> Janice Cindy Gaudet and Lawrence Martin/Wapistan, “Learning through Conversation: An Inquiry into Shame” in *Power through Testimony, Reframing Residential Schools in the Age of Reconciliation*, ed. by Brieg Capitaine and Karine Vanthyne, (Vancouver, Toronto: UBC Press, 2017), 108, Google Play Books.

<sup>143</sup> Costa, “Discursive Institutions in Non-Transitional Societies,” 196.



traditional views of justice and healing, as well as barriers from outside sources, including education, audiences, and alternative narratives. In many ways the TRC provided truth through the voices of Indigenous peoples who shared their stories with the Commission, and that is not to be forgotten or dismissed due to the consideration of constraints mentioned above. However, the consideration of truth beyond what the TRC was capable of sharing within the limits of the mandate must also be recognized as a shortcoming in the transitional justice process. Therefore, the truth aspect of the TRC is not nonexistent, it is there, and it is meaningful, however it has been minimized to a depth that is more comfortable for the State to tackle. This is why, when the Canadian Government makes statements about reconciliation and the importance of pursuing reconciliation, the shortcomings of establishing the truth come to light, as the majority of the Canadian population, Indigenous or non-Indigenous, are not on the same page in terms of what the definition of the truth is and what forms of knowledge the pursuit of truth entails.

When reconciliation is introduced into the narrative, more ambiguities arise. Understandings of not only what reconciliation means, but how it can be achieved, are not streamlined. The pursuit of reconciliation most heavily relies on the needs of the victim groups in highlighting the conditions needed for them to feel as though there can be a process of moving forward and healing between communities relevant to the conflict. Reconciliation does not mean forgetting and moving on while leaving the past behind. In the process of transitional justice a critique arises in the understanding of what is being pursued through reconciliation, in particular, it may be perceived that “the ‘pacifying’ language of reconciliation serves to placate white guilt while eluding responsibility for the ‘broader harms perpetrated against Indigenous Peoples by narrowing the focus of harms to be repaired.’”<sup>144</sup> This perception of reconciliation can be observed when analyzing discussions of the TRC by Indigenous scholars and through feelings of speakers who participated in the TRC, where the TRC has been recognized as a shortcoming when it came to addressing wider themes of colonization and discrimination against Indigenous peoples in addition to the Indian residential school system, rather than strictly through the residential school system.

Reconciliation is a term that addresses different paths of healing and justice depending on who is using the term and how they understand the needs to be imbedded in the

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<sup>144</sup> Nagy, “The Scope and Bounds of Transitional Justice,” 53.

process carried out. In the context of the Commission, reconciliation was approached in the context of coming to terms with events of the past to overcome conflict, establishing and maintaining respectful and healthy relationship between Indigenous and non-Indigenous peoples in Canada.<sup>145</sup> The motivations in pursuing reconciliation also vary when considering the point of view of perpetrator and bystander perspectives versus victims, as the goals and outcomes in achieving reconciliation in a variety of forms relies on varying commitments and efforts from the parties involved. In Canada, as was discussed through storytelling and the critical role of the listener, the settlers play a crucial role in the pursuit of reconciliation, requiring active awareness and willingness to work as a settler-listener, “to not only grieve or feel empathy but to recognise one’s own complicity in the theft of lands and sovereignty from the Indigenous peoples of Canada.”<sup>146</sup> Recognition and education once again become central to the ability and willingness of non-Indigenous populations in Canada in recognizing their position as settlers and what this position requires in order to aid in the healing of society between the autonomous nations of Canada and Indigenous communities. However, it must also be recognized that there are elements to reconciliation which not only rely on the active participation of the settler population, but that are understood differently through Indigenous lenses. As Corntassel, Chaw-win-is, and T’Lakwadzi express, reconciliation is not an Indigenous concept, and in many ways has become another way for the dominant culture to reassert the status quo instead of support the pursuit of more traditionally relevant and appropriate forms of accountability and healing by making amends for previous injustices, stating “our overarching goal as Indigenous peoples should not be to restore an asymmetrical relationship with the state but to restory our communities towards justice.”<sup>147</sup> The establishment of a process to follow in pursuit of healing, responsibility, and accountability between Indigenous and non-Indigenous communities should take into consideration the understanding of how this process is carried out as per the victims and their families, not by the oppressors or perpetrators as it is deemed convenient. For example, the Hollow Water

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<sup>145</sup> Truth and Reconciliation Commission of Canada, “Reconciliation” in *A Knock on the Door: The Essential History of Residential Schools from the Truth and Reconciliation Commission of Canada, Edited and Abridged* (Winnipeg: Univ. of Manitoba Press, 2015) 168, Google Play Book.

