

**They Made Us Unrecognizable to Each Other: Human Rights, Truth, and Reconciliation in
Canada**

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*For Everyone- my family, my partners, my lovers, my friends, and my colleagues-
because life is a team effort.*

All my relations.

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There are a seemingly endless number of people who have helped me on this journey. Many important names may go unmentioned, but they are no less appreciated. Foremost, I would like to thank my research participants for embracing me into their communities and sharing their lives with me, especially several key informants who revealed vulnerable and amazing things. Additionally, I would like to acknowledge the Musqueam, Tsleil-waututh, and Squamish who so generously welcomed me into their traditional territories as well as all other Indigenous peoples who supported me throughout this experience.

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ABSTRACT

Presented herein are the findings from an ethnographic analysis of the perceived efficacy of Canada's transitional justice framework; an approach being used to address human rights violations that occurred via the Indian residential school system. With these findings and archival research, I argue that transitional justice is not perceived as an effective solution for nation-states with long histories of colonialism and institutional violence. From the 1840s until 1996, Canadian Aboriginals suffered forced assimilation, sexual abuse, and physical abuse in government-sponsored and church-administrated boarding schools. The Canadian government began to actively address these crimes in 2006 with the negotiation of the Indian Residential School Settlement Agreement. The agreement utilizes transitional justice tools (e.g. monetary reparations, investigative truth and reconciliation commission, grave excavation) typically employed in countries undergoing a transition in political regimes or from war to peace.

Using a transitional justice framework and based on data gathered primarily in the lower mainland of British Columbia, this research 1) uses critical discourse studies to analyze the use of "reconciliation" by various stakeholders, and how varying definitions affect perceptions of transitional justice, 2) discusses how knowledge production influences perceptions of transitional justice on the ground and the associated research; 3) uses a lens of structural violence to argue that transitional justice is not perceived as an effective tool in and of itself by marginalized groups when employed in a colonial context; and 4) contends that when applying a universal transitional justice framework to local contexts, structural violence and neocolonialism can be used to problematize the narrative that is produced.

Contributing to critical anthropological debate, this research investigates the sociopolitical factors that influence transitional justice in a non-transitioning society that operates with a legacy of institutionalized discrimination and colonization of Native peoples. Broadly,

these findings can inform the applied work of transitional justice facilitators, including government officials, lawyers, and anthropologists.

PREFACE

First and foremost, I would like to thank and acknowledge the Musqueam, Tsleil-Waututh, Squamish, and all Coast Salish people for allowing me to live and work in their traditional territories. I am honored.

Throughout this document the term *survivor* is used to describe those affected by the residential schools. I understand that not everyone prefers this description, but I elected to use the most commonly-accepted term amongst Natives with whom I interacted. Furthermore, the writing style employed in this dissertation encourages the reader to piece together information that I have provided but also may at times make the reader uncomfortable. That is the intention. For the non-Indigenous, at times the language may feel too vague when making cultural references, creating an unsettling sense of being “the Other.” For the academic it may feel too colloquial. For the lay person, at times it may feel too academic. For the Indigenous reader, it may feel very driven by Eurocentric approaches born out of what will be explained as Western science. All of these observations would be fair because the audience is wide, and the very nature of the research forces all those involved to move beyond the North American comfort of definitive and culturally-constructed boxes into which information is forced. Before we begin, I will answer a question common to most Native communities—where am I from? This question is meant to be answered honestly and not with the impersonal formality that is often expected in mainstream American culture.

My maternal grandmother is the Deer Clan mother for the United Mingo Remnant Band, and I was raised both within American dominant settler society and our local Indigenous community of Shawandassee, Munci-Delaware, and Mingo. My upbringing was also spattered with bits of culture and tradition from Vietnamese and Muslim influences as well as lingering

aspects of my Korean, English, German-Jewish, and Scots-Irish heritage. Raised in rural, Northwest Ohio, my household was relatively violent, and economically, we lived well-below the poverty line. After studying material science in upstate New York for my undergraduate degree, I moved to Tennessee to complete a Master of Arts degree in anthropology, with a focus in forensic anthropology. Forensic anthropology, primarily the study of human remains in a legal context, was chosen because I wanted to help other victims of violence via gathering evidence and victim identification. During my master's program, I became interested in human rights anthropology. Specifically, the blatantly racist tenor of the department at the time and the very apparent anthropological misconceptions of Native culture deterred me from pursuing research in Indigenous studies. However, when I learned of the ongoing nation-wide movement in Canada to address human rights abuses against Natives (under the auspices of "transitional justice"), the opportunity presented itself to combine my research goals. It was important to me that I investigate my own cultures, contribute research to my own communities, and reduce my own studies of "the Other."

Combining the cultures that I was born into and their varying perspectives of the world with the academic culture that I entered into has proved challenging. While walking the Red Road and the White Road is often frowned upon by both Indigenous and Euro-American culture, I strive to bring the two together in this writing, and belonging to both (and others!) does not indicate disloyalty to either. Sometimes citations have had to be provided for information that I know to be true, as one would know the presence of the sun in the sky to be true, which has also been an uncomfortable endeavor. Additionally, while I have heard and read many detailed, gruesome accounts of the physical and sexual abuse that occurred within the walls of the residential schools, much in the way of those accounts is not present here. Those testimonies are

easily accessible for those who want to look for them, but there is no need for me to describe in detail the rape and torture of children. All things considered, this research examines whether “transitional justice” could succeed for Indigenous peoples in the Americas.

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LIST OF ABBREVIATIONS

AFN	Assembly of First Nations
AFCP	Aboriginal Friendship Center Program
AHF	Aboriginal Healing Foundation
CART	Indian Residential School Critical Analysis and Radical Thoughts
CDS	Critical Discourse Studies
CFD	Ministry of Child and Family Development
DTES	Downtown Eastside
EAAF	Equipo Argentino de Antropología Forense / Argentine Forensic Anthropology Team
FLNRO	Ministry of Forests, Lands and Natural Resource Operations
GPR	Ground Penetrating Radar
IAP	Independent Assessment Process
ICTJ	International Center for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDP	Internally Displaced Person
IRS	Indian Residential School
IRSSA	Indian Residential School Settlement Agreement
IRSSS	Indian Residential School Survivors Society
LGBTQ	Lesbian Gay Bisexual Transgender Queer
MCP	Missing Children Project
NAGPRA	Native American Grave Protection and Repatriation Act
NGO	Non-governmental Organization
NPR	National Public Radio
SWE	South Western Energy
TRC	Truth and Reconciliation Commission
TRCC	Truth and Reconciliation Commission of Canada
VPD	Vancouver Police Department

PROLOGUE

Societies may use transitional justice tools to redress a situation in which human rights violations occurred against a group of people by its own government, such as in the case of the Holocaust.¹ Originally, transitional justice mechanisms (e.g. truth commission investigation, monetary compensation, mass grave excavation) have been used to aid a nation's political transition into a democracy through unification of the groups that were once in conflict. However, its use has quickly expanded into already democratic countries that profess a desire to merge a society divided through "past wrongs," colonization, and immigration. Traditionally, as a country undergoes political transition, or more recently, as the current government's role in abuses are investigated, a number of tools may be used under a transitional justice umbrella. For example, financial support in the form of reparations may be given to survivors or mass graves may be excavated. Often governments grant amnesty in exchange for testimonies that will provide a comprehensive historical record, announce nationwide apologies, and erect memorials to remember those who did not survive the ethnic cleansings or civil conflicts.² Because of its roots in democratic transition, scholars question if transitional justice can be perceived as "effective" when used in politically stable countries. Of specific interest to the research presented here is the question: can transitional justice be used successfully to address colonial oppression and persistent systemic violence against Indigenous peoples in Canada?

In response to my research question, *I argue that perceptions of transitional justice efficacy are negatively affected by colonial legacies and structural violence; making transitional justice without a transition seen as ineffective by significant segments of the populace.*

¹ International Center for Transitional Justice, "What is Transitional Justice?" 2008. <http://ictj.org/about/transitional-justice>.

² Tricia D. Olsen, Leigh A Payne, Andrew G. Reiter, and Eric Wiebelhaus-Brahm, "When Truth Commissions Improve Human Rights," *International Journal of Transitional Justice*, 4(2010):457-476.

Meanwhile, while neo-colonialism and structural violence permeate transitional justice processes, the discourse may be used by the marginalized to rally for social transformation.

Debates by transitional justice scholars appear throughout this document in conjunction with data gathered from the Canadian transitional justice process to understand how this particular context contributes to transitional justice theoretical deliberations. According to the United Nations, goals of a transitional justice framework include accountability, justice, and reconciliation.³ In contemporary scholarship, transitional justice, born from the need to prosecute WWII Nazi war criminals, is broadly considered a temporary judicial or non-judicial inquiry to redress large-scale human rights abuses.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are well-known examples of judicial investigations.⁴ Both function as ad hoc courts established by the United Nations with maximum sentences of life in prison. Established in 1993, the ICTY set forth to prosecute war criminals of the genocidal Yugoslav Wars.⁵ Similarly, the 1994 ICTR sought to address the Rwandan genocide in which the Hutu executed an ethnic cleansing of Tutsi, using war rape as a tactic for group destruction.⁶ Conversely, non-judicial inquiries include the use of an investigative commission, often referred to as a truth and reconciliation commission (TRC), which does not have prosecutorial power.⁷ Perhaps the most famous TRC is the Truth and Reconciliation

³ United Nations, Secretary-General, *Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice*, March 2010, available from <http://www.unrol.org/doc.aspx?d=2957>.

⁴ Patricia M. Wald, "The International Criminal Tribunal for the Former Yugoslavia Comes of Age: Some Observations on Day-To-Day Dilemmas of an International Court," *Journal of Law and Policy* 5(2001):87-118.

⁵ Minna Schrag, "The Yugoslav War Crimes Tribunal: An Interim Assessment," *Transnational Law & Contemporary Problems* 7(1997):15-22.

⁶ Scott Straus, "Rwanda and Darfur: A Comparative Analysis," *Genocide Studies and Prevention* 1(2006):41-56.

⁷ Jo Pasqualucci, "The Whole Truth and Nothing but the Truth: Truth Commissions, Impunity, and the Inter-American Human Rights System," *Boston University International Law Journal*. 12(1994):321-370.

Commission: South Africa.⁸ The South African TRC was tasked with investigating human rights abuses that existed as part of Apartheid, which was the government-enforced racial segregation of “Black,” “White,” “colored,” and “Indian” that ended in 1994.^{9,10} TRCs often focus on gathering witness statements and evidence from both victims and perpetrators, expressing goals similar to those of criminal tribunals. However, while TRCs may grant amnesty, they do not have power to prosecute, in contrast to the punitive ability of criminal tribunals.¹¹

Other methodological tools are used in addition to criminal tribunals and truth commissions in transitional justice processes. For example, mass or unmarked graves are often a product of internal civil conflict. Excavation of these burials can garner forensic evidence of the crimes and can arguably provide psychological and social (psycho-social) healing for survivors who may have family members in the graves.¹² Furthermore, civil conflict often leads to socioeconomic upheaval for targeted communities whose lives are disrupted by forced geographical displacement, imprisonment, or massacre. In some cases, such as that of Uganda, individuals were relocated to internally displaced person (IDP) camps and separated from their property, crops, and livelihood which led to economic collapse.¹³ To address economic turmoil or to compensate for trauma experienced, reparations may be used as part of the transitional

⁸ Priscilla B. Hayner, “Fifteen Truth Commissions- 1974 to 1994: A Comparative Study,” *Human Rights Quarterly* 16(1994):597-655.

⁹ Lynn Meskell and Lindsay Weiss, “Coetzee on South Africa’s Past: Remembering in the Time of Forgetting,” *American Anthropologist* 108(2006):88-99.

¹⁰ Joanna R. Quinn and Mark Freeman, “Lessons Learned: Practical Lessons Gleaned from Inside the Truth Commissions of Guatemala and South Africa,” *Human Rights Quarterly* 25(2003):1117-1149.

¹¹ Abigail Moi, “The International Criminal Court’s Arrest Warrants and Uganda’s Lord’s Resistance Army: Renewing the debate over amnesty and complementarity,” *Harvard Human Rights Journal*, 19(2006).

¹² Victoria Sanford, “Excavations of the Heart: Healing Fragmented Communities,” in *Human Rights: An Anthropological Reader* ed. Mark Goodale, (Oxford:Blackwell Publishing Ltd., 2009) 135-147.

¹³ Adam Branch, “Neither Peace nor Justice: Political Violence and the Peasantry in Northern Uganda, 1986-1998,” *African Studies Quarterly*, 8(2005):1-31.

justice process. Additionally, governments may employ memorialization projects to aid in the prevention of historical revisionism and to augment psycho-social healing of survivors.¹⁴

Although the aforementioned transitional justice tools historically are used after a nation changes political administration and once oppressed groups have gained political power, that scenario did not unfold in Canada.¹⁵ Instead, Canada, an already democratic nation, is currently using a transitional justice framework to redress the forcible assimilation, displacement, and systematic abuse of Indigenous children that occurred via the Indian Residential School (IRS) system. The treatment of Indigenous peoples by the government of Canada and mainstream society reflects the presence of an ethnically and racially divided society. The portrayal of Canada as a multicultural state has been heavily critiqued for precisely these social divisions. Often multicultural ideologies promote the denunciation of racial hierarchies to obtain equal democratic citizenship for all. While beyond the scope of this paper, multiculturalism as part of human rights movements, closely parallels theoretical dialogues concerning transitional justice's use in ethnically heterogeneous nations.¹⁶

The question explored herein, "Is transitional justice perceived as effective by various stakeholders in Canada? Why or why not?" sits squarely within transitional justice theoretical debates and scaffolds questions relevant to transitional justice processes. While the questions asked in this dissertation are part of transitional justice dialogue, I use other theoretical lenses to answer them. Critical discourse analysis is used to problematize the reconciliation as a goal; knowledge production frames the transitional justice researcher and associated questions in the

¹⁴ Sanam Naraghi Anderlini, Lisa Kays, and Camille Conaway. "Transitional Justice and Reconciliation." *Restorative Justice Online: Prison Fellowship International Centre for Justice and Reconciliation*. 2005.

¹⁵ Alexander Leban Hinton, editor. *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*. (New Brunswick, New Jersey: Rutgers University Press, 2010).

¹⁶ William Kymlicka, "Success, Failure, and the Future," (Migration Policy Institute, Europe, 2012).

Canadian context; and concepts of structural violence and neo-colonialism appear throughout to analyze and interpret research findings.

Summary of the Research Agenda and Findings

Transitional justice mechanisms have recently been deployed in Canada at a national level to specifically address the use of government-sponsored and church-administered Indian Residential Schools from the 1840s until 1996 (See Figure 1).¹⁷ The residential schools existed as part of a colonial conquest to eradicate, assimilate, and maintain political and economic control over the Indigenous population.¹⁸ Assimilation sought to eradicate the group by stripping Indigenous people of their cultural identity, language, history, and lifeways, making them indistinguishable from the dominant group. The systematic, forcible assimilation of Indigenous people was reinforced by bodily violence that occurred in the schools, including physical abuse, sexual abuse, medical experimentation, and rampant neglect.¹⁹ With approximately seven generations of residential school operation and the long-lasting, pervasive impacts on Indigenous

The focus of the first session of fieldwork in 2011 was preliminary, with the purpose of networking and joining the Truth and Reconciliation Commission of Canada's (TRCC) efforts to excavate unmarked graves in Christian cemeteries that accompany each Indian Residential School and hold the remains of children who died in state care. Additionally, exploration of the alleged presence of undocumented mass graves also existed as a potential research option. My initial fieldwork session led me across Canada via Winnipeg, AB; Penticton, BC; the Okanagan

¹⁷ Indian Residential Schools in Canada are comparable in their history, purpose, and regulation to Indian Boarding Schools in the United States.

¹⁸ Jennifer Henderson and Pauline Wakeham, "Colonial Reckoning, National Reconciliation?: Aboriginal Peoples and the Culture of Redress in Canada," *English Studies in Canada* 35(2009):1-26.

¹⁹ Roland Chrisjohn and S. Young, *The Circle Game: Shadows and Substance in the Indian Residential School Experience in Canada* (Penticton, British Columbia: Theytus Books, Ltd, 1995).



Figure 1. Gordon Residential School, Punnichy, Saskatchewan

Photo downloaded from: <http://archives.algomau.ca/main/taxonomy/term/1017>

in BC; and Vancouver, BC.

The following year, in 2012, my research fieldsite rooted itself in Vancouver, British Columbia for several reasons. In addition to the large population of Indigenous peoples and proximity to a number of residential schools, the TRCC's research branch was located in Vancouver. This facet of the TRCC housed the Missing Children Project (MCP) and its endeavors to discover the fates of children who disappeared while in state care. While observing the TRCC, I intended to utilize observation, participant observation, and interviews to question how the goals of the government, transitional justice facilitators (such as employees of the TRCC), and survivors complimented and/or contradicted one another concerning grave exploration and excavation. Moreover, as grave location and excavation occurred, I would utilize my forensic anthropology and archaeology training to aid in the excavations and analyses of human remains via participant observation. The politics affecting grave investigation and

repatriation of remains; needs of survivors as opposed to mandated goals of the investigation; conflicts between excavation and Indigenous cultural norms; and adaptations made by individual facilitators was of primary interest. However, upon my arrival to British Columbia, I was told that the TRCC was unable to cooperate with my research project. While attempting to resolve work with the TRCC, I continued collecting data of on the ground perceptions of transitional justice from Indigenous community leaders, Christian religious leaders, former employees of the TRCC, public figures, and employees of non-profit organizations involved in the transitional justice process. While I lost access to the investigation of the missing children and graves, the 2012 period of data collection led to further inquiry regarding the relationship between ongoing human rights violations and perceived efficacy or success of transitional justice, which remained the line of inquiry pursued in the 2013 fieldwork session. Throughout the research, structural violence and neo-colonialism appeared to be the most appropriate analytical approaches to evaluate the relationship between current human rights issues and the use of transitional justice. Structural violence is an indirect violence that often does not reveal itself via physical violence; instead, it exists in the form of unequal access to resources through socially-accepted forms of discrimination built into cultural systems. Yet another theory of oppression includes neo-colonialism, in which a nation uses capitalism and cultural imperialism to control or influence another nation; the colonized are assimilated into dominant society.