<sup>146</sup> Naomi Angel, “Before Truth: The Labors of Testimony and the Canadian Truth and Reconciliation Commission,” *Culture, Theory and Critique* 53, no.2 (2012): 209, <https://doi.org/10.1080/14735784.2012.680257>.

<sup>147</sup> Jeff Corntassel, Chaw-win-is, and T’Lakwadzi, “Indigenous Storytelling, Truth-Telling, and Community Approaches to Reconciliation,” *English Studies in Canada* 35, no. 1 (2009): 143-144, <https://ojs.lib.uwo.ca/index.php/esc/article/view/9788>

First Nations Community Holistic Healing Circle is of a form of sentencing circle mirroring principles of restorative justice such as honesty, respect, sharing, listening, and responsibility, by bringing healing and understanding to the victim, offender, their families, and the community to discuss the role of offender must play in helping the restoration of harmony and balance in the community on the bases of their actions and their consequences.<sup>148</sup> This dialogue centered approach to pursuing justice, healing and responsibility is just one example of the diversity of understandings of reconciliation and how it can be pursued through an Indigenous centered lens. This is not to say that all Indigenous communities have the same interpretations of what reconciliation looks like, but that once again, as per the collection of testimony and the importance of recognizing the role of storytelling and the gaps created due to lack of awareness, Indigenous perspectives need to be considered more efficiently in an intentional way, in order to pursue a more victim centered process of transitional justice in Canada. It must also be recognized that establishing the truth in itself does not guarantee reconciliation, yet, establishing the truth has a powerful effect, “it restores the human dignity of victims of violence and calls government and citizens to account,” and without the truth “justice is not served, healing cannot happen, and there can be no genuine reconciliation between Aboriginal and non-Aboriginal peoples in Canada.”<sup>149</sup> The challenge with the term reconciliation is that it is used in a multitude of ways that can dilute the process of genuinely pursuing a version of reconciliation that is narrated by a victim centered approach rather than a settler dominated rhetoric and agenda.

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The conclusion of the Truth and Reconciliation Commissions mandate signified the end of the Commissions active work in pursuing the outlined goals, but did not mark the end of truth-seeking initiatives or efforts of reconciliation in Canada. Instead, the conclusion of the TRC in many ways symbolized a beginning, through the continuation of what was started through the Commissions work. The TRC provided a final report in addition to various thematic reports based off of extensive research founded on the testimonies of those who spoke at TRC events or through individual truth-sharing sessions, helping build a foundation of knowledge accessible to the public. Reconciliation requires work by Indigenous and non-Indigenous populations, with Indigenous contributions highlighted by the importance of their

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<sup>148</sup> Mussi, “Land and storytelling,” 4.

<sup>149</sup> Truth and Reconciliation Commission of Canada, “Reconciliation,” in *A Knock on the Door*, 174.

“knowledge systems, oral histories, laws, and connection to the land” which have “vitality informed the reconciliation process to date, and are essential in its ongoing process.”<sup>150</sup> By virtue of this work, the TRC has provided Canadians and international audiences with the opportunity to learn from Indigenous peoples as a way to build awareness and hopefully spark the pursuit of deeper knowledge and education about Indigenous perspectives, colonialism, residential schools, missing and murdered Indigenous women, of land rights, contemporary consequences of colonialism, and much more. Although the TRC faced limitations on what they were able to reveal in their reports, including the inability to make any criminal allegations against the Canadian Government, such as the crime of genocide, the information the Commissioners were able to gather and share in their reports serves as evidence of the crimes committed against Indigenous peoples through the Indian residential school system. In this way, the TRC did not claim reconciliation would be achieved throughout its mandate, but instead, claimed that throughout the Commission’s lifetime deepening the awareness concerning the meaning and potential of reconciliation was of central importance, to then have the work of the TRC viewed as a catalyst for further reconciliation efforts on all levels of society in Canada.<sup>151</sup> Finally, the Calls to Action provide a framework of positive progression which in their pursuit, help empower healing and justice initiatives for Indigenous peoples in Canada. These Calls to Action can also serve as a guide for Canadians to understand the process of reconciliation per the point of view of Indigenous peoples, shedding light on why it is not something that can be pursued through the settler understanding of what reconciliation means. The voices of Indigenous peoples, through truth and stories shared with the TRC, and through the creation of Calls to Action has set the expectations of what needs to be done for transitional justice to be continued in a positive way in Canada

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<sup>150</sup> Truth and Reconciliation Commission of Canada, “Reconciliation,” in *A Knock on the Door*, 170.