Using these theoretical perspectives to examine transitional justice's theory and practice, the research presented herein substantiates the influential role of colonial legacies and structural violence in perceptions of transitional justice and shows efforts made by the marginalized to subvert it, resulting in a problematization of transitional justice used in non-transitioning contexts. For example, the first chapter argues that *reconciliation* as a term affects perceptions of

transitional justice efficacy and acts as a powerful tool to destabilize structural violence present in Canada's transitional justice process. Framed in critical discourse studies, I found that reconciliation definitions from Indigenous community members often included concrete, substantial social change and pressure for equal rights and equal access to resources. In contrast, mainstream society often associated reconciliation with unquantifiable concepts such as "peace" and "understanding." With numerous definitions of reconciliation, which is one of transitional justice's primary goals, the goal becomes difficult to achieve.

Critical discourse studies requires reflection concerning how the presence of the researcher and the researcher's bias affect data collection. Considering this critical introspection of one's own work, in the second chapter I examine how knowledge is (re)produced by both informants and myself. I assert that the role of knowledge (re)production can affect both perceptions of transitional justice success and research findings. In this sense, the first two chapters focus on variables that influence perceptions of efficacy and conclusions surrounding those findings. Chapter three challenges the post-colonial state of Canada and uses a combined lens of neo-colonialism and structural violence to argue that ongoing human rights violations impede the perceived efficacy of transitional justice. Finally, the fourth chapter uses a structural violence approach to provide a counternarrative to the transitional justice process in Canada. The counternarrative reveals how the transitional justice framework itself can prevent its own success through reflecting the structural violence within which it exists. Combined, I reveal through these findings why segments of British Columbia's Native community do not find the transitional justice process effective in its current form.

After this prologue, I will discuss research methods and findings in depth, but first, this introduction will provide necessary background information for the reader, including: 1) a brief

overview of residential school history, 2) an introduction to theoretical arguments recurring in transitional justice debate that guide this research, 3) an explanation of project rationale, 4) a discussion of research methods and challenges faced, and 5) a brief outline the chapters and their findings.

History, Residential Schools, and the Indian Problem

The relationship between dominant Euro-Canadian or Euro-American society and Indigenous nations is part of a long history of colonization. Much of settler and Indigenous colonial history is omitted from state-funded education systems throughout both Canada and the United States. Details concerning the establishment of reservations, forcible displacement, massacre, and other colonial initiatives frequently fail to enter the realm of public education yet exist as a significant factor in the current relationship between Aboriginal people and mainstream Euro-Canadian culture. The resulting unawareness of the oppressive history between colonial bodies and Indigenous peoples leads to further marginalization of Natives as dominant society does not understand the lasting effects of colonialism, its impact on Indigenous culture, and the continued tension between Natives and the federal government. Instead, the lack of knowledge of settler-Indigenous relations allows for oppressive stereotypes to be propagated and for discrimination to be rationalized. To contextualize the current status of Indigenous-settler affairs, a brief history is presented.

European-based North American history, which begins with Leif Erikson's arrival to an already inhabited continent, is predated by the complex histories and cultures of Indigenous peoples. At the time of Columbus' 1492 arrival to Turtle Island, scholars estimate between one

million and eighteen million inhabitants in North America alone.²⁰ Immediately upon his arrival, Columbus began capturing Natives to be used as slaves, servants, and child-brides. Within thirty years of occupying Hispaniola (modern-day Haiti and the Dominican Republic), Columbus had eradicated the Taino people who had an estimated population of one to two million people upon his arrival. Moreover, Indigenous people were sold throughout Europe as slaves and worked to death in gold mines, and Native girls, at least as young as nine years old, were sold as sex slaves.²¹ In 1542 the Spanish emperor attempted to dismantle the system of Native slave labor, but after four years his efforts were repealed. Native communities continued to be displaced, enslaved, and slaughtered in the name of manifest destiny and imperialism well after Columbus' death. Columbus, while arguably the most infamous, is but one of many avid leaders in the colonization and eradication of Native peoples. It is this sordid history that causes some Indigenous people to question the modern day celebration of holidays such as Columbus Day and Thanksgiving in the United States.

The development of what is now known as the United States and Canada continued often in tandem, especially in matters concerning control of Native American populations. Both countries continued to create policies that dictate how and where Natives can live, work, and dress. Religious and spiritual practices were banned, and children were forcibly displaced and assimilated through the use of government-administered, church-facilitated boarding schools. In 1876, Canadian Parliament consolidated the *1857 Gradual Civilization of Indian Tribes Act* and the *1869 Gradual Enfranchisement Act* into the *Indian Act*. The former removed “legal rights and habilities of Indians,” from male Natives over the age of twenty-one who could read and

²⁰ Alan Taylor. *American Colonies: The Settling of North America*. (New York: Penguin Books, 2001).

²¹ Lewis Hanke. *The Spanish struggle for justice in the conquest of America*. (Philadelphia: University of Pennsylvania Press, 1949). 18-19.

write in either French or English, were free from debt, and of “good moral character.” The latter defined lawful possession of land by Natives, prohibited the sale of alcohol to Natives, established blood quantum, and created new, European-modeled tribal government structure and policy. When these were combined and modified into the *Indian Act*, the document effectively outlined the definition of a federally-recognized “Indian,” methods for acquiring or losing Native status, tribal management and governance, definitions of reserve land, and Indigenous land rights and regulations. For example, if an Indigenous woman married a non-status Native, or non-Native, then according to the federal government, her and her children were no longer Indigenous and lost legal status. Euro-Canadian society determined who was or was not Indigenous. However, those who lost their ethnic identity also were not treated by their European contemporaries as European equals either, creating a government-imposed division of Indigenous peoples and statelessness for those who lost their Indigenous status. Comparable to the United States’ *1830 Indian Removal Act*, *1851 Indian Appropriations Act*, and *1871 Indian Appropriations Act*, the Canadian Indian Act controlled all things Indigenous under the colonial attempt to assimilate Natives and to allegedly protect them from settlers and themselves. These regulations reflect the continuing colonial efforts to eliminate, assimilate, and fracture Indigenous peoples.

Like the establishment of the United States-Canadian border or the use of federal recognition outlined in the Indian Act, Indigenous people were further divided by the Canadian government into three primary groups. First Nations, the term most commonly heard, identifies Canada’s Indigenous people who are not classified as Inuit or Métis. Canada’s *1982 Constitution Act* identified the Inuit as a separate Indigenous group from First Nations; Inuit are the Arctic inhabitants of North America who speak Eskimo-Aleut languages. Meanwhile, as of 2006, there

were approximately 300,000 self-identified Métis in Canada.²² Métis is derived from the French word *Mestis* which means mixed-race; and the Métis are people of either French and Indigenous descent or of English and Indigenous descent. The Métis have a unique culture that once varied between the French Métis and the English Métis, but it has now become more homogenous. While distinctive dress, dance, and other traditional practices are definitive of Métis individuals, they did not gain Canadian federal recognition until 2013. In January of 2013, the Federal Court ruled that Métis and non-status Indians were still Indigenous and entitled to the same constitutional rights (e.g. education and healthcare) as their status First Nations counterparts.²³ However, that ruling has since been sent to the Federal Court of Appeal.²⁴

Under other government decisions, the *Indian Act* has been amended repeatedly, including the implementation of the *1884 Potlatch Law*, which corresponds to the United States' *1880 Civilization Regulations*, and criminalizes the Potlatch ceremony. A Potlatch is a feast and gift-giving event that is used to this day to celebrate rites of passage in Coast Salish cultures, such as birth, death, or marriage. Consisting of a large gathering over several days, Potlatches were also displays of wealth and power. The hosting family would often give away large quantities of beautiful art, precious metals, and other items of great value. To the bafflement of European settlers, these displays escalated to include the destruction of rare art and other valuable cultural artifacts. For non-Natives, Potlatches were evidence of an unstable culture and a threat to capitalism. In addition to the prohibition of the Potlatch ceremony, the Sundance was banned with all other Native spiritual, religious, or ceremonial practices. Unlike many modern

²² Vernon White and Lillian Dyck, "The People who own Themselves": Recognition of Métis Identity in Canada," *Report of the Standing Senate Committee on Aboriginal Peoples*. June 2013.

²³ The Canadian Press, "Federal court grants rights to Métis, non-status Indians," *CBC News*. 8 January 2013. <http://www.cbc.ca/news/politics/federal-court-grants-rights-to-m%C3%A9tis-non-status-indians-1.1319951>

²⁴ Karina Roman, "Métis and non-status Indians defend victory in court," *CBC News*. 30 October 2013. <http://www.cbc.ca/news/politics/m%C3%A9tis-and-non-status-indians-defend-victory-in-court-1.2287813>

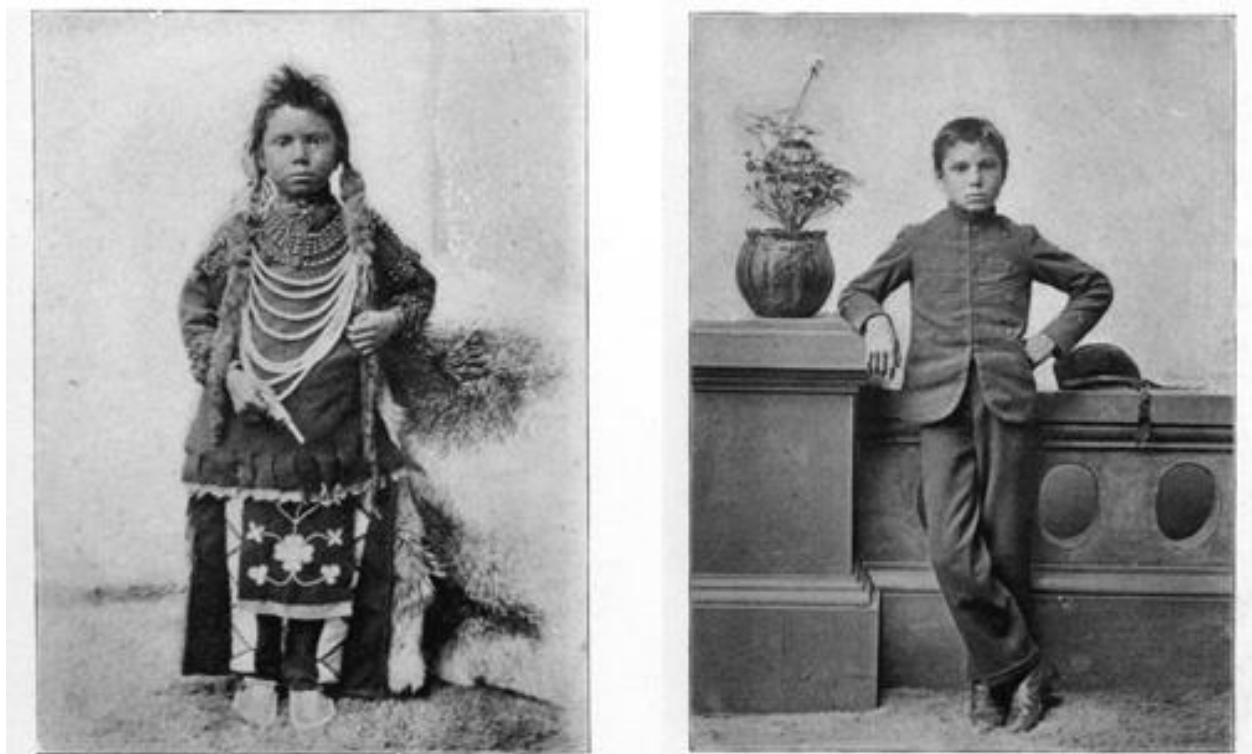
practices of Christianity, Native American spirituality permeates all aspects of everyday life and death. For cultures in which the dead can interact with the living and physical health is tied tightly into spiritual health, prohibition of spirituality and ceremonial practices is devastating.

With the *1876 Indian Act* also came the intensive institution of Indian Residential Schools in Canada which had begun in the 1840s, but were not officially established until 1876 (see Figure 2), and were followed in 1879 by the establishment of Indian Boarding Schools in the United States. Perhaps the most well-known quote in residential school literature is that of American Captain Richard H. Pratt, the founder of the 1879 Carlisle Barracks Industrial School, which became the model for all Indian Boarding Schools in the U.S. and operated much like Canadian IRSs. In 1892, one year after attendance became compulsory in the U.S. and two years before it became compulsory in Canada, Pratt stated, “A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.”²⁵ Similarly, in 1920, Duncan Campbell Scott, the director of the Canadian Department of Aboriginal Affairs asserted: “I want to get rid of the Indian problem. I do not think as a matter of fact, that the country ought to continuously protect a class of people who are able to stand alone Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill.”²⁶

²⁵ Richard H. Pratt. “The Advantages of Mingling Indians with Whites.” *Americanizing the American Indians: Writings by the “Friends of the Indian” 1880-1900.* (Cambridge: Harvard University Press, 1973), 260-271.

²⁶ John Leslie, *The Historical Development of the Indian Act, second edition* (Ottawa: Department of Indian Affairs and Northern Development, Treaties and Historical Research Branch, 1978). 114.

The purpose of both residential schools and day schools in Canada and the U.S. was to assimilate Native children, teaching them Christian values and Euro-Canadian cultural norms. Approximately 150,000 Native children, over the span of seven generations, attended approximately 130 Canadian residential schools. Four denominations were responsible for the day-to-day administration: United, Anglican, Catholic, and Presbyterian. Children were prohibited from speaking their native languages, forcibly taken from parents and families, raised without a family structure or parenting example, housed with children from rival communities,



Thomas Moore before and after his entrance into the Regina Indian Residential School in Saskatchewan in 1874.

Library and Archives Canada / NL-022474

Figure 2. Example of the assimilation of Indigenous children.

forced to appear in European dress, stripped of their spiritual and cultural identities, and made to ascribe to Euro-Canadian cultural norms. Spiritual and healing rituals were forbidden. Displaced from their communities, sometimes by hundreds of miles, students were often unable to see their families over holiday breaks and some did not see their families ever again.

Besides the policies surrounding assimilation and (cultural and bodily) genocide, there have been an overwhelming number of reports of and evidence of physical abuse, sexual abuse, and neglect. Moreover, only since 2013, have government experimentations conducted on

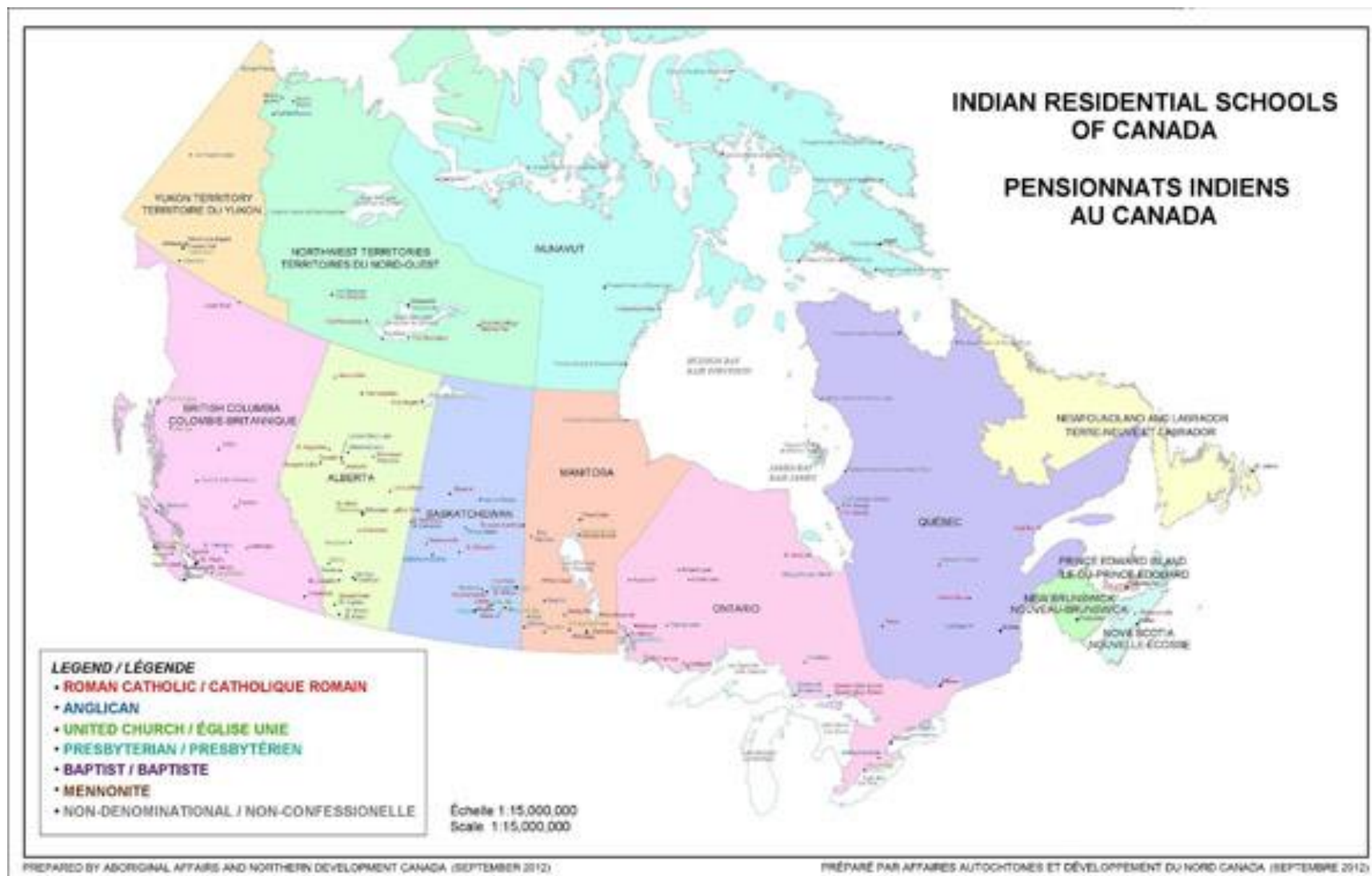


Figure 3: Map of Indian Residential School Locations

Aboriginal Affairs and Northern Development Canada (<https://www.aadnc-aandc.gc.ca/eng/1100100015606/1100100015611>)

children of the residential schools begun to be revealed. Research has found that from 1942-1952 the Canadian government, in collusion with the Canadian Red Cross, conducted health experiments on the children of at least six residential schools. The experiments focused on the effects of malnutrition, which kept students at starvation-level diets with restrictions over vitamins, minerals, and other specific foods.²⁷ These experiments were compounded by already inappropriate health conditions and prohibited children in the test groups from receiving dental care, as the relationship between caries (cavities) and malnutrition was of interest to the researchers. Following this revelation, in the spring of 2013, CBC News obtained a 1954 report from Indian and Northern Health Services discussing experiments concerning ear diseases and medical treatment conducted on children attending the Cecilia Jeffrey Indian Residential School in Kenora, Ontario that resulted in deafness and hearing loss for some.²⁸ Survivors of these experiments did in fact report being starved or fed an array of pills, which correlates to government research records, but they did not know that the treatment was part of an experiment.

In addition to inadequate nutrition and forced experimentation, former students have come forward with testimonies of physical abuse, sexual abuse, rape, and other inhumane treatment. Additionally, the forced assimilation left Indigenous peoples without a sense of identity, without language, and without tools needed for successful interpersonal relationships, which went on to affect their ability to create stable lives upon release from the IRS system. In 1998, acting as national chief, Phil Fontaine negotiated the establishment of the \$350 million Aboriginal Healing Fund for survivors of the IRS system. Fontaine served three terms as grand

²⁷ Canadian Broadcasting Channel News. "Aboriginal nutritional experiments had Ottawa's Approval." *CBC News*. 30 July 2013. <http://www.cbc.ca/news/canada/thunder-bay/aboriginal-nutritional-experiments-had-ottawa-s-approval-1.1404390>

²⁸ Canadian Broadcasting Channel News. "Ear Experiments done on kids at Kenora residential school." *CBC News*. 8 August 2013. <http://www.cbc.ca/news/canada/thunder-bay/ear-experiments-done-on-kids-at-kenora-residential-school-1.1343992>.

chief of the Assembly of Manitoba Chiefs, three terms as national chief of the Assembly of First Nations, and one term as chief commissioner of the Indian Specific Claims Commission, and continues to be actively involved in seeking residential school reparations.^{29,30}

In the early 2000s, a roundtable of prominent Indigenous community leaders who were former residential school survivors collaborated with representatives from the United Church to assess transitional justice models that could be used to address the residential school system and its lasting effects. Concurrently, beginning in about 1995, a number of residential school survivors began to pursue legal action against the Canadian government and the churches.³¹ Lawsuits initiated by individuals such as Nora Bernard of the Mi'kmaq, who began to organize a class-action lawsuit and Charles Baxter of the Constance Lake First Nation, who was the representative plaintiff, grew to form the largest class-action lawsuit in Canadian history, *Charles Baxter, Sr. and Elijah Baxter versus The Attorney General of Canada*.^{32,33}

Approximately 80,000 survivors were represented, including the Assembly of First Nations (AFN). The AFN is an advocacy-driven organization that represents over 900,000 people in 634 First Nations communities and is comprised of various representatives that include three council chairs, ten regional chiefs, and one national chief.³⁴ The roundtable community leaders that were collaborating with the United Church were also members of the AFN and entered the residential school lawsuit under the umbrella of that organization. During settlement negotiations, survivors promoted the use of transitional justice tools, and the roundtable

²⁹ The Indian Claims Commission. "Indian Claims Commission Proceedings" 2002.

³⁰ Aboriginal Affairs and Northern Development Canada. "Indian Specific Claims Commission." 15 September 2010. <http://www.aadnc-aandc.gc.ca/eng/1100100011078/1100100011079>

³¹ John McKiggan, "A Tribute to Nora Bernard." *McKiggan Hebert Lawyers*. Last accessed 1 March 2013. <http://www.apmlawyers.com/a-tribute-to-nora-bernard.html>

³² Paul Barnsley. "Residential schools position under attack." *Windspeaker*. 20(2009): 2. <http://www.ammsa.com/publications/windspeaker/residential-schools-position-under-attack>

³³ Indian Residential School Settlement Agreement. "Factum." Court File No. 00-CV-192059CP.

³⁴ Assembly of First Nations. "Description of the AFN." Last accessed 15 February 2014. <http://www.afn.ca/index.php/en/about-afn/description-of-the-afn>

recommended monetary reparations; a 10-year truth and reconciliation commission; financial support for survivor healing; hundreds of community-led events across the nation; and a formal, judicial, national commission of inquiry for the missing and murdered residential school students.³⁵ However, ultimately, those terms were not met. Settlement agreement negotiations were led by Phil Fontaine of the Sagkeeng First Nation and the Honorable Frank Iacobucci. Negotiations were based on an AFN report which differed from the roundtable proposal.³⁶ The settlement agreement outlined mechanisms rooted in transitional justice theory that would be employed:

- Common Experience Payment: monetary reparation for residential school attendance and its effects (\$10,000 for attendance and an additional \$3,000/year of attendance). \$1,900,000,000 was allotted for this.
- Independent Assessment Process (IAP): monetary reparation for proven abuses that occurred in the residential schools (up to approximately \$150,000).
- Aboriginal Healing Foundation: programing for psychosocial health (\$125,000,000 over a five year period).
- Truth and Reconciliation Commission: a non-judicial inquiry (\$60,000,000 for a five year operating period) that will host seven national events, establish a National Research Centre, and establish an Aboriginal advisory committee.
- Commemoration Fund: a fund of \$20,000,000 dollars for national and community-based commemorative/memorial projects.
- Health Canada: Canada will provide psychosocial support for IAP and TRC proceedings.³⁷

It is important to note that there are students who attended assimilatory schools that were not boarding schools. Students did not reside there and are known as day school students. Like IRS survivors, students of these schools also report similar experiences of assimilation and

³⁵ Alvin Dixon, personal communication. August 2012.

³⁶ Assembly of First Nations. "Residential School – A Chronology." Last accessed 12 February 2014. <http://64.26.129.156/article.asp?id=2586>

³⁷ Indian Residential School Settlement Agreement, 2006.

abuse. In 2009, survivors initiated a class-action lawsuit that represented thousands of day school students from across Canada. The Indian Residential School settlement agreement went into effect in 2006 and excluded both day school attendees and the Métis, the former of which are currently seeking redress.³⁸ In June 2008, Prime Minister Stephen Harper gave a statement of apology in the Canadian House of Commons addressing the Canadian government's long-standing efforts to "kill the Indian in the child," and in 2009, the Truth and Reconciliation Commission established the Missing Children Project to gather data on the children who did not return home from the residential schools.³⁹ Initially, it was the MCP's preliminary forensic work, with its limitations and challenges in this sociopolitical context that inspired the research question concerning perceptions of efficacy. To document missing children from over 130 residential schools, across the entire country of Canada, with each school containing a cemetery - in addition to potentially unrecorded mass graves - is a monumental task that surely could not be completed in the five year mandate of the TRCC, if at all. Additionally, TRCC staffing and funding was already stretched thin with just the preliminary archival research; so decisions concerning the missing children were of particular interest from a forensic anthropology perspective, laying a foundation for this research endeavor.

Project Rationale

Anthropological knowledge, be it forensic, cultural, or otherwise, can be used for political gain. It is the political implications of anthropological work that drove the inquiry into perceptions of transitional justice efficacy forward. While scientists and researchers often strive

³⁸ Canadian Broadcasting Channel News. "Survivors of day schools share stories of abuse, pain," *CBC News*. 23 May 2013. <http://www.cbc.ca/news/canada/manitoba/survivors-of-day-schools-share-stories-of-abuse-pain-1.1348955>

³⁹ Stephen Harper, "Indian Residential School Apology" (speech, Ottawa, Ontario, June 11, 2008).

to unobtrusively conduct their work, an anthropologist's very presence, let alone his/her/zir interpretations of data, impacts communities. Because of this, I chose to enter the field as a holistically trained anthropologist to assess the sociopolitical scenario in which a forensic anthropologist would become an active agent, asking questions that could inform any transitional justice facilitator of the sociopolitical tenor of the situation.⁴⁰ Facilitators include, but are not limited to, reconciliation workshop leaders, non-governmental organization (NGO) staff, TRCC staff and volunteers, independent assessment process lawyers, band council members, and the clergy. A forensic anthropologist is an investigator of mass or unmarked graves in communities that have already experienced human rights violations and whose findings can be framed to support various sociopolitical agendas. Furthermore, knowledge generated is affected by the research methods used, the presence of the researcher, and the theory used to select methods and frame analyses. These factors led to the project presented here which, while addressing and seeking to answer theoretical questions concerning transitional justice, also explores how anthropological knowledge is produced and the potential impacts of that knowledge production.

Anthropology is divided into the four major subdisciplines of biological, cultural, linguistic, and archaeological anthropology; however, the training across subdisciplines varies widely. Forensic anthropology, under the umbrella of biological anthropology, often focuses heavily on the use of evolutionary biological theory; many forensic anthropologists therefore lack education in various social and judico-legal theories within which applied forensic work is housed. These theoretical arenas also inform knowledge production, potential political impacts, ethics, and best practices.

⁴⁰ Holistic anthropology is an approach that emphasizes drawing on knowledge from across the four anthropological subdivisions of cultural, biological, linguistic, and archaeological anthropology.

First, understanding how legal systems are culturally constructed is of import if the investigator wants to effectively convey information both domestically and in international contexts. For example, in the United States, in 1993, a United States Supreme Court case influenced the education of forensic anthropologists.⁴¹ *Daubert v. Merrell Dow Pharmaceuticals* called into question the standards for determining expert testimony, establishing a set of factors known as the *Daubert Standard*:

- Has the method used been tested?
- Has the method undergone peer review and publication?
- What is the error rate of the method used?
- What are the standards for the methods used?
- Has the method been widely accepted within the scientific community?⁴²

After the development of the *Daubert Standard*, forensic anthropologists began to rigorously revisit methodologies to ensure that they met the new criteria for evidence admissibility, understanding that the findings and their use in court impact the lives of both the accused and the victim. Similarly, Canada has a precedent-setting court case, *R. versus Mohan*, that reassesses the requirements for admissibility of expert testimony . These guidelines are going to differ among various legal systems.⁴³ As forensic investigation and procedures in the United States and Canada are rooted in adversarial, Western legal systems and Euro-American research methods, the socio-cultural potential for ethnocentrism in forensic analysis of domestic individual cases is often not questioned; these methodologies and means for producing knowledge are occurring in their own epistemological arena.

In contrast, when investigating across cultures, impacts of investigation can affect living populations in different and profound ways. For example, to mitigate this, in the U.S. the Native

⁴¹ Norman J. Sauer and L.R. Simson, "Clarifying the Role of Forensic Anthropologists in Death Investigations," *Journal of Forensic Sciences*. 29(1984): 1081-1086.

⁴² *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 43 F.3d 1311 (9th Cir 1995).

⁴³ Graham D. Clancy and John M.W. Bradford, "The Admissibility of Expert Evidence in Canada," *Journal of the American Academy of Psychiatry and the Law*. 35(2007):350-356.

American Grave Protection and Repatriation Act (NAGPRA), requires that Native American cultural items, including human remains, be returned to their tribe of origin and outlines procedures for excavation of Native American remains.⁴⁴ NAGPRA serves to alleviate the potential for negative impacts on living Indigenous peoples caused by grave excavation, analysis, and examination. Tribal nations have a variety of beliefs concerning proper burial practices and how those actions affect the souls of both the dead and the living. Additionally, when considering the history of colonialism in the United States, it is understandable that government-condoned desecration of Native graves in and of itself would not be received well by Native communities.

Unlike *Daubert* or NAGPRA, forensic international human rights investigations do not have an outline of procedures to mitigate negative impacts of one's work, nor could they due to the countless cultural, historical, psycho-social and sociopolitical contexts in which investigations take place. In 1984, American forensic anthropologist Clyde Snow began working to identify remains of the "disappeared," and created the Equipo Argentino de Antropología Forense (Argentine Forensic Anthropology Team, EAAF).⁴⁵ The EAAF emphasizes that cultural considerations concerning mortuary practices and religious or spiritual ceremonies are a necessary part of the forensic process. This awareness has inspired other research concerning the connection between forensic anthropological work and religious or spiritual needs of a community. For instance, understanding the effect that the spirits of those buried in mass graves may have on the living population and identifying actions to help minimize negative impacts

⁴⁴ Native American Graves Protection and Repatriation Act, Pub. L 101-601, 25 U.S.C. 3001 et seq., 104 Stat. 3048.

⁴⁵ Clyde Snow, Lowell Levine, Leslie Lukash, Luke Tedeschi, Cristian Orrego, and Eric Stover, "The investigation of the human remains of the "disappeared" in Argentina," *The American Journal of Forensic Medicine and Pathology* 5(1984):297-299.

from excavation can be of value.⁴⁶ Likewise, forensic teams such as those in Colombia and Guatemala use a psycho-social healing approach in conjunction with the medico-legal investigation when working with surviving community members.⁴⁷ Again, the work of the forensic anthropologists is relying on a knowledge base that has extended beyond the use of evolutionary biological theory.

Finally, practitioners, such as Eric Stover and Rachel Shigekane, have also broken the bounds of evolutionary or legal theories to discuss the sociopolitical impact of forensic human rights investigations on living communities and the unique humanitarian and political concerns that arise in international work. This line of inquiry questions who benefits from forensic investigations, how political agendas influence forensic investigations, and how human remains may be used for political leverage.^{48,49} Stover and Shigekane were excavating mass graves in Kosovo under the direction of the International Criminal Tribunal for Yugoslavia. While there, they realized that the ICTY chose which graves were excavated, and to what extent; its choices focused on evidence collection rather than community needs. Whether a forensic anthropologist works in a judicial or non-judicial context, the sociopolitical atmosphere influences the control of knowledge and dissemination of information. In a similar vein, Doretti and Burrell, the former of whom is co-founder of the EAAF, have illustrated that, “the work performed by forensic anthropologists is technical and scientific but often has strong political consequences.”⁵⁰

⁴⁶ Adrienne Kembel, personal communication, December 2012.

⁴⁷ M. Alexandra Lopez Cerquera, personal communication, February 2014.

⁴⁸ Eric Stover and Rachel Shigekane, “The Missing in the Aftermath of War: When do the Needs of Victims’ Families and International War Crimes Tribunals Clash?” *International Review of the Red Cross*. 84(2002): 845-866.

⁴⁹ Eric Stover, William Haglund and M. Samuels. “Exhumations of Mass Graves in Iraq: Considerations for Forensic Investigations, Humanitarian Needs, and the Demands of Justice. *The Journal of the American Medical Association* 290(2003):663-666.

⁵⁰ Mercedes Doretti and Jennifer Burrell, “Gray Spaces and Endless Negotiations: Forensic Anthropology and Human Rights” in *Anthropology Put to Work*, ed. Les Field and Richard G. Fox (New York: Bloomsbury Academic, 2007).

The role of cultural, social, and political factors in forensic investigations often fall within a human rights or transitional justice theoretical framework, as those are the scenarios in which international investigations frequently take place. Theoretical approaches, or frameworks, affect how forensic anthropologists practice their applied work, and how they identify appropriate methods and variables of anthropological knowledge production. Moreover, the sociopolitical context can inform anthropologists as to how their data or how access to data may be manipulated. For instance, governments may only give investigators access to specific graves, which means that access to data is affected by the political context, and may be indicative of how the data will be framed to support a given political agenda. It has been pointed out that the perceived accuracy of anthropological knowledge often has little to do with the quality of the work, but instead reflects the political context in which it exists.⁵¹ By examining the power dynamic between stakeholders via various theoretical lenses to understand how knowledge is produced and used, forensic teams can alter their approaches to improve the ethical integrity of their work, to assuage manipulation of knowledge production, and to minimize negative impacts on surviving communities. As previously mentioned, understanding the legal framework in effect informs the investigator of the epistemological framing that the court system will impose on anthropological findings and allows the researcher to convey concepts more clearly. In a similar manner, through awareness of transitional justice theoretical concerns, the anthropologist can make informed decisions concerning his/her/zir role, methodology, and bias in knowledge production in a politically-charged context. Transitional justice theory reveals the complexity of transitional justice processes and discusses the types of concerns that may manifest while it is employed.

⁵¹ Elizabeth Colson, "Using Anthropology in a World on the Move" *Human Organization*, 44(1985), 192.

Transitional Justice in Theory

With a booming voice, Justice Murray Sinclair of the Ojibwe First Nation and chair of Canada's national Truth and Reconciliation Commission stood before the crowd of several hundred people. He explained to those in attendance of Saskatchewan national event that the TRC was not there to aid in monetary reparations and was not there to provide legal advice but was present to record statements from those who either attended a residential school or those who felt the impacts of the schools' actions.⁵² The need for the commissioner's preamble was reiterated again and again as the lack of public knowledge concerning the goals of transitional justice came to light. Despite the nationwide implementation, the terms *truth and reconciliation commission* and its larger framework, *transitional justice* are absent from the vernacular of the majority of non-Native Canadians; a significant part of the Canadian population that is failing to engage in a process intended, at least by Natives, for all of Canadian society. As of 2014, most Indigenous people of British Columbia encountered in this research were familiar with the idea of a truth commission, though its purpose remained unclear.

Transitional justice exists as an almost invisible justice because of its intangible goals, and that contributes to the complexity and complications in manifesting it at the local level.⁵³ Though transitional justice can be traced historically to the establishment of tribunals used to prosecute Nazi war criminals at the end of World War II, the term *transitional justice* was only introduced in 1991. Commonly, transitional justice is thought of as "the process of redressing past wrongs committed in states shifting from a violent, authoritarian past toward a more liberal,

⁵² Intergenerational effects include impacts on individuals who did not attend residential schools but experienced the consequences of residential school assimilation and abuses.

⁵³ Hinton, *Transitional Justice*.

democratic future,”^{54,55} The United Nations has since moved away from a focus on political regime change to provide a broader definition of transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”⁵⁶ Democracy as a goal of transitional justice has experienced critique, as various forms of government have employed transitional justice tools. While some scholars argue that the political transition is a defining factor of transitional justice, that debate has not prevented its use in countries that have a stable political regime. Motivations for transitional justice typically include establishing an accurate historical record, facilitating psychological and social (psycho-social) healing for survivors, deterring future crimes, establishing democracy, and re-creating national identity through the reintegration of perpetrators and survivors into society.⁵⁷ The tools and mechanisms used to meet these goals can include grave excavation and repatriation, monetary reparations, memorialization, statements of apology, amnesty, and investigation by a non-judicial truth and reconciliation commission or a judicial criminal tribunal. In any transitional justice context some or all of these tools may be employed.