<sup>151</sup> Truth and Reconciliation Commission of Canada, “Reconciliation,” in *A Knock on the Door*, 170.

## CONCLUSION AND RECOMMENDATIONS

As explored throughout this research, Indigenous peoples cannot be defined in a narrow or all-encompassing way, whether it be through international law or domestic affairs, the diversity of Indigenous culture, history, and tradition must be respected in order for implementation of appropriate protections and general interactions. This does not mean Indigenous peoples cannot be recognized for similarities in their values, cultures, traditions, and vulnerabilities, but that their diversity must also be recognized in order for their protection and self-determination to be respected. In Canada, the recognition of Indigenous peoples as Metis, Inuit, and First Nations peoples, capitalizes a minimum yet significant recognition of distinct identities within the terminology and characterization of Indigenous peoples in Canada specifically. For a settler nation which has embarked on a long process of enforced assimilationist and violent policies and practices against Indigenous peoples, to minimize their differences and unique identity within the Canadian settler population, the recognition of Indigenous peoples as autonomous, self-identifying, and diverse populations was and is essential in the process of transitional justice in Canada.

Throughout this research, the intention of questioning the process of transitional justice in Canada, with specific focus on the incorporation and awareness of Indigenous storytelling as a form of truth-seeking/sharing practice in the work of the truth commission, was to demonstrate both the complexity and necessity of adapting transitional justice outside of the Western comprehension and applicability. Highlighting the shortcomings of the TRC of Canada is not to suggest the process of transitional justice is not adaptable, but to argue that active engagement at a multitude of levels in a society needs to be prioritized in order for changes to be made, with particular interest to the point of view and perspectives of the victims in which the process is to be adapted to. In reference to truth commissions in particular, awareness of various types of expression of truth and a true effort in asserting the validity of alternative methods of healing, justice, and even sharing of knowledge through conversation, need to be established. The Canadian Truth and Reconciliation Commission, as discussed in Chapter 4, had a mandate that stated the importance of considering Indigenous pathways of restorative justice, yet, in its application faced challenges in truly supporting Indian residential school survivors, families, and communities affected by the assimilationist

policy whom were participating in an opportunity to share not only their stories and truths, but their culture and understandings of how things must move forward in Canada for healing and justice to be accessed by Indigenous peoples. As explored throughout this research, this is especially the case with Indigenous storytelling, as the process of truth commissions is most commonly founded on oral testimony as a form of healing and collecting the truth. In the establishment of the TRC of Canada a greater effort should have been placed on the importance of recognizing the correlation between the more Western interpretations of truth commissions and testimony collection, and Indigenous pathways of healing and justice, reflected in the practice of oral history and storytelling. Yet, as expressed in Chapter 5, limitations to the TRC and its capacity to truly reflect the truth of the Indian residential schools and their legacy through the voices of victims was limited due to circumstances out of the Commissions direct control, including conditions of the mandate and dominant narratives.

The work of the TRC also addresses the complexity of defining Indigenous experiences through storytelling which cannot be highlighted only through the voices of those who are chosen to speak at a given time, but must be a continuous effort to provide a national environment of respect and open mindedness in learning, to encourage the voices of those who have been marginalized, to lead discussions and share information, through a structure of their own desire. Additionally, the lack of education of non-Indigenous populations on the Indian residential school system, colonization, and Indigenous peoples, their values, cultures, and history in general, as well as lack of willingness to engage with the TRC events and opportunity to learn from Indigenous peoples, limited the TRC and their ability to adequately share the truth collected through Indigenous voices in addition to consideration of Indigenous storytelling practices. Dominant narratives around the final report and limitations of the Commissions capability in exposing the truth through an honest and comprehensive review of their findings also hindered the possibility of the TRC to declare that genocide was committed against Indigenous peoples in Canada, minimizing the recognition of the truth to conform to the conditions of the State. Although the TRC was serving as an independent entity, it was sanctioned by the Government of Canada as a condition of the Indian Residential School Agreement. Therefore, the TRC was not immune to external influences of State dominant narratives and lack of cooperation in the TRC's mandate. Notably, in the conclusions of chapter five, the irony of the State in the assertion of the pursuit of