Transitional justice tools have recently been implemented to address minority and Indigenous rights in democratic societies of North America that have stable government structures.⁵⁸ While some have termed this application of transitional justice as historical, often the effects of the abuses being addressed continue into the present day. Olsen et al. suggest that the For example, the Greensboro Truth and Reconciliation Commission began in 2004 and

⁵⁴ Ruti G. Teitel, “Editorial Note- Transitional Justice,” *The International Journal of Transitional Justice* 2(2008):1-4.

⁵⁵ Hinton, *Transitional Justice*, 2.

⁵⁶ Ki-moon Ban, “Guidance Note of the Secretary General: United Nations Approach to Transitional Justice,” March 2010, 1. <http://www.unrol.org/doc.aspx?d=2957>

⁵⁷ Anderlini, Kays, and Conaway. *Transitional Justice and Reconciliation*, 2005.

⁵⁸ Spencer Crew, “Learning from Greensboro: Truth and Reconciliation in the United States,” *Human Rights Quarterly*. 32(2010): 451-545.

functioned as a non-governmental, community-driven (grassroots) investigation of a 1979 Ku Klux Klan massacre in North Carolina in which the community believed the local government to be complicit.⁵⁹ The community of Greensboro aimed to address lasting human rights issues related to the massacre, such as: “institutional racism, poor working conditions and opportunities, and distrust between the police department and African American communities.”⁶⁰ In addition to investigating the massacre via statement gathering from KKK members and massacre survivors, the TRC scrutinized the role of the police department which had recalled its forces, removing patrolmen from the scene. The inquiry was multifaceted and investigated the criminal act of the shooting, the role of police collaboration, and the presence of lasting structural violence.

More recently, two local TRCs have formed in Detroit, Michigan to address the pernicious effects of government-directed, racially-segregated housing.⁶¹ Following these local initiatives in Greensboro and Detroit, the U.S. government endorsed its first official TRC at the regional-level, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, in March 2011. The Maine Wabanaki-State Child Welfare TRC was established to “discover the truth by research and testimony about the experiences of Wabanaki people with Maine state child welfare and to promote healing and lasting change for Wabanaki children and families.”⁶² The state of Maine, like many other U.S. states, has placed a disproportionate number of Native children in state care in comparison to their non-Indigenous counterparts. Of further concern are the high number of reports of abuse and assimilation of Aboriginal children in state care. Designed to

⁵⁹ Sally Bermanzohn. “A Massacre Survivor Reflects on the Greensboro Truth and Reconciliation Commission.” *Radical History Review*. 97(2007):102-109.

⁶⁰ Jill E. Williams, “Legitimacy and Effectiveness of a Grassroots Truth and Reconciliation Commission.” *Law and Contemporary Problems*, 72(2009):144.

⁶¹ Michigan Roundtable for Diversity and Inclusion, “About Us: History,” www.miroundtable.org. last accessed 13 March 2013.

⁶² Maine Wabanaki-State Child Welfare TRC, www.mainewabanakitrc.org, last accessed 13 March 2013.

prevent removal and assimilation of Indigenous children, the Indian Child Welfare Act, requires the placement of Native children with other Indigenous families; however, that law has been largely disregarded. While these TRCs operate at a regional rather than nation-state level, they exemplify the growing use of transitional justice tools in non-transitioning societies.

Moreover, instead of addressing only direct violence, such as the physical violence incurred in civil war; these commissions also all sought redress for indirect violence, or social injustice targeting specific racial or ethnic communities. In 1969, Johan Galtung discussed the concept of structural, or indirect, violence differentiating it from direct violence. By his definition, direct violence is performed by an individual who is responsible. Indirect violence, in contrast, cannot be traced back to a single individual; rather it is embedded in the structure of society and manifested through unequal power and therefore an unequal chance at life.⁶³ The Greensboro TRC expanded the investigation beyond the KKK massacre to include institutionalized, or structural, violence that continued to divide the city based on race.⁶⁴ Comparably, the Detroit investigations are questioning government-funded racially-segregated housing, and the Wabanaki TRC is not only scrutinizing the disproportionate amount of abuse of Native children in state care but the disproportionate number of Native children systemically placed in foster care. In these instances responsibility does not fall on one person. Instead the system itself disempowers specific groups of people, creating structural violence.

As applications of non-judicial transitional justice tools have dramatically increased in frequency around the world and are now being used where there is no political regime change, so too have theoretical debates concerning transitional justice.⁶⁵ Popular debates question the

⁶³ Johan Galtung, "Violence, peace, and peace research," *Journal of Peace Research* 6(1969):167-191.

⁶⁴ David Cunningham, "Truth, Reconciliation, and the Ku Klux Klan." *Southern Cultures* 14(2008): 68-87.

⁶⁵ Priscilla B. Hayner. *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. (New York: Routledge Taylor and Francis Group, 2001), 75-90.

definition of transitional justice, when transitional justice can be applied, if it can be applied effectively, and the validity of goals such as justice, accountability, and reconciliation.⁶⁶ Scholars challenge whether or not the tools used in transitional justice processes truly reflect the range of understandings of the meaning of justice and reconciliation..

Transitional justice exists as a set of tools and mechanisms that can be driven by various ideologies concerning justice. Transitional justice theory has focused on the use of these tools after political regime transitions or transitions from war to peace. The phrase “transitional” tends to imply a temporary timeframe of well-defined sociopolitical transition. Restorative justice, retributive justice, and transformative justice principles can operate within transitional justice frameworks. While there is overlap between these forms of justice and transitional justice, some scholars discuss each in isolation from one another, as distinct forms of justice outside of transitional justice, which can make situating one’s position within theoretical discussion complicated.⁶⁷ For example, retributive justice often refers to punitive measures that result in imprisonment or other legal consequences for perpetrators and has a goal to determine appropriate punishments for offenders. The ICTY and ICTR are examples of transitional justice that incorporate retributive justice philosophies because perpetrators faced punishment for their actions. Countering retributive justice, restorative justice theory focuses on repairing harm that occurred during a crime and on returning the community to an ameliorated state. Proponents of restorative justice require all stakeholders to participate in restorative actions- the victim, the perpetrator, and the community. In these cases, justice goes beyond upholding the law to include

⁶⁶ Pierre Hazan, “Measuring the impact of punishment and forgiveness: a framework for evaluating transitional justice” *International Review of the Red Cross*. 88(2006): 19-47.

⁶⁷ Rodrigo Uprimny and Maria Paula Saffon, “Transitional Justice, Restorative Justice and Reconciliation. Some Insights from the Colombian Case.” Working Paper. based on a publication by Rodrigo Uprimny, Catalina Botero, Esteban Restrepo, and Maria Paula Saffon. “¿Justicia transicional sin transición? Verdad, justicia y reparación para Colombia [Transitional Justice without Transition? Truth, Justice and Reparations for Colombia].” (Bogotá: DeJuSticia: 2006) 109-138.

social repair.⁶⁸ The South African TRC often is touted as an example of successful restorative justice through the use of amnesty for perpetrators and the creation of social harmony.⁶⁹

However, in colonial contexts, notions of restoration are often dismissed as there was arguably never a “peaceful” time to which society can return and effects of colonization prevent repair.

Academic discussion sometimes frames transitional justice as transformative, while other academics view transitional and transformative justice separately. Transformative justice seeks widespread social reform and is not predicated on a social shift to peace or democracy.

Transitional justice in the wake of conflict often has transformative properties as shifts in power and social ideologies are materialized. Like restorative justice, transformative justice does not focus on punitive measures. Conceivably, the Greensboro TRC exemplifies transformative justice as members of the community were seeking a cessation to institutionalized racism without any transition to peace or democracy. The grassroots Greensboro TRC also illuminates another facet of transitional justice debate.

Related to the desire to understand how concepts of justice do or do not vary amongst populations, researchers also question whether government-driven (top-down) reconciliation measures are as effective as community-driven (grassroots, bottom-up) endeavors.⁷⁰ Burnet discusses the possibility that government bodies tend to focus on short-term legal efforts and jurisprudence, while grassroots organizations have a range of foci that target long-term social transformation.⁷¹ For example, government initiatives “tend to have a narrow focus dwelling

⁶⁸ Center for Justice and Reconciliation, *Restorative Justice Brief at Prison Fellowship International*.

⁶⁹ Stuart Wilson, “The Myth of Restorative Justice: Truth, Reconciliation, and the Ethics of Amnesty,” *South African Journal on Human Rights*. 17(2002):531-562.

⁷⁰ Kieran McEvoy and Lorna McGregor, eds. *Transitional Justice From Below: Grassroots Activism and the Struggle for Change*. (Oxford:Hart Publishing, 2008).

⁷¹ Jennie E. Burnet, “Whose Genocide? Whose Truth? Representations of Victim and Perpetrator in Rwanda” in *Genocide, Truth, Memory, and Representation*, ed. Alexander L. Hinton and Kevin Lewis O’Neill. (Durham, NC: Duke University Press, 2009).

upon individual violations resulting in the exclusion of a range of socio-economic injustices.”⁷²

Ultimately, by not addressing socio-economic imbalances in power, or structural violence, the status quo is maintained and social transformation is avoided. Further theoretical debates include arguments about the relationship between law and justice with some stating that the relationship is weak at best because concepts of justice can vary dramatically.⁷³ Similarly, the concept of reconciliation has generated a number of questions concerning who and what are being reconciled. Finally, a large body of literature critiques specific transitional justice tools.

Knowing that government and community goals could be disparate, current transitional justice tools -- such as reparations, investigative inquiries, and grave excavations -- have individually come under scrutiny by both scholars and participants. For example, Hazan calls attention to the fact that reparations may actually be harmful to social normalization, therefore suggesting a need for further investigation into reparation applications as a whole.⁷⁴ A similar criticism has been put forth concerning the use of monetary compensation for reparations in Canada; instead of reconciling individuals and society, suicide rates have increased for survivors participating in the monetary reparations process. In contrast, some legal scholars argue that reconciliatory tools such as reparations can be symbolically-sound manifestations of justice. The evidence presented in scholarly debate reveals that factors affecting efficacy of transitional justice tools vary from context to context. Because of this variability, on the ground analysis of each sociopolitical and cultural context of transitional justice implementation, or potential implementation, before facilitator participation is merited.

⁷² Patricia Lundy and Mark McGovern, “Whose Justice? Rethinking Transitional Justice from the Bottom Up,” *Journal of Law and Society* 35(2008):271.

⁷³ Kamari Maxine Clarke and Mark Goodale, *Mirrors of Justice: Law and Power in the Post-Cold War Era*. (New York: Cambridge University Press, 2010).

⁷⁴ Pierre Hazan, *Measuring the impact of punishment and forgiveness*, 19-47.

This latter viewpoint regarding reparations is also used in the debate of whether a non-judicial investigation can achieve justice or if judicial action (retribution) is required to satisfy victims' desires for justice.⁷⁵ Because truth and reconciliation commissions are often used in lieu of judicial processes, political science, international law, and human rights scholars have studied the meaning of justice, reconciliation, and truth via analyses of the parameters, limitations, and expectations of truth commissions.^{76,77} To further complicate matters, Sundar argues that tools such as TRCs do not contribute to justice because their work depends on whose interests are being served by the political construction of the mandate, and again researchers point to the potential disparities in survivor and facilitator objectives.⁷⁸

As part of preventing historical revisionism and fostering psycho-social healing, TRCs also request survivor testimony and often support memorialization initiatives; yet, scholars question the basis of transitional justice claims to psychosocial healing.⁷⁹ For instance, Hayner reported that 50-60% of the hundreds of people seen by the Trauma Centre for Victims of Violence and Torture in Cape Town, South Africa experienced psychological trauma *after* testifying, or regretted participating in TRC hearings—similar to the increased suicide rates in First Nations individuals who testified at hearings as part of the monetary reparations process.⁸⁰ Finally, of further debate concerning reconciliatory transitional justice tools is the presence or absence of grave excavation. Not only do scholars question whether excavation is necessary, but

⁷⁵ Lisa J. Laplante and Kimberly Susan Theidon, "Truth with Consequences: Justice and Reparations in Post-Truth Commission Peru." *Human Rights Quarterly*. 29(2007):228-250.

⁷⁶ Eric Brahm, "What is a Truth Commission and Why Does it Matter?" *Peace and Conflict Review* 3(2009):1-14.

⁷⁷ Michael Scharf, "The Case for a Permanent International Truth Commission." *Duke Journal of Comparative & International Law*. 7(1997):375-410.

⁷⁸ Nandini Sundar, "Toward an Anthropology of Culpability." *American Ethnologist*. 31(2004):145-163.

⁷⁹ Brandon Hamber and Richard Wilson. "Symbolic Closure through Memory, Reparation, and Revenge in Post-Conflict Societies." *Journal of Human Rights* 1(2002):35-53.

⁸⁰ Hayner, *Unspeakable Truths*, 155.

also how excavation should be conducted, the interests of survivors, and the politics surrounding the human remains and the evidence they provide.^{81,82}

Similar to this, scholars argue that as a whole “transitional justice mechanisms have tended to be designed primarily to facilitate political transition...rather than to ameliorate the suffering of ordinary people.”⁸³ Anthropological research has engaged the larger nomothetic debate concerning transitional justice meanings and TRC impacts on “ordinary people” by analyzing specific post-conflict contexts.⁸⁴ For example, relationships between histories of past oppression and contemporary power struggles have been identified in “peacetime” Guatemala.⁸⁵ Reintegration of perpetrators into society proves problematic in post-tribunal Rwanda.⁸⁶ Moreover, victim identification and repatriation is heavily intertwined with post-war Bosnian politics.⁸⁷ These studies have taken a survivor-focused approach to unpack the meanings of transitional justice for different actors, the impacts of transitional tools on survivors, and the various understandings of *justice* and *reconciliation*.⁸⁸ Some research has gone so far as to suggest transitional justice methods may harm human rights endeavors and that facilitators (lawyers, anthropologists, TRC officials) may also make choices that are detrimental to the reconciliation process.^{89,90}

⁸¹ Stover and Shigekane, *The Missing*.

⁸² Adam Rosenblatt, “International Forensic Investigation and the Human Rights of the Dead.” *Human Rights Quarterly*. 32(2010): 921-950.

⁸³ Jay Aronson, “The Strengths and Limitations of South Africa’s Search for Apartheid-Era Missing Persons.” *The International Journal of Transitional Justice*. (2011):1-20.

⁸⁴ Winifred Tate, *Counting the Dead: The Culture and Politics of Human Rights Activism in Colombia*. (Berkeley and Los Angeles: The University of California Press, 2007)

⁸⁵ Victoria Sanford, *Buried Secrets: Truth and Human Rights in Guatemala*. (New York: Palgrave Macmillan, 2003).

⁸⁶ Burnet, *Whose Genocide?*

⁸⁷ Sarah Wagner, *To Know Where He Lies: DNA Technology and the Search for Srebrenica’s Missing*. (Berkeley and Los Angeles: The University of California Press, 2008).

⁸⁸ Simon Robins, “Toward Victim-Centered Transitional Justice: Understanding the Needs of Families of the Disappeared in Post-Conflict Nepal.” *The International Journal of Transitional Justice*. 5(2011):75-98.

⁸⁹ Anthea Jeffery, “The Truth about the Truth Commission.” *Human Rights* 27(2000):19-22.

Theoretical debates within transitional justice can inform a forensic anthropologist's methodology and practice. For instance, the research presented here examines the case of transitional justice in Canada. With no change in political power (from settler governance to Indigenous governance, for example) and resulting from a class-action lawsuit that prohibits TRC participants from pursuing any future legal action against the state, transitional justice in Canada presents a unique scenario that likely will also require forensic anthropological input. Witness statements indicate that schools also harbor unmarked graves of children who died there, yet government-driven initiatives have failed to include excavations and repatriation of remains, instead focusing on archival data collection. Acting sometimes in conjunction with government efforts, and sometimes parallel to government initiatives, grassroots reconciliation movements have emerged in Indigenous communities. Through an investigation of transitional justice's perceived effectiveness by the various stakeholders (survivors, transitional justice facilitators, Indigenous community leaders, and government officials) in Canada, I unpack the varying interpretations of transitional justice and reconciliation; discuss the relationship of perceived effectiveness (of justice and reconciliation) to ongoing rights violations; and problematize the use of transitional justice tools in a non-transitioning society. While doing this, the role of structural violence and neo-colonialism is assessed throughout.

Especially because of the sensitive nature of human rights work, efforts have been made throughout the course of the research to be aware of how knowledge is being produced by both myself and actors in the context in which I am working. Language and culture can greatly influence the manner in which individuals perceive the world, including reasoning, decision-making, and knowledge production. Special attention has been paid to the fact that Indigenous

⁹⁰ Tricia Olson, Leigh Payne, Andrew Reiter, and Eric Wiebelhaus-Brahm. "When Truth Commissions Improve Human Rights." *The International Journal of Transitional Justice* 4(2010):457-476.

creation of knowledge sometimes varies significantly from mainstream Euro-American knowledge production. This disparity can be explained through the framework of cognitive pluralism.

Cognitive Pluralism and Methods

Cognitive pluralism is a concept that articulates how different groups of people may have different ways of processing information, and therefore may reason, form conclusions, and develop beliefs differently from one another. Research methods are thus influenced by one's own cognitive framework and culture. When referring to Western methods, as described herein, reference is being made to a body of knowledge and a style of knowledge production that is widely recognized as evolving within European imperialism.⁹¹ This methodology is problematic for anyone conducting research on or with Indigenous populations.⁹² When discussing research methods, the scientific method sits at the core and is defined as systematic observation, measurement, and experimentation that use the development and testing of hypotheses. This technique for analyzing information and producing knowledge is generally traced back to the 1600s with Galileo as the father of the scientific method. Arguably, roots of the scientific method are found with Aristotle, with influences from the Middle East and other European countries. However, as research methodologies developed, the means of producing knowledge evolved within the framework of Western imperialism and used knowledge systems that differ from various Indigenous knowledge systems.⁹³ Western positivist, or arguably Euro-Christian,

⁹¹ Renee Pualani Louis, "Can You Hear us Now? Voices from the Margin: Using Indigenous Methodologies in Geographic Research" *Geographic Research*, 45(2007):130-139.

⁹² Jill Abdullah and Ernie Stringer, "Indigenous Knowledge, Indigenous Learning, Indigenous Research," in *What is Indigenous Knowledge? Voices from the Academy*. Eds. Ladislaus Semali and Joe Kincheloe. (Taylor and Francis Publishing, 2002), 143-156.

⁹³ Cheryl Crazy Bull, "Advice for the Non-Native Researcher," *Tribal College: Journal of American Indian Higher Education*, (1997)16-24.

epistemological approaches influence which questions are asked, how they are asked, and how the responses are understood by the researcher. History and culture affect research through requirements for how reality is perceived, measured, and valued.⁹⁴ Gegeo and Watson-Gegeo acknowledge cognitive pluralism and remind the researcher that anthropological interviews and observations of Indigenous cultures do not reflect Indigenous cultures, instead the findings “are imagined, conceptualized, and carried out within the theoretical and methodological frameworks of Anglo-European forms of research, reasoning, and interpreting.”⁹⁵ Smith further describes an inherent bias in Western scientific research:

“The finer details of how Western scientists might name themselves are irrelevant to indigenous peoples who have experienced unrelenting research of a profoundly exploitative nature. From an indigenous perspective Western research is more than just research that is located in a positivist tradition. It is research which brings to bear, on any study of indigenous peoples, a cultural orientation, a set of values, a different conceptualization of such things as time, space and subjectivity, different and competing theories of knowledge, highly specialized forms of language, and structures of power.”⁹⁶

Knowledge theorizing, limitations, and frameworks are directly affected by one’s cultural understanding of the world, and the placement of Western science as the epitome of knowledge production reproduces colonial hegemony. Because of Western science’s propagation of colonialism and oppression, there is a large Indigenous academic movement to decolonize research through the use of Indigenous epistemology.⁹⁷ The effort of decolonizing research should be of particular importance to anthropologists due to their historical, and sometimes contemporary, role in colonial endeavors. While the research and writing style presented in the

⁹⁴ Eber Hampton, “Towards a redefinition of Indian Education,” in *First Nations Education in Canada: the Circle Unfolds* eds. Marie Battiste and Jean Barman. (Vancouver: University of British Columbia Press, 1995), 5-46.

⁹⁵ David Welchman Gegeo and Karen Ann Watson-Gegeo, “‘How We Know’: Kwara’ae Rural Villagers Doing Indigenous Epistemology” *The Contemporary Pacific*, 13(2001):55-88. and Renee Pualani Louis, *Can You Hear Us?*, 132.

⁹⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, (London: Zed Books), 2012.

⁹⁷ Smith, *Decolonizing Methodologies*.

following chapters is largely framed by Western science as afore described, the project proceeded with awareness of the epistemological limitations of this approach, sometimes deviates from Western methods to avoid creating a hierarchy of knowledge that prioritizes Western science, and acknowledges the challenges.

As time passed, the research methods for this project evolved and changed, sometimes in response to epistemological differences or simply due to the revelation of new information. Three separate periods of fieldwork occurred over three years with the research question evolving from, “How are forensic excavations adapted to a colonial context, and how are they impacted by continued oversight of the perpetrating government?” to the primary question, “Is transitional justice perceived as effective by participants and facilitators in a non-transitioning society? Why? Why not?” The intention of both questions is to assess the sociopolitical climate in which the transitional justice mechanisms operate (including forensic investigation) and how interests of various stakeholders are being served. For the latter inquiry, through understanding on the ground perceptions of the process, the goal was to reveal if and how researchers and participants reproduced or resisted the government-directed initiatives.

Session 1 (May – June 2011)

Entering the field from May - June 2011, I completed six weeks of preliminary fieldwork to identify research informants and to explore potential research questions such as, “How are forensic excavations adapted to a colonial context” and “how are they impacted by continued oversight of the perpetrating government?” Using purposive sampling and snowball sampling, I began to build my informant base. Purposive sampling requires the researcher to seek informants who meet criteria pertinent to the research question; and to do this, contact was made with the

TRCC to arrange meetings. Snowball sampling, on the other hand, begins with a few key informants who then refer the researcher to other people to question, and referrals continue in this manner. Some informants were not selected by me; rather, I was selected by them when they discovered my research topic. Research locations included Winnipeg, Manitoba; Medicine Hat, Alberta; and Penticton, Okanagan, and Vancouver, British Columbia. Twelve individuals were interviewed on multiple occasions using semi-structured and informal, spontaneous interviewing techniques. The interviewees included five employees of the TRCC, an Indigenous member of the media, and six non-Indigenous lay people who were all under forty years old. The initial trip included a visitation to the TRCC headquarters in Winnipeg, the University of British Columbia in the Okanagan, Simon Fraser University, and the TRCC research department located in Vancouver.

Initial findings revealed that none of the non-Indigenous people interviewed knew of the transitional justice framework employed, or of the unique implementation of a truth commission that drew the attention of countries from across the globe. For a nationwide reconciliation effort, I had not expected that the non-Indigenous people encountered, who had post-secondary education and appeared active in their communities, were unaware of basic components of the process. Despite the lack of public and Indigenous awareness, the TRCC staff of the research department and Missing Children Project, operating in its third year, believed that the transitional justice efforts were proceeding well. The TRCC also intended to pursue forensic investigation of cemeteries located at Indian Residential Schools and invited me to participate in investigations the following summer. Meanwhile, the Indigenous member of the media described a process in which Natives were left uninformed of their options and conned by lawyers, all while the public

remained blissfully unaware. These findings questioned perceptions of success and how those perceptions varied between different stakeholders, reshaping the course of the research.

Session 2 (May – July 2012)

The second research phase intended to gather data on perceived efficacy of the transitional justice framework with special attention given to the investigation of graves. Based on the contradictory perceptions of the TRCC discovered in the first field session, the research question changed to “Is the TRCC perceived as successful by different stakeholders? How does this affect the work of transitional justice facilitators, including those charged with forensic excavations?” I continued to use snowball and purposive sampling to identify TRCC employees and members of the Indigenous community who existed as community facilitators (members of the media, chiefs, program coordinators, religious advisors, non-profit employees). Facilitators were selected because they worked directly within their own communities and were aware of challenges and successes concerning transitional justice work, which non-academics colloquially referred to as “reconciliation work.” The lower mainland of British Columbia is the traditional and unceded territory of the Musqueam, Squamish, and Tsleil-Waututh First Nations. High concentrations of Haida and Kwakwaka’wakw, amongst other Indigenous groups reside there as well. This research was not limited to any nation or tribe, as Indigenous groups do not function in isolation from each other, especially in these urban areas, and the transitional justice process, the object of study, is not restricted to any singular Indigenous nation. Throughout the research, I use the term “Indigenous community” to refer to Indigenous peoples who have the shared history, experience, and lasting effects of the residential schools. This term in no way implies that the diverse Indigenous nations are culturally homogenous with one another.

During this research phase, I traveled to three sites: Saskatoon, Saskatchewan; Victoria, British Columbia; and Vancouver, British Columbia. I focused my research in Vancouver for several reasons. Vancouver presented a centralized location with a large Indigenous population; British Columbia and Ontario are home to roughly half of Canada's Indigenous peoples. Additionally, Vancouver is located within approximately 200 miles to ten of British Columbia's nineteen residential schools. Finally, the TRCC research staff and the Missing Children Project, responsible for investigating the whereabouts of missing residential school children, are located in Vancouver.

I also constructed surveys for use in addition to participant observation, observation, semi-structured interviews, informal interviews, and teachings. Teachings are communicated in various ways, often as an entire concept, similar to the transmission of information in American Sign Language. If Natives of British Columbia were similar to Indigenous populations with whom I was raised, I suspected that the surveys would not be usable and would not be considered a culturally acceptable means of information-sharing; however, the surveys could be used for non-Indigenous research participants. This proved to be true for several reasons. First, in my experience, among the Woodland Indians of the Midwest and the Indigenous peoples of the Northwest Coast, people do not transmit knowledge via surveys. Interviews are also difficult, because in many ways knowledge is passed by listening, learning, and experiencing, not by asking. Instead, individuals convey concepts that reveal the "big picture," not in the piecemeal bits and pieces of survey questions. Specifically, truthful knowledge about spiritual and emotional perceptions is not communicated in such a clinical manner. Research participants explicitly told me that surveys and interviews would result in silence or in false information. Lack of respect for Native culture, deficiency in understanding knowledge transmission, and

absence of appropriate intention does not merit cooperation. Secondly, the fact that the research methods are influenced and framed by Western imperialism is not lost on the Indigenous who have experienced the imperialism firsthand, especially the Elders.⁹⁸ This point was mentioned to me numerous times in the field explicitly concerning the methods that the government was using to gather data concerning the residential school abuses.

For example, the incompatibility and active resistance to Western knowledge production was experienced by a non-Indigenous researcher attempting to conduct semi-structured interviews. To her frustration, if individuals would agree to interviews then they often provided no information or gave inaccurate information. After I discussed with her some differences in both knowledge transmission and in cultural norms, she not only experienced better success, but also was able to interpret the knowledge that given to her by her participants more effectively. Furthermore, the Likert-type scale, or 1-5 ranking, for responses in survey questions was reminiscent of legal documents used to quantify the physical and sexual abuse incurred by survivors. Some survivors describe these forms as upsetting, but not necessarily because of the topic of abuse, albeit a difficult one, but because it was clearly not Indigenous, nor was the idea of ranking suffering in such a manner. The surveys instead represented a tool of the colonizer and perpetrator of the abuses. Another colleague also found Likert-scale surveys difficult to use in Uganda because feelings are not quantified in such a manner in Acholi culture. Knowledge is not transmitted in that way.

Instead, I used teachings, informal interviews, observation, and participant observation to gather information. Semi-structured interviews were used when appropriate. Countless impromptu informal interviews occurred daily. Less than a week was free from fieldwork events,

⁹⁸ Elder does not equate to elderly. An elderly person is not necessarily an Elder. Elders carry specific behaviors, knowledge, and respect (for others and from others).

which included participant observation and observation at the Vancouver Missing and Murdered Women Inquiry, TRCC reconciliation events, Hummingbird Ministries reconciliation events, the *čəsnaʔəm* protest, monetary reparation advising meetings, the Butterflies in Spirit events, Haida language courses, a youth conference, family nights at the Indian Friendship Centre, and meetings at the Indian Residential School Survivor Society (IRSSS).

The organizations involved were selected for several reasons. Members of the Intertribal Roundtable of Elders who spearheaded the request for a transitional justice framework also administered the Indian Residential School Survivor Society (IRSSS). Both groups could answer questions concerning the needs of community members, the expectations of transitional justice, the difference between expectations and reality, and the various understandings of justice and reconciliation in the Indigenous communities in the Vancouver/Lower BC area. Furthermore, as a community-driven, non-profit, Indigenous-administered organization, the IRSSS provided insight into how Indigenous measures differ from government objectives. The TRCC included Indigenous advisors, commissioners, researchers, and anthropologists/archaeologists, allowing for identification of facilitator goals; understandings of TRCC goals, perceptions of justice and reconciliation; and knowledge of TRCC action taken. The research intended to include members of the Missing Children Project, which is tasked with compiling information related to missing children and unmarked graves. The Missing Children Project's mandate and the involvement of its staff lend specific insight into two components of transitional justice: TRCs and grave excavation.

Hummingbird Ministries is an Indigenous-administered, Christian organization participating in the transitional justice process in coordination with non-Indigenous Church-affiliates. Their events and input allow church involvement and goals to be represented in the

research presented here and compared to that of the greater Indigenous community, facilitators, and government directives. Finally, the Indian Friendship Centers are cultural centers for Indigenous people and also house events related to transitional justice (i.e. reconciliation) in Canada. Finally, though not part of an organization, independent assessment lawyers, guiding the reparations processes, have been identified and agreed to participate in my research.

Semi-structured interviews included that of two Independent Assessment Process (IAP) lawyers who represented the government in the hearings for monetary compensation of survivors of sexual and physical abuse, an employee of child and welfare services, four employees of the IRSSS, a truth commissioner for the TRCC, about ten Indigenous community leaders, a minister focusing on reconciliation events, four employees or former employees of the TRCC, and two Indigenous members of the media. Countless informal interviews occurred at each event I attended, including the *čəsnaʔəm* protest that lasted the entire summer, hosting a continuous flow of Indigenous community members and leaders from both the United States and Canada. Every event also had spoken sessions in which people volunteered their opinions and perspectives about almost every aspect of the transitional justice process, and I noted feedback from these as well.

Interestingly, I found that stakeholders had varying opinions of the effectiveness of the transitional justice process regardless of whether or not they attended Indian Residential Schools. Initially, I focused on IRS survivors, but I quickly realized that there were effects of the IRS system that extended beyond former students. The forced assimilation and abuses affected all members of the First Nations, Metis, and Inuit communities.

Preliminary findings suggested that perceived “success” of the transitional justice process and its fundamental tools related to several factors: differing goal expectations of actors;

appearance (or lack thereof) of government acknowledgement of responsibility for current human rights-related issues such as continued structural violence against Indigenous peoples; government recognition of responsibility for structural inequality in terms of access to land and resources; negative impacts of the transitional justice process on Indigenous participants (e.g. retraumatization, increased suicide rates); and a shared sense that the components of justice and reconciliation were modeled after a Euro-Canadian tradition and therefore lacked cultural specificity for Indigenous peoples.

Expectations of the transitional justice process varied among different Native groups. For example, the First Nations Elders Roundtable had a clear vision of an investigative commission that exerted judicial power, an independent commission of inquiry for the missing children of the Residential Schools, full excavation and repatriation of the remains of children buried at residential schools, and weekly, local reconciliation events hosted by Native TRCC commissioners. These expectations differ significantly from the current transitional justice framework. In contrast to the desires of tribal Elders, a number of Westernized academically-oriented Indigenous people did find the transitional justice initiatives appropriate.

Disconcertingly, a large number of Indigenous people were unaware of the TRCC, the possibility of grave excavation, or the possibility of memorialization projects. Moreover, overall, among Indigenous community leaders expected non-Indigenous Canadians to participate intensively, as well as the churches that shared responsibility for the operation of the residential schools. In reality, these initial studies revealed profound feelings of injustice (rather than justice) and little participation by Euro-Canadians. Of the offending churches, those participating do so in a manner undetected by many survivors, giving the appearance of their absence from the

reconciliation efforts. The Catholic church's actual resistance to participation further propagates the image of uncooperative churches.

Additionally, expectations of "reconciliation" vary between Indigenous and non-Indigenous peoples. For example, the majority of non-Indigenous Canadians whom I encountered self-admittedly knew very little about Indigenous-related sociopolitical issues, history, culture, and the settling of Canada, all of which affect Indigenous and non-Indigenous relations. Church-administered reconciliation initiatives also reflected a lack of awareness as numerous Christian church members were unaware of the repression of Native spirituality (i.e. daily discrimination; residential school religious indoctrination; federal bans on Native ceremonies such as Smokehouse, Sundance, Potlatch). This lack of public knowledge poses problems because Indigenous people voiced that knowledge of their history was imperative for reconciliation and the elimination of discrimination and structural violence. These findings corroborate with the TRCC Interim Report which states that education of the settler society concerning First Nations, Metis, and Inuit culture, history, and oppression, remains essential to the transitional justice process. However, only in September of 2012 has any mention of Indian Residential School history and socio-cultural impacts on Indigenous people been introduced into primary and secondary education, and only in select regions of Canada. In addition, a large immigrant population resides in Vancouver, and the citizenship test does not require knowledge of residential schools or government-directed assimilatory efforts; information understood by many Indigenous people to be vital to achieving sustainable social change. Finally, initial findings indicate that the government-driven reconciliation process follows a legalistic framework that fails to address greater structural violence against Indigenous peoples.

Meanwhile, eradicating structural violence exists as a unifying expectation of the transitional justice process for the participating Indigenous population.

Session 3 (June 2013 – December 2013)

For the third and final field session, the research question remained largely the same as that asked in the previous field session, “Is the TRCC perceived as successful by different stakeholders? How does this affect the work of transitional justice facilitators, including those charged with forensic excavations?” However, due to the prevailing silence surrounding the missing IRS children, the final stage of the research led with the modified question, “Are transitional justice mechanisms (e.g., truth commissions, grave excavation) perceived as “effective” by participants and facilitators in democratic countries that have long-standing histories of persistent colonization and institutionalized violence against Indigenous populations?” The findings from the second session of fieldwork also begged the secondary questions, “How is perceived efficacy of transitional justice related to ongoing human issues and structural violence?” and “Has the silence surrounding grave excavation changed?” With these avenues of inquiry, the third field session began.

The research site remained the same, focused in Vancouver, British Columbia, as did the organizations and groups consulted and the use of purposive and snowball sampling. Events attended included: Idle No More rallies, Rising Tide – Unceded Coast Salish Territories direct actions, anti-oppression workshops concerning reconciliation, reconciliation art performances, Co-op Radio media productions, commemoration project meetings, TRCC reconciliation events, City of Vancouver reconciliation events, Murdered and Missing Women memorial events, LGBTQ rights events, and Indian Friendship Center events. I also gathered archival data from secondary sources such as newspapers and non-profit organization reports such as the TRCC

Interim Report (a report of TRCC findings that occurred halfway through the TRCC tenure), press releases, and reports issued by the Aboriginal Healing Foundation (a grassroots organization that pre-dates the Indian Residential School Settlement Agreement). I reviewed these documents to elucidate the varying perspectives in transitional justice success and popular opinion regarding the Indian Residential School Era.

Furthermore, I employed the use of Indigenous teachings and ethnographic research methods that included participant observation, observation, informal interviews and semi-structured interviews. For data analysis, I have used both an inductive and deductive approach to identify patterns and concepts related to transitional justice theories and debates.⁹⁹ Deductive coding determined if the findings postulated from my preliminary research are supported or rejected. Additionally, inductive analyses allowed me to identify unexpected themes or patterns in perceptions, opinions, and attitudes regarding the transitional justice process as they emerged.