reconciliation alongside the previously discussed lack of cooperation and involvement of the TRC and their mandate, highlights the barriers in place of understanding what is needed for healing and justice to be meaningfully pursued among Indigenous and non-Indigenous peoples in Canada. The terms of what is needed for transitional justice to occur and what the process looks like to Indigenous peoples needs to be consulted more accurately and intentionally for reconciliation, as a non-Indigenous concept, to reflect Indigenous values and pathways of healing and justice, ultimately defining what needs to be done to move forward. It is also important to note that the scale of this research was limited by my ability to grasp only some of the experiences and perspectives of different groups of Indigenous peoples and communities around Canada, especially through my own ability to connect and learn from Indigenous peoples beyond written knowledge throughout the timeline of this research, asserting the importance and need of continued learning. As scholar Rosemary Nagy expresses, "witnessing is not a one-off moment but an ethical demand to make meaning over time through response-ability to the other. In so doing, we move ourselves and settler society beyond colonial modes of recognition."<sup>152</sup> This research hopes to reflect the necessity of considering alternative modes of knowledge sharing and production, and assert the need for greater recognition of the requisite of continued education, learning from, and listening to Indigenous voices in the pursuit of transitional justice in Canada, most importantly, to promote the ability of Indigenous peoples to access the process of transitional justice through pathways that empower and support their journeys in pursuing healing and justice.

In concluding the written journey of this research I would like to present some recommendations on how some of the challenges highlighted in this research could be addressed. There are many ways in which the conditions of transitional justice in Canada could be adapted by learning from the short comings of the TRC. However, as per this research and the conclusions it has drawn, the voices of Indigenous peoples, reflecting their values, needs, and conditions, are whom will best determine what needs to be done. It is the job of non-Indigenous peoples to grow their awareness and learn how to listen and engage in a meaningful way with Indigenous peoples, concepts, and values. Accordingly, in reflecting

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<sup>152</sup> Rosemary Nagy, "Settler Witnessing at the Truth and Reconciliation Commission of Canada," *Human Rights Review* 21, no. 3 (September 1, 2020): 238, <https://doi.org/10.1007/s12142-020-00595-w>.



this need, many of the limitations of the Truth and Reconciliation Commission are conveniently outlined in the TRC Final Report with the 94 Calls to Action, addressing the need for further action in addition to a continuation of effort to engage with and listen to Indigenous populations. Completing the Calls to Action, and in a more urgent manner, would aid in not only creating more direct avenues for Indigenous peoples to access various forms of reparations, but would also help in creating a more productive environment in Canada overall for Indigenous peoples to navigate pathways of transitional justice in Canada. In particular, the need for a structured, mandatory, and Indigenous lead development of programs to implement in the compulsory elementary and secondary education, to ensure a minimum level of education for youth in Canada, is essential. The lack of education, especially in consideration of Indigenous perspectives and methods of storytelling, knowledge, and healing in provincial school systems demonstrates the lack of importance that has been placed on building a deeper understanding of these topics. A continuation of ignoring the necessity of greater educational efforts in this regards guarantees the perpetuation of ignorance from non-Indigenous populations in Canada, hindering Indigenous peoples right to access reparations, including right to truth and acknowledgment of the truth. The truth of the experiences of Indigenous children in the Indian residential schools, that has been shared by Indigenous survivors of the residential school system, must reach a wider range of the public population in order to adequately prepare them to meaningfully aid in the process of transitional justice, mainly through education and recognition. There is a significant amount of ignorance and discrimination that is connected to discussions around the residential schools throughout the non-Indigenous population of Canada, which has negatively impacted the awareness of the non-indigenous population surrounding the history, circumstances, experiences and consequences of the Indian residential schools.

Additionally, in relation to the role of the listener in the practice of Indigenous storytelling, moving forward, in consultation with Indigenous storytelling and Elders, efforts to understand the role of non-Indigenous listeners when included in experiences of sharing through storytelling occurs, should be developed to enable non-Indigenous populations to learn how to respectfully and sufficiently fulfill their role as listeners. There are fundamental gaps in the ability for Indigenous and non-Indigenous peoples to engage in meaningful conversation which greatly rely on the willingness of the settler population to be uncomfortable, to step outside the frame of mind of strictly Western ideology and ways of

thinking, and to be open minded to Indigenous ways of comprehending and carrying out forms of restorative justice. In order for this to occur, settler populations need to be willing to learn, and to develop an understanding for conversations to move forward in a productive way that would create a significant impact on the ability to pursue healing and justice by Indigenous peoples in Canada.

In terms of the continuation of the TRC legacy through the National Centre of Truth and Reconciliation, I propose that there should be greater resources allocated to the presentation of digital archives and access to resources of primary sources, to ensure the authentic representation of Indigenous peoples and their voices in which they share their truth, without the risk of their narratives being altered through the selection of what is deemed relevant to organizational authorities. In this way, although storytelling may not be practiced in its most authentic way, the expression of truth by the speakers is to be interpreted by the listeners through a personal level of considering alternative ways of receiving knowledge, and is at a lower risk of influence by selective narratives of formal presentation.

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