By interpretively analyzing the text and identifying patterns, I identified nominal, or categorical, variables. For example, regarding (dis)satisfaction of transitional efforts as a whole, the theme or category of “current human rights issues” emerged, and variables of that include: “the Child Welfare System,” “the missing and murdered Indigenous women of the Downtown Eastside,” and “desecration of burial grounds.” Data reduction and analyses took place over a period of approximately four months. These research methods serve to evaluate and problematize the use of transitional justice method and theory for redress of abuses against minority groups/cultures in an advanced democratic nation that has not experienced a thorough transition in governance. Findings from this dissertation research are summarized throughout the following four chapters.

⁹⁹ H. Russell Bernard, *Research Methods in Anthropology: Qualitative and Quantitative Approaches*, (Lanham, MD: Altamira Press, 2006).

Because the vernacular term to discuss transitional justice often was “reconciliation” and the stated goals of transitional justice include reconciliation, the first chapter, *Definitions of Reconciliation*, presents a linguistic exploration into the myriad of definitions of the term that were revealed in the course of the research. Critical discourse analysis explores the implications of definitions of reconciliation that include from “a conversation” to “settlers leaving.” The second chapter, *Knowledge (Re)production in “Post-Colonial” Canada* investigates the relationship between contemporary tenets of modern anthropological research, knowledge production, and structural violence in societies with histories of colonialism. The third chapter, *An Unending War: Sociopolitical Perceptions in Peacetime* studies the relationship between ongoing human rights violations and perceived success of transitional justice. Finally, *A Counternarrative to Transitional Justice in Canada* explores the possibility of transitional justice being used as a tool to inhibit, rather than foster, social change, reproducing the status quo. These four sets of findings are then summarized in a concluding chapter to discuss 1) how knowledge production affects anthropological fieldwork in human rights investigations, 2) the impacts of various philosophical theory on anthropological research, 3) the perceived efficacy of transitional justice in Canada, and 4) how 1-3 affect the universal applicability of transitional justice.

ENTR'ACTE 1

"I have learned that they [residential school staff] tended to abuse the same children over and over. Two children in the same school could have a very different experience, while some were repeatedly abused, others just lost their language and their culture."¹⁰⁰

-Carmen, *Intergenerational Survivor*-

"It is time to heal our communities and our nations. Tribal nations and the United States both stand to benefit immensely by stepping towards recovery and righting the relationship that continues to suffer because of wide scale denial and ignorance of the history of the United States boarding school policy."¹⁰¹

-Native American Rights Fund-

¹⁰⁰ Carmen, *Public Event*.

¹⁰¹ Native American Rights Fund, "Cultural Genocide Veiled as Education—The Time for Healing is Now," Indian Country Today Media Network, 22 June 2014, <http://indiancountrytodaymedianetwork.com/2014/06/22/cultural-genocide-veiled-education-time-healing-now-155352?page=0%2C6>

CHAPTER ONE: Definitions of Reconciliation

“Word over all, beautiful as the sky! Beautiful that war, and all its deeds of carnage, must in time be utterly lost; That the hands of the sisters Death and Night, incessantly softly wash again, and ever again, this soil'd world:... For my enemy is dead--a man divine as myself is dead; I look where he lies, white-faced and still, in the coffin--I draw near; I bend down, and touch lightly with my lips the white face in the coffin.” Walt Whitman, “Reconciliation,” 1892¹⁰²

Facilitating accountability, justice, and reconciliation, transitional justice frameworks are increasingly employed around the world to address human rights violations committed by governments against their own citizens. Once reserved for nations that underwent a political transition with the perpetrating government removed from power, its use in divided societies to address colonial legacies and structural violence has grown. Oftentimes, transitional justice frameworks utilize various mechanisms such as those instituted in Canada: an investigative truth and reconciliation commission, monetary reparations, commemoration projects, the potential for grave excavation, and identification and/or repatriation of remains. In conjunction with this approach, a recurrent, though ill-defined, use of the word *reconciliation* reverberates throughout Canadian transitional justice and human rights discourse. To understand perceptions of transitional justice success, *reconciliation*, the stated goal and commonly-used term needed to be assessed: *Are there multiple definitions of reconciliation? If so, are they similar or disparate, and for whom? Are there any identifiable themes or patterns within the definitions? How is reconciliation discourse being used by various actors in the transitional justice process?*

Based on my findings, I argue that the wide array of *reconciliation* definitions reveals disparate goals and interpretations of the transitional justice process among various stakeholders, which in turn affect perceptions of success. Additionally, I propose that *reconciliation* has been adopted from transitional justice discourse to garner support for social reform. To do this, a brief

¹⁰² Walt Whitman, “Reconciliation” in *Leaves of Grass* (Walt Whitman, 1892).

semantic analysis and the use of critical discourse analysis (or studies) examines reconciliation in human rights and transitional justice discourse. After discussing the premise for critical discourse studies, I will situate reconciliation in transitional justice theory. Then reconciliation will be discussed in the Canadian context before engaging in the linguistic analysis. I use critical discourse studies to frame the investigation of the meaning of reconciliation.

Critical Discourse Studies

Rooted in the critical linguistics of the 1970s, critical discourse studies (CDS) is motivated by the Frankfurt School's critical theory. The Frankfurt School, with neo-Marxist characteristics, focused on supporting social change and critiquing the use of positivism, amongst other popular orientations in social theory. Critical theory, with foundations in the critical philosophy of Immanuel Kant, prioritizes the critique of knowledge. One aspect of critical theory is found in the ways that researchers from across the social sciences utilize an interdisciplinary approach to inductively identify relationships between cultural ideologies and language and to understand the reproduction of or resistance to power relations through language.¹⁰³ Specifically, CDS examines "opaque as well as transparent structural relationships of dominance, discrimination, power and control as manifested in language."¹⁰⁴ Using linguistic methods, CDS can also draw from social theorists such as Foucault and Bourdieu who also examine the reproduction of power through discourse.

¹⁰³ Ruth Wodak and Michael Meyer, "Critical Discourse Analysis: History, Agenda, Theory, and Methodology" in *Methods for Critical Discourse Analysis* eds. Ruth Wodak and Michael Meyer (London: SAGE Publications, Ltd., 2009), 1-33.

¹⁰⁴ Ruth Wodak, "Critical linguistics and critical discourse analysis," in *Handbook of Pragmatics* eds. Jef Verschueren, Jan-Ola Oestman, Jan Blommaert, and Chris Bulcaen (Philadelphia: John Benjamins Publishing Company, 1995), 204.

To conduct such an analysis, researchers inspect linkages between the microlevel discourse and the macrolevel systems of power. Macrolevels of power exist at the societal level and can be expressed in ways that result in the domination of groups through law, social norms, and consensus. This kind of power, or hegemony, is not always overt, and in fact can be integrated into everyday life in the form of structural violence (social injustice and unequal access to resources). Discourse becomes relevant in these demonstrations of power because action is influenced by knowledge and opinions; thus control of knowledge or opinion via discourse can mean indirect control of others' actions.¹⁰⁵ Knowing this, CDS researchers often question who has access to bodies of discourse and the discursive components of the discourse (e.g. the context of the discourse, the structure of the speech used).

Part of the “critical” component of CDS is awareness that the researcher is an actor in society and acknowledging that “science, and especially scholarly discourse, are inherently part of and influenced by social structure.”¹⁰⁶ A CDS approach holds no pretense that the research itself is neutral and unaffected by the sociopolitical context. Based on the theoretical workings of Foucault, discourse is not viewed by CDS scholars as neutral; instead, discourse and language are viewed as constructors of knowledge and social relations. Power then is manifested at all levels of society and acting on all individuals, rather than existing as a thing to be possessed by select individuals. Diverging from popular understandings of power that preceded him, Foucault viewed power as pervasive, existing everywhere and in every thing, and as such, power has infinite forms. Similarly, discourse, which can be used to display power, can refer to an image or monument, a policy, a political approach, text, spoken word, speech acts, gestures, and

¹⁰⁵ Teun A. van Dijk, “Critical Discourse Analysis,” in *Discourse Studies: A Multidisciplinary Introduction* eds. Teun A. van Dijk (London: SAGE Publications, Ltd., 2009), 355.

¹⁰⁶ van Dijk, *Critical Discourse Analysis*, 352.

presentations.¹⁰⁷ Because CDS aims to interpret and problematize social and political relationships from the lens of power and discourse, often research occurs in cooperation with marginalized groups as can be seen in public, feminist, and activist anthropology. Originating in deep-seated dialogues of power and language, in the 1990s, CDS gained momentum with Teun van Dijk, Norman Fairclough, Gunther Kress, Theo van Leeuwen, and Ruth Wodak.¹⁰⁸ In 1993 Fairclough described the theoretical premises on which critical discourse studies relies: discourse shapes society and society shapes discourse; discourse changes or reinforces social identity, knowledge, and relationships; discourse is influenced by power and reflects ideologies, if language is a tool for social control then it is resisted or reproduced; and CDAS analyzes the relationship between discourse and society.¹⁰⁹ Fairclough and Wodak break down these fundamental principles further:

- CDS addresses social problems
- Power relations are discursive
- Discourse constitutes society and culture
- Discourse promotes ideologies
- Discourse is historical
- The link between text and society is mediated
- Discourse analysis is interpretive and explanatory
- Discourse is a form of social action¹¹⁰

Using a critical discourse studies approach, linguistics moves beyond describing units of language to explain how discourse is a social action used to reproduce or resist power. Because reconciliation is a term propagated by both the same government system that operated the Indian Residential Schools and the school survivors, its use can reveal information about the power relations between dominant Canadian culture and Native resistance. To begin the exploration

¹⁰⁷ Wodak and Meyer, *Critical Discourse Analysis*, 2-3.

¹⁰⁸ Wodak and Meyer, *Critical Discourse Analysis*, 3.

¹⁰⁹ Norman Fairclough, *Discourse and Social Change*. Cambridge, UK: Polity Press, 1993.

¹¹⁰ Norman Fairclough and Ruth Wodak, "Critical Discourse Analysis" in *Discourse Studies, A Multidisciplinary Introduction*, Vol. 2. *Discourse as Social Interaction*, eds. Teun van Dijk (London: SAGE Publications, Ltd., 1997), 258-284.

into the use of *reconciliation*, the term will first be positioned within broader transitional justice debates.

“Reconciliation” in Transitional Justice Theory

Transitional justice rests on the premise that temporary judicial and non-judicial tactics can achieve a variety of goals, one of which is reconciliation—one of the most controversial and heavily debated concepts in transitional justice theory.¹¹¹ Transitional justice, legal studies, peace and conflict studies, and human rights scholars have a vested interest in questions concerning who and what are being reconciled; the definition and primary goals of reconciliation; the retributive, restorative, or transformative properties of reconciliation; and if, or how, reconciliation is achieved. These questions progress theoretical debates while potentially improving the execution of transitional justice programs.¹¹² Furthermore, practitioners and scholars acknowledge the potential for transitional justice tools and discourse to further political interests, and in the research conducted here, political subtext is apparent to survivors of the Indian Residential Schools. For instance, the continued pursuit of resource extraction to the detriment of Native communities has led some Indigenous peoples to conclude that the movement for “reconciliation” is an attempt for the government to ingratiate itself with Native populations to gain access to land and resources. Transitional justice can be profitable in various ways, and countries engaging in transitional justice frameworks understand the economic benefits of reconciliation, and many nations “eventually begin talking of reconciliation, either because they truly believe in it or because they truly believe that reconciliation has cash value

¹¹¹ Elin Skaar, “Reconciliation in a Transitional Justice Perspective,” *Transitional Justice Review* 1(2012):54-103.

¹¹² Erin Daly, “Transformative Justice: Charting a Path to Reconciliation,” *International Legal Perspectives* 12(2002):73-183.

insofar as donor nations insist on a conciliatory component.”¹¹³ Because reconciliation’s potential as a tool for political or economic gain rivals its ability to achieve social change, transitional justice researchers have sought to identify how stakeholders interpret reconciliation in various contexts.

In its broadest sense, reconciliation has been described as a tool for ending cycles of violence, creating socially-inclusive ideologies, and effecting political change.¹¹⁴ Within transitional justice discourse, Wilson has observed three varieties of reconciliation: abstract intellectual reconciliation, which entails reconciliation of oneself with the past and elaboration of concepts that contribute to nation-building; religious-redemption, or forgiveness; and legal discourse that seeks to fulfill the law and achieve justice.¹¹⁵ These types of reconciliation are seen at an individual level, a local level, and a national level.

At an individual level, popular theories on the definition of reconciliation include: reconciling with oneself, forgiving oneself, and accepting that trauma occurred; colloquially, in a Canadian context these endeavors were referred to as *healing oneself*, and correspond to Wilson’s abstract intellectual reconciliation.¹¹⁶ At a local level, reconciliation can be understood specifically as a peaceful reintegration of individual perpetrators into society, which often requires mending relationships between individual victims and offenders and the sacrifice of legal action in lieu of integration. Reintegration may be framed as the religious-redemption approach or the legal approach that institutes policies of amnesty.¹¹⁷ The reintegration of

¹¹³ Erin Daly, *Transformative Justice*, 84-85.

¹¹⁴ Anderlini, Conway, and Kays, *Transitional Justice and Reconciliation*, 2

¹¹⁵ Richard A. Wilson, “Justice and Legitimacy in the South African Transition” in *The Politics of Memory: Transitional Justice in Democratizing Societies*. Eds. A. Barahona de Brito, C. Gonzalez-Enriquez, and P. Aguilar (Oxford: Oxford University Press, 2001) 190-217.

¹¹⁶ Anderlini, Conway, and Kays, *Transitional Justice and Reconciliation*, 2

¹¹⁷ Marc Forget, “Crime as interpersonal Conflict: Reconciliation Between Victim and Offender,” in *Dilemmas of Reconciliation: Cases and Concepts*, eds. Carol Prager and Trudy Govier (Ontario: Wilfrid Laurier University Press, 2003), 111-135.

perpetrators into society may be the most commonly discussed form of reconciliation amongst transitional justice scholars and practitioners. In Sierra Leone, for example, peace-building facilitators discuss reconciliation in the context of the reunification of ex-combatants with their families and the perpetrators request for God's forgiveness.¹¹⁸ Similarly, the use of *mato oput* in northern Uganda is considered a ceremony of reconciliation for ex-combatants.¹¹⁹ Because of the often unclear delineation between victim and perpetrator, as in the case of child soldiers, societies have been prioritizing these reconciliatory approaches over punitive measures at the local level.¹²⁰ Establishing a functioning community through such integration often presumably reflects success in achieving reconciliation at this level.¹²¹ Within this dialogue, theorists understand reconciliation to be a unification of society via the creation of a shared memory through revealing wrongs committed.¹²² Local-level reconciliation efforts can also be implemented by non-governmental organizations, governmental institutions, and other establishments. At the community level, as opposed to national level, reconciliation attempts to address human rights violations or institutionalized racism.

Finally, transitional justice scholars and facilitators recognize that reconciliation at the national level can constitute nationwide social change, including interethnic or political reconciliation to mend relationships between groups in conflict.¹²³ In contrast to the abstract reconciliation of societal unification, on a much more pragmatic level, Van Zyl's research reveals that some South African groups required monetary reparation to achieve reconciliation;

¹¹⁸ Rosalind Shaw, "Remembering to forget: Report on local techniques of healing and reconciliation for child ex-combatants in Northern Sierra Leone" (Tufts University, 2002).

¹¹⁹ Tim Allen and Koen Vlassenroot, *The Lord's Resistance Army: Myth and Reality* (New York: Zed Books, Ltd., 2010).

¹²⁰ Barney Afako, "Reconciliation and Justice, 'Mato oput and the Amnesty Act.'" *Conciliation Resources Accord* 11. (2002):44-47. <http://www.c-r.org/accord-article/reconciliation-and-justice-%E2%80%98mato-oput%E2%80%99-and-amnesty-act-2002>

¹²¹ International Center for Transitional Justice, "What is Transitional Justice," 2008.

¹²² Hamber and Wilson, *Symbolic closure*.

¹²³ Elin Skaar, *Reconciliation in a Transitional Justice Perspective*.

some sought the return of land that was taken from Africans; and others still wanted the White colonizing populace to be removed.¹²⁴ Similarly, in Mozambique and Rwanda, economic needs of survivors that resulted from the lasting effects of conflict frequently came to light.¹²⁵ Most importantly, as has been seen in transitional justice research, reconciliation can have different meanings between cultures within divided societies, confounding a universal application and requiring tailoring to meet the goals of a given culture; and, reconciliation often has different meanings among members of the same sociocultural group.¹²⁶

With such a wide spectrum of possible definitions of reconciliation, the matter no longer becomes a question of success or failure. As different components of society have social or political interests in mind, one can question which version of reconciliation will be prioritized. Perhaps a government will pursue reconciliation as defined by human rights discourse, which promotes political conversions to democracy and a Western (often punitive) legal framework (e.g. use of the International Criminal Court).¹²⁷ On the other hand, reconciliation as defined by survivors could range from individual mental health care to community-wide educational performances.. One need explore which survivors' definitions of reconciliation are being practiced, and why. In addition to these questions, academics discussing reconciliation in transitional justice theory often frame reconciliation in opposition to retribution as a justice alternative.

¹²⁴ Paul van Zyl, "Dilemmas of Transitional Justice: The Case of South Africa's Truth and Reconciliation Commission," *Journal of International Affairs* 52(1999):647-667.

¹²⁵ Helen Cobban, *Amnesty after Atrocity? Healing Nations after Genocide and War Crimes* (Boulder, Co.: Paradigm Publishers, 2007).

¹²⁶ Sarah Wagner, "Identifying Srebrenica's Missing: The "Shaky Balance" of Universalism and Particularism," in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, edited by Alexander Laban Hinton (New Jersey: Rutgers University Press, 2011).

¹²⁷ Simon Robins, "Transitional Justice as an Elite Discourse: Human Rights Practice Where the Global Meets the Local in Post-conflict Nepal" *Critical Asian Studies* 44(2012):3-30.

Scholars of structural violence, political economy, and post-colonialism, who also study the global and economic factors that influence justice and reconciliation efforts are aware of the motivations for governments to allow reconciliation to remain undefined. As previously mentioned, international funding or the presence of transnational non-governmental organizations that fund reconciliation efforts add another political dimension to the already cluttered arena.¹²⁸ Transitional justice theoretical debates question the very definition of reconciliation, the political and economic motivations behind the use of reconciliation, the efficacy of reconciliation as an objective, and motivations for its use in lieu of retributive justice.¹²⁹ Because of the debated use of transitional justice for political gain, critical discourse analysis provides a natural lens for analyzing the relationship between reconciliation and power structures.

I collected data via ethnographic research in the form of interviews, observation, teachings, and participant observation that occurred primarily in British Columbia, Canada from May-June 2011, May-August 2012, and June-December 2013. With each visit to the field, use of the term reconciliation became increasingly prevalent within both the Indigenous community and the government rhetoric. Of interest to the relationship between language and power in Canada are the disparate definitions and uses of the term and the expanding use of reconciliation in relation to other Indigenous rights issues.

With the implementation of transitional justice in Canada came a nationwide truth and reconciliation commission, committed to investigating the events that took place within the residential school system and charged with hosting seven national truth and reconciliation events

¹²⁸ Ruti Teitel, "Editorial Note-Transitional Justice Globalized" *The International Journal of Transitional Justice* 2(2008):1-4.

¹²⁹ Luc Huyse, "Introduction: tradition-based approaches in peacemaking, transitional justice and reconciliation politics" in *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences* eds. Luc Huyse and Mark Salter (International Idea, 2008).

across the country. In June of 2013, Vancouver, British Columbia launched a “Year of Reconciliation” for the city, and this trend has continued throughout other major Canadian cities, including the nation’s capital, Ottawa. During the same week, the city of Vancouver hosted a Walk for Reconciliation that had approximately 70,000 participants.¹³⁰ In addition to this, Reconciliation Canada, a non-governmental organization led by well-renowned Chief Dr. Robert Joseph, launched in 2013 with a vision, “to promote reconciliation by engaging Canadians in dialogue that revitalizes the relationships between Aboriginal peoples and all Canadians in order to build resilience.”¹³¹ The swelling popularity of reconciliation as a goal and as an ideology has led to numerous public events and online dialogue concerning its meaning and purpose. Moreover, the transitional justice discourse surrounding reconciliation has been adopted by non-Indigenous marginalized populations.

Reconciliation Discourse and the Chinese Head Tax

During the third field session, members of other marginalized communities in Canada began to call for reconciliation and stand in solidarity with the Indigenous community. Perhaps the strongest alliance being forged was that between one portion of the Chinese community in the Vancouver region that was seeking redress for the historic Chinese Head Tax and the Indigenous organizations of the Downtown Eastside.

In the 1850s Chinese immigration into Canada increased due to the gold rush in British Columbia and the marshaling of Chinese labor for the Canadian Pacific Railway. Upon completion of the railway in 1885, the Canadian government imposed a \$50 fee, or Head Tax, on every Chinese person entering Canada in an effort to restrict Chinese immigration. By 1903, the

¹³⁰ Sarah Taguian, “70,000 people take part in Walk for Reconciliation in Vancouver,” O Canada news, 23 September 2013, <http://o.canada.com/news/70000-walk-for-reconciliation>.

¹³¹ Reconciliation Canada, “Introduction,” <http://reconciliationcanada.ca/>.

Head Tax had increased to \$500, or approximately two years' wages; and most Chinese immigrants were also being denied citizenship. In 1923, greater restrictions were placed on Chinese immigrants via the Chinese Exclusion Act and only fifty Chinese individuals were admitted into the country between 1923 and 1947. The impact of the Chinese Head Tax and Chinese Exclusion Act has been long-lasting. Countless families were left divided with some members in China and some in Canada; often wives and children were not admitted into the country by the Canadian government. Families were saddled with great economic burdens and divided between two continents.¹³²

In 2006, Prime Minister Stephen Harper performed a public apology to the Chinese-Canadian community for the Head Tax and Exclusion Act and offered money in the form of reparations to survivors who had paid the Head Tax and in the form of community commemoration projects.¹³³ However, not all of the organizations representing affected individuals were included in the negotiation process which has Chinese-Canadians across the country separated on the issue.¹³⁴ To complicate matters, the Canadian Taxpayers Federation opposes all monetary reparations, stating: "The danger is that it fosters other groups to come forward and also demand compensation and tax money... We'd kind of get into a cycle whereby it's one group after another."¹³⁵ In reality, the statement subtly acknowledges the government oppression of numerous minority groups who would deserve monetary reparations.

¹³² Chinese Canadian National Council, "History," last accessed 15 June 2014. <http://www.ccnc.ca/redress/history.html>

¹³³ Office of the Prime Minister, "Press Release: Prime Minister Harper Offers Full Apology for the Chinese Head Tax," 22 June 2006. <http://www.pm.gc.ca/eng/news/2006/06/22/prime-minister-harper-offers-full-apology-chinese-head-tax>.

¹³⁴ Bill Chu, "B.C. Chinese Head Tax Apology Not Genuine With Divide And Conquer Tactics," *The Huffington Post*, 13 January 2014, http://www.huffingtonpost.ca/bill-chu/bc-chinese-head-tax-apology-clark-ethnicgate_b_4591609.html

¹³⁵ Canadian Broadcasting Channel News, "Chinese descendants to receive compensation for head tax," *CBC News*, 17 November 2005. <http://www.cbc.ca/news/canada/chinese-descendants-to-receive-compensation-for-head-tax-1.551028>

The negotiation between members of the Chinese community and the government included discussion of reparations for Head Taxpayers' descendants because of the ensuing intergenerational effects and ongoing discrimination. However, reparations for descendants would surpass the government's offer which was only extended to those who paid the Head Tax. These dialogues led to the 2013 conversations between Indigenous leaders and Chinese community leaders. The Chinese community expected a provincial apology from British Columbia concerning the Head Tax and Exclusionary Act, but wanted to stand in solidarity with the Indigenous community and requested a provincial apology for the use of Indian Residential Schools as well. The Chinese Head Tax apology would have occurred earlier but was delayed due to a political scandal. A relationship between Liberal governmental attempts to gain ethnic minority votes and the issuance of public apologies was exposed.¹³⁶ In response to the exposure and the misallocation of funds, four government officials resigned.¹³⁷ In anticipation of the forthcoming post-scandal apology, reconciliation discourse fed the alliance between a group of Chinese Head Tax reparations proponents and the Indigenous community.

The growing allegiance also became clear at the Truth and Reconciliation Commission 2013 National Event in Vancouver which had a panel session with young adults representing four communities: Indigenous, Chinese, Japanese, and Jewish. The discussion explored the meaning of reconciliation for these four communities who felt intense pressure to sacrifice their distinct identities, experienced ongoing violations of their rights, and faced government discrimination: the Indigenous through Indian Residential Schools; the Chinese through the Head

¹³⁶ Petti Fong, "B.C. Premier Christy Clark faces calls to resign," *The Star News*, 3 March 2013.

http://www.thestar.com/news/canada/2013/03/03/bc_premier_christy_clark_faces_calls_to_resign.html

¹³⁷ Petti Fong, "Report into ethnic-vote strategy by B.C. Liberals fuels another resignation," *The Star News*, 14 March 2013.

http://www.thestar.com/news/canada/2013/03/14/report_into_ethnicvote_strategy_by_bc_liberals_fuels_another_resignation.html

Tax and Exclusion Act; the Japanese through the use of Internment Camps; and the Jewish via the Holocaust. The Jewish youth's experiences and family history illuminated parallels between the recognized genocide of the Holocaust and the treatment of the other three groups by the Canadian government. All groups suffered displacement, restrictions on movement, separation of families, discriminatory laws and policies, deaths due to government policy, long-lasting intergenerational effects, and other forms of both direct and indirect violence.

In a similar vein, the Indigenous community reached out to other groups to show support and unity. For example, when attending a Walk for Transgender Rights that occurred on Commercial Drive in the summer of 2013, a prominent member of the Vancouver Indigenous community attended. Kat, a local Indigenous rights activist, community leader, and respected Elder, orated an opening speech for the transgender walk. She declared that the Indigenous community stood as allies for the Lesbian Gay Bisexual Transgender Queer (LGBTQ) community, as both experienced discrimination and systemic violence by the government and mainstream Euro-Canadian culture. After a short speech, she sang a warrior song and led a short prayer ceremony. While the details of the ceremony were largely lost on those in attendance who tried to reject the ceremonial tobacco because they "did not smoke," most appeared to understand the gesture was one of solidarity.

Yet another example of human rights and reconciliation discourse merging communities with histories of oppression can be seen at a 2013 reconciliation workshop that occurred in Vancouver, British Columbia. The workshop, led by a member of the Indigenous community, focused heavily on reconciliation and anti-oppression for all minority groups, including: non-able-bodied people, ethnic minorities, the elderly, non-cis-gendered individuals, and non-heteronormative individuals to name a few. Growing use of the term reconciliation visibly

occurred with each visit into the field, rallying various minority groups together in alliance and necessitating further exploration into the definition of the term both semantically and in discourse.

Analysis of Reconciliation

Semantics

Linguistically, reconciliation, a word with Latin origin, can be reduced to its verb form *to reconcile* and its suffix *-tion*. Composed of two parts, *re-* means “again,” and *concilare* means “to make friendly.” The suffix *-tion*, *-ion*, *-sion* expresses an action or a state of something and converts the verb root into an abstract noun. Lexical semantic investigation of a word’s meaning requires an examination of both 1) the word’s reference, or the relationship between a word and objects in the world, and 2) its sense, or the concept that people have for the word in their minds.

First, word references can be constant or variable. Constant references include proper names, such as *William Shakespeare*, which refers to a specific individual. In contrast to this, reconciliation, which also functions as a noun in English, has a variable reference because it can refer to many forms and instances of reconciliation, not just one particular occurrence of reconciliation. When reconciliation is used, people can imagine many occasions of reconciliation, but that does not guarantee that any of those instances reflect the meaning of reconciliation in any given context. For example, if someone mentions the word *flower*, there are myriad flowers that could be referred to by the speaker: e.g. *rose*, *petunia*, *orchid*. However none of the individual flowers encompass the entirety of the word *flower*; the word *rose* does not define *flower*. In the same way, when the word reconciliation is used it can refer to many forms

of reconciliation. For words with variable references, the language speakers may deduce the meaning in several ways.

Dictionary-style definitions of a word rely on paraphrasing. The paraphrasing technique necessitates the use of other words to create a definition of a word and is also influenced by cultural interpretations. Examples of dictionary-style definitions for reconciliation include that of the Roman Catholic faith which describes reconciliation as an act of penance. It is an opportunity to confess wrongdoing, to ask forgiveness, and to restore one's relationship with God. In the Merriam-Webster dictionary there exist two definitions: 1) the act of causing two people or groups to become friendly again after an argument or disagreement, and 2) the process of finding a way to make two different ideas exist or be true at the same time.¹³⁸ Dictionary definitions such as these use a set of words to describe reconciliation, and those words also need to have meanings defined, created a cyclical effect of words defined by words defined by words in which there is no origin.

In addition to dictionary definitions, there are mental images that people associate with words, but not all words generate such mental images. Interestingly, the mental image that comes to mind for a word usually does not encapsulate all possible meanings and variations of a word. For example, mental images conjured by the word reconciliation may include those of confessionals, handshakes, hugs, or apology letters. Because reference, dictionary definition, and mental image alone cannot convey a word's meaning, sense (i.e. ideas related to words that people store in their minds) needs to be considered for understanding the meaning of words. Sense is abstract. After the reference is accounted for, any additional understanding a person has of a word's meaning is its sense. The sense is the inherent understanding that allows someone to know which referent a word is indicating. *Reconciliation*, an abstract concept, and the presence

¹³⁸ Merriam-Webster Dictionary. <http://www.merriam-webster.com/>

of its many definitions, is acknowledged by participants in the transitional justice process in Canada. If transitional justice seeks reconciliation, then to assess its efficacy, one should first understand what the word means to various stakeholders in the Canadian context, beyond its semantic origin.

Reconciliation in Discourse

From the social phenomena tied to the use of the word *reconciliation*, data is drawn from observation of a public reconciliation event, two written online resources, and the text of Canada's national apology delivered by Prime Minister Stephen Harper (see Appendix A). First, at the 2013 Vancouver National Truth and Reconciliation Event, I observed Indigenous and non-Indigenous discussion concerning the term reconciliation in a town hall session. Virtually, the Truth and Reconciliation Commission of Canada's website allows users to post response to the prompt "why reconciliation matters to me," while another website, Reconciliation Canada's Facebook page, has a photo album picturing individuals with their written definitions of reconciliation.¹³⁹ Finally, the 2008 national apology issued by Prime Minister Harper was reviewed for use of the term reconciliation. I coded responses from all sources thematically to identify patterns and frequency of responses; individual responses often incorporated several concepts that were coded separately.

First, both of the online resources revealed that many definitions of reconciliation existed, though several broad themes were apparent. Reconciliation Canada's sixty-eight participants submitted photographs from across Canada, representing a heterogeneous demographic of people of varying ethnicities, ages, and genders. Many of these responses reflected abstract concepts

¹³⁹ Truth and Reconciliation Commission of Canada, "Why Reconciliation Matters to me," last accessed 15 February 2014. <http://www.trc.ca/websites/reconciliation/index.php?p=328>

(see Table 1), defining reconciliation as togetherness (16), healing (16), change/better future for Canada (14), peace (9), love (6), justice (6), understanding (4), respect (3), empathy (3), happiness (2), and balance (1). Other responses were discrete actions that comprised reconciliation: acknowledgement of wrongdoing (8), education (8), restoration (7), forgiving (5), equal rights (2), listening (2), and apology (2). Finally, one individual candidly defined reconciliation as, “I don’t know.” At its very least, the survey succeeded in revealing that many different ideas of the definition of reconciliation permeate the Canadian populace. Rather than one unifying concept, the term produces a number of ideas. These responses focused on abstract,

Table 1: Reconciliation Canada Facebook Photo Album “What does reconciliation mean to you?”			
Response	Quantity	Response	Quantity
Togetherness	16	Understanding	5
Healing	16	Respect	3
Important for Canada’s Future	14	Empathy	3
Peace	9	Happiness	2
Acknowledgement	8	Equal rights	2
Education	8	Listening	2
Restoration	7	Apology	2
Love	6	Balance	1
Accountability/Justice	6	I don’t know	1
Forgiveness	5		
Total Participants: 68			

intangible perceptions of reconciliation. For instance, “togetherness” does not clarify which relationships should be built: church-survivor, public-survivor, government-survivor, or a different relationship entirely. Similarly, “healing” fails to explain who will be healed and what type of healing individuals need: emotional, psychological, physical, and so forth. “Improving Canada for future generations” does reflect an understanding that social change needs to happen, though it does not directly challenge any specific facet of Canadian culture or policy. The complete responses of participants can be seen in Appendix B.

In a similar realm, the Truth and Reconciliation Commission of Canada’s website revealed a wide array of perspectives in response to “Why does reconciliation matter to you?” Of the twenty-seven respondents, reasons for pursuing reconciliation included (Table 2): improving Canada’s future (8), correcting history (5), eliminating racism (5), togetherness (5), respect (4), prevention (4), accountability/justice (4), health (3), healing (3), love (2), equal rights (2), guilt (1), pride in culture (1) (Appendix C). Again, people provided many abstract responses, but several revealed concrete goals such as mitigating racism and promoting equal rights. These last two sentiments align closely with findings from observations taken at the national truth and reconciliation commission event.

The TRCC national event in Vancouver hosted a session called a “Town Hall,” in which facilitators encouraged individuals to participate under the guidance of a moderator. The theme for this town hall was “What is reconciliation?,” and responses included (Table 3): decolonization (6), recognition of Native culture (5), healing (4), sincere apology (2), forgiveness (2), public accountability (1), cessation of natural resource extraction/contamination (1), cessation of removal of Indigenous children (1), end of racism (1), return of land to Indigenous peoples, (1), change (1), and communication (1). The people who spoke at the town

hall all self-identified as Indigenous, except for one. The town hall definitions of *reconciliation* that were provided primarily by Indigenous participants contained more concrete examples of societal change than the definitions provided by online contributors to the TRC and Reconciliation Canada webpages; the latter resources instead paralleled the prime minister's apology.

In 2008, Prime Minister Stephen Harper delivered a statement of apology concerning the residential school era. Within his statement he used the word reconciliation three times, two of which were in conjunction with the word healing, and at no time was the word defined. For instance, he stated, “in moving towards healing, reconciliation and resolution of the sad legacy of

Table 2: Truth and Reconciliation Commission “Reconciliation: It Matters to Me”			
Response	Quantity	Response	Quantity
Canada’s Future	8	Health	3
Correcting History	5	Healing	3
Eliminating Racism	5	Love	2
Togetherness	5	Equal Rights	2
Respect	4	Guilt	1
Prevention	4	Pride in Culture	1
Accountability/Justice	4		
Total Participants: 27			

Table 3: Town Hall Definitions of Reconciliation.			
Response	Quantity	Response	Quantity
Decolonization	6	Natural Resource Protection	1
Recognition of Native Culture	5	Protect Native Children from Foster Care	1
Healing	4	End of Racism	1
Sincere Apology	2	Land Repatriation	1
Forgiveness	2	Change	1
Public Accountability	1	Communication	1

Indian Residential Schools...”¹⁴⁰ Interestingly, throughout the speech he did discuss moving responses defining reconciliation. His rhetoric also did not include any mention of tangible, concrete social change that the government intended to pursue, aside from educating the public on Indian residential school history. While these sources all provide interesting and revealing data concerning reconciliation perceptions, there exist several limitations.

Limitations

Mixed methods of event observation, text analysis, and survey data from online resources reveal that there are a number of different understandings of the meaning and purpose of reconciliation in a Canadian context, but these contributions are biased in several ways. First, Reconciliation Canada has collected photos and definitions of reconciliation from Facebook

¹⁴⁰ National Post, “Text of the Apology” <http://www.nationalpost.com/news/story.html?id=213902c3-d55e-4f40-80fc-ed1adff81272>.

users, a heterogeneous demographic concerning age, gender, and ethnicity. However, the nature of a Facebook page biases users in favor of those who are computer literate and who use social media. Further, one needs to be aware of the Facebook page in order to access it, and the user also needs to know how to upload photographs to the page. Similarly, the Truth and Reconciliation Commission specifically appealed to an online user demographic of which no information is known, except that presumably, these individuals are aware of the concept of reconciliation. In contrast, the Town Hall meeting at the national event allowed people to congregate in person, and self-identified ethnicities revealed a dominant presence of Indigenous people, the number of respondents was more limited.

Discussion

The pervasive use of *reconciliation*, an already controversial term, in Canada's transitional justice framework, merits closer inspection of its role in the reproduction of or resistance to dominance. First, the evident lack of semantic uniformity in both theory and practice raises questions about how reconciliation as a goal can be reached, if what it entails is not agreed upon. Based on the online responses that define and explain the import of reconciliation, many abstract concepts are generated; concepts that cannot be operationalized. For example, peace, love, and happiness are all suggested definitions for reconciliation from the online resources and are words with positive connotations. By allowing individuals to interpret reconciliation as they please, without offering its own goals, the government is absolved from responsibility while maintain an image of a defender of peace, love, and happiness. For those who wish to maintain the status quo, including systems of structural violence, ambiguity allows for escape from accountability and avoidance of societal change. Transitional justice theory

exposes this tactic as Hansen cautions that the government, or the dominant group, may use transitional justice to avoid large-scale social reform.¹⁴¹ While ambiguity is inherent in understanding reconciliation because of the impressive array of interpretations of its meaning, the lack of clarity provides those in power with greater maneuverability. If the populace defines *reconciliation* with abstract concepts then the burden of fulfillment cannot be upheld.

From Reconciliation Canada's Facebook page, the more tangible suggested definitions of reconciliation did reflect the potential for suggested social change with responses that included education, restoration, and equal rights. However, half of the responses that defined reconciliation as some form of education also coupled education with closure, rather than cultural reform. Five of the seven responses that included restoration specifically described the restoration or repair of relationships, presumably between Indigenous and non-Indigenous Canadians. However, there is no description of what connotes restoration of relationships. Of the responses that focus on equal rights, only one specifically explains food sovereignty as a right, with the other response simply stating "equal rights and justice." These responses still fail to mention precise social actions that should occur.

Additionally, the truth and reconciliation commission website assumes reconciliation is important, implying its value by posing the question "why does reconciliation matter to you?" in lieu of "does reconciliation matter?" By phrasing the question in this manner, those responding are already prompted to explain the importance of reconciliation, as if its importance is not in question. Interestingly, reasons for pursuing reconciliation overlap with many of the Facebook definitions of reconciliation, such as togetherness, respect, and justice, yet again there are not clear descriptions of how those concepts would manifest themselves. Many responses appear to

¹⁴¹ Thomas Obel Hansen, "The vertical and horizontal expansion of transitional justice: Explanations and implications for a contested field," in *Transitional Justice Theories*, edited by Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth, (New York: Routledge, 2014).

understand reconciliation at the individual and community level, rather than at the national level, as they fail to address systemic change, and thus are not questioning the political hegemony.

The Indian Residential School history presents an alternative narrative to the peaceable relationship Canada portrays in popular media between settlers and the colonized peoples. In the ethnographic observations, Euro-Canadians repeatedly claim ignorance concerning the history Indigenous treatment. The Indian Residential School system, governance over Indigenous peoples, and Indigenous history have all been omitted from Canadian primary and secondary education. Only with pressure from the truth and reconciliation commission have two Canadian territories incorporated Indian residential school history into their secondary curricula. The Northwest Territories and Nunavut, comprised primarily of Aboriginals, announced the education change in October of 2012, adding residential school history and impacts to its curricula.¹⁴² By restricting this historical knowledge, dominance over Native populations is maintained. Regulating information concerning Native culture and history allows negative stereotypes to propagate with little resistance from the uninformed public. Continuous marginalization of Native populations allows for pursuit of natural resources without stopgaps from individuals in positions of power or the population en masse.

For example, by failing to know the Indian Residential School history in both the United States and Canada, citizens are unaware of the system of oppression with which they are collaborating. Modern day problems that are a direct result of Indian Residential School administration, including displacement, substance abuse, homelessness, and theft of language and culture are instead used in support of stereotypes of Natives as lazy or as drunkards. Likewise, Canadian citizenship tests omit information concerning the ongoing human rights

¹⁴² Canadian Broadcasting Channel News, "N.W.T., Nunavut launch residential school curricula," 2 October 2012. <http://www.cbc.ca/news/canada/north/n-w-t-nunavut-launch-residential-school-curriculum-1.1183964>.

issues faced by Indigenous peoples and the residential school era. Without the contextual information, immigrants do not understand the sociopolitical dynamic between the government and Aboriginals. In coastal regions, such as British Columbia, this is especially problematic due to the high number of immigrants who then unwittingly participate in Native marginalization. Restricting these dialogues about Native issues supports the current hegemonic structure; and those with power maintain it.

Framed similarly, when Euro-Canadians or Canadian immigrants are asked to participate in reconciliation with Indigenous peoples, they are being asked what reconciliation means to *them* and why it matters to *them*. They are not being asked to learn what reconciliation means to Native communities or Native peoples. Lack of knowledge of settler-Indigenous relations and a failure to understand the residential school system as part of a larger colonial agenda, contributes to the production of conceptual definitions, rather than tangible definitions, of reconciliation. If most popularly, the future of Canada is a reason to participate in reconciliation, then the need to understand what *reconciliation* consists of becomes all the more apparent. However, this critical part of the discourse is absent.

As a social action, the term reconciliation has been used to unify marginalized segments of society and create accountability for structural violence perpetrated by the government. Furthermore, perhaps the purpose of the discourse is to create allyship through establishing a dialogue about reconciliation where there previously was none and to build relationships between the mainstream public and Indigenous individuals. If so, then I would argue that the discourse is not succeeding in meeting this goal. In social justice arenas allies promote the self-identified best interests of the marginalized group with whom they are aligned. Allies continue to

support minority initiatives when it does not serve their own personal goals, which contrasts the current structure of reconciliation discourse.

The disparity in understandings of reconciliation is evident when observing the heterogeneous online responses in conjunction with the more homogeneous, Indigenous-dominated town hall definitions of reconciliation. While Native responses also include popular concepts such as forgiveness, healing, and the presence of sincere apologies, more pragmatic and executable suggestions were also contributed. The most popular response included a cessation of the dominant culture's colonial agenda, summarized in a term known as *decolonization*.

Decolonization has become a popular component of reconciliation colloquial dialogue with the publication of a popular book, *Unsettling the Settler Within: Indian Residential Schools, Truth-Telling, and Reconciliation in Canada*.¹⁴³ In brief, the text encourages dominant society to confront its own privilege concerning Indigenous-settler relations and is written from the perspective of a non-Native individual. Like reconciliation, the term decolonization has more unquantifiable implications such as identifying one's own collaboration in the colonial process as well as concrete goals, such as the termination of colonial policies and relations. Colonial endeavors are often defined by Indigenous groups as ongoing marginalization, systemic violence and include rights violations such as land seizure.

Substantive anti-colonial actions that were specifically identified at the town hall meeting as definitions of reconciliation included: ending individual and institutionalized racism, repatriation of land to Natives, recognition of Native culture and traditions, return of Native children to their families from the foster care system, and the termination of land and resource theft. For Indigenous populations, the Indian Act still governs Indigenous rights and Natives still

¹⁴³ Paulette Regan, *Unsettling the Settler Within: Indian Residential Schools, Truth-Telling, and Reconciliation in Canada*, (Vancouver: University of British Columbia Press, 2011).

struggle with the federal government concerning resource extraction and land title. By defining reconciliation in terms of practical applications, Indigenous people are utilizing discourse to resist current power structures. The government, at multiple levels, has presented itself as a proponent of reconciliation, and Indigenous populations have begun to use that to their advantage, framing the term reconciliation as social reform.

This interpretation is further supported by individual interviews that were conducted with Indigenous community leaders, in which reconciliation was defined as: repealing the Indian Act, cessation of Native grave desecration and robbery, return of Indigenous lands, and removal of the settler population from Canadian soil. Definitions of reconciliation reflect the nature of problems between Indigenous and the Canadian mainstream society. Controversy over land ownership, resource extraction, Native children in foster care, and the presence of structural racism are revealed in the Indigenous-dominated responses. Reconciliation in its intangible sense, such as a definition of moving forward together or obtaining peace and love, allows the government to promote an ideology that does not require concrete action, and thus reproduces the status quo, again hindering large shifts in political power.

Contrastingly, in Indigenous-driven dialogue on reconciliation, the definition reflects the desire for reconstructing the relationship between Natives, the government, and mainstream culture. While non-Indigenous individuals appear to understand the need to reflect on their historic collaboration with Indigenous oppression, the ongoing Indigenous rights issues are often overlooked. One of the truth and reconciliation commissioners, Justice Murray Sinclair, announced that “reconciliation is not a new opportunity to convince aboriginal people to “get

over it” and become like ‘everyone else’... that’s what residential schools were all about.”¹⁴⁴

This sentiment manifests a need greater than closure-- a need for Aboriginal cultural acceptance, which also aligns with comments shared at the Indigenous-led town hall discussion.

Another aspect of the discourse-power relationship depicted in the use of reconciliation is its role in building relationships with other marginalized groups. As the Chinese-Canadian population, the Japanese, the LGBTQ community and others begin to unite through reconciliation and its related decolonization discourse, the body of resistance against structural violence grows in unison, rather than as separate smaller and more easily silenced groups. Moreover, the groups have taken the ill-defined, and in many ways unproductive term *reconciliation* and ascribed it with definitions that rely on powerful social justice change.

Conclusion

Reconciliation in transitional justice discourse remains a heavily contentious term in the Canadian context. As individuals explore their own definitions of reconciliation, the diversity in understanding quickly becomes apparent. The more intangible responses potentially reflect an unawareness of the historical and sociopolitical complexity of Aboriginal and non-Aboriginal relations. While the definitions of reconciliation reveal the multiplicity of interpretations that exist, the discussion does not include questions concerning who is being reconciled with whom, how reconciliation will be operationalized, or how success of reconciliation will be evaluated. Responses reflect the current presence of structural violence, as government websites, such as that of the truth commission, and that of its partner NGO, Reconciliation Canada, largely advertise intangible concepts of reconciliation while Indigenous-driven responses reflect the

¹⁴⁴ Murray Sinclair, “Reconciliation not opportunity to “get over it”: Justice Murray Sinclair,” *CBC News*, 18 April 2014. <http://www.cbc.ca/news/aboriginal/reconciliation-not-opportunity-to-get-over-it-justice-murray-sinclair-1.2614352>

need for social reform. These intangible definitions of peace and love are consistent with reconciliation at the individual level, but those seeking reconciliation at the national level are requesting political change. Reconciliation as a term has been deeply incorporated into political rhetoric, allowing for the easy creation of positive associations with government efforts to redress Indian residential school history. However, partnered with reconciliation is the increasingly popular use of the term decolonization, which in all definitions requires social reform, whether at the national or individual level. While the individual, local, and national goals of reconciliation remain contentious in transitional justice theory, critical discourse analysis succeeds in revealing a relationship between discourse (or lack thereof) and the reproduction of and resistance to sociopolitical dominance; Indigenous dialogue positions reconciliation as a tool for societal change and individual healing while dominant culture pursues an abstract understanding that does not challenge the status quo. As the linguistic diversity in understanding the meaning of reconciliation reveals the presence of a desire for greater social reform, the relationship between structural violence and neo-colonialism to the transitional justice process in Canada will be further explored in the following chapter, *Anthropological Knowledge Production in “Post-Colonial” Canada*. This chapter examines how knowledge is produced by both researchers and participants in Canada’s transitional justice process.

ENTR'ACTE 2

“The language, through images and symbols, gave us a view of the world, but it had a beauty on its own. The home and the field were then our pre-primary school but what is important for this discussion, is that the language of the evening teach-ins, and the language of our work in the field were one. And then I went to school, a colonial school, and this harmony was broken. The language of my education was no longer the language of my culture.”¹⁴⁵

-Ngugi Wa Thiong'o-

“...back in the day the government's idea was kill the Indian in the child. And they almost succeeded, but we're still here. And we have a mess to clean up. At the end of the day we have to pick up the pieces. And the best thing we can do now is work within the structure that the government allows us to do or to take, and that's a very little funds if any. Even if they cut back, we still have to find a way to help our people heal. One of the, one of the things about residential school, when you are a residential school survivor, look at it, looking at it from my perspective, we were the generation that was expected to bridge that gap between mainstream and the residential school and the Indian culture, and we were caught-- the survivors were caught-- in the middle because at the end of the day we were seen as red on the outside, white on the inside, and we were not acknowledged by either. Either race. Either culture. Because we were supposed to fulfill a mandate that the government had in place but because that failed, we're now, we felt alienated and still do feel alienated, or not recognized as a major contributor to our existence.”¹⁴⁶

-Stephen Litton-

¹⁴⁵ Ngugi Wa Thiong'o, *Decolonizing the Mind: the Politics of Language in African Literature* (New Hampshire: Heinemann Press, 1986), 11.

¹⁴⁶ Stephen Litton, interview.

CHAPTER TWO: ANTHROPOLOGICAL KNOWLEDGE PRODUCTION IN “POST-COLONIAL” CANADA

“What then is truth? A mobile army of metaphors, metonyms, and anthropomorphisms -- in short, a sum of human relations, which have been enhanced, transposed, and embellished poetically and rhetorically, and which after long use seem firm, canonical, and obligatory to a people: truths are illusions about which one has forgotten that is what they are....”
-Nietzsche-¹⁴⁷

The previous chapter argued that *reconciliation*, as a term and ideology was simultaneously used by different stakeholders to subvert and propagate social change, framing and reframing transitional justice. Meanwhile, in this chapter I examine how knowledge is created in Canada’s “post-colonial” context, and I contend that knowledge (re)production impacts perceptions of efficacy in Canada’s transitional justice process and associated research.¹⁴⁸ Using a lens of knowledge production, both theory and applied research support that 1) anthropologists work in politically-driven contexts, 2) anthropological knowledge production can be affected by those contexts, and 3) anthropological knowledge can be used to maintain or subvert political agendas. Chapter one divulged numerous definitions of the term reconciliation, some of which required social reform with definitions explicitly asking for an end to structural violence and neo-colonial endeavors.

Perhaps less obviously than colonialism, neo-colonialism uses cultural assimilation and cultural imperialism to gain access to economic resources while structural violence coexists via the normalization of oppression. Structural violence, cultural violence, and symbolic violence all exist as closely related concepts, and often rely on the control of knowledge. Structural violence is an indirect violence that often does not constitute physical violence; instead, it exists in the form of unequal access to resources and leads to reduced lifespans. Structural violence, as

¹⁴⁷ Friedrich Nietzsche, *The Portable Nietzsche*, Trans. Walter Kaufmann (Penguin Group: New York, 1954), 47.

¹⁴⁸ Quotes are used because demarcating the end of a colonial regime is heavily debated in colonial, post-colonial, and neo-colonial theory.

described by Galtung, is imbedded in society. Cultural violence coexists hand-in-hand with structural violence and refers to aspects of culture, such as religion, or other ideologies that normalize structural violence. Those who experience the violence see both structural and cultural violence, but these forms of aggression often pass unnoticed by those who do not experience it. Bourdieu enters the theoretical dialogue concerning violence through his notion of symbolic violence, a set of dispositions that help maintain social hierarchy and in which the dominated willingly (though unintentionally) participates.¹⁴⁹ For example, if an individual of a low socio-economic class believed herself to be inherently less intelligent than those in the middle or upper classes of society then symbolic violence has been established. These forms of indirect violence rely on control of knowledge to continue propagating specific ideologies or beliefs that reinforce the actions of indirect violence. Of additional concern is the fact that the formation of knowledge in and of itself can also be a colonial act.

For example, at the intersection of neo-colonialism and structural violence sits scientific colonialism, described by Galtung as, “that process whereby the centre of gravity for the acquisition of knowledge about the nation is located outside the nation itself.”¹⁵⁰ Galtung cautions social scientists that the manner in which knowledge is produced matters if one wants to avoid exploiting knowledge like any other resource extracted from a colony of “the Other.” To combat this, Lewis suggests that anthropologists work within their own societies to conduct research with one’s own emic, or in-group, perspective richly contributing to academia. Because of the potential for scientific colonialism and the use of anthropological knowledge to bolster indirect forms of violence against “the other,” it is important to explore how the political climate of the research site affects knowledge production. Colson warns that “what many another

¹⁴⁹ Pierre Bourdieu and Loic Wacquant, *Invitation to Reflexive Sociology* (Chicago: University of Chicago Press, 1992).

¹⁵⁰ Johan Galtung, “Scientific Colonialism,” *Transition* 30(1967):13.

anthropologist has failed to recognize... was that he was operating in a charged political arena where the accuracy of information would be assessed by the degree to which it supported the established positions.”¹⁵¹ Like any other information, anthropological knowledge is impacted by the socio-political context of a situation impacts anthropological knowledge production and can be framed to reproduce violence or to resist it. Because the (re)production of knowledge may be used to support political agendas or influence perceptions of transitional justice success, systems of structural violence, neo-colonial initiatives, and the subject of knowledge production merit further discussion.

Historically, anthropological research and the knowledge it produces has had a shameful past, serving as the “handmaiden of colonialism.”¹⁵² Colonial empires used anthropological knowledge as a tool to effectively colonize and subjugate populations worldwide. Use of anthropological information varied from the incorporation of cultural findings to improve conquering strategies to the propagation of the antiquated anthropological belief in the inherent primitiveness of overpowered societies.¹⁵³ Especially because of this reprehensible history, efforts should be made to avoid anthropology in its modern form from becoming a servant to a political agenda; whether it is through the use of politically-influenced data, the recreation of scientific colonialism, or government manipulation of anthropological data.

Before the work of anthropologists like Radcliffe-Brown and Gluckman, many anthropological researchers ignored the colonial context within which they existed, thus omitting factors that affected research results.¹⁵⁴ Despite great strides away from its colonial roots, in the

¹⁵¹ Colson, *Using Anthropology in a World on the Move*.

¹⁵² Kamari M. Clarke, “Toward a Critically Engaged Ethnographic Practice” *Current Anthropology*, 51(2010):S301-S312.

¹⁵³ Peter Pels, “The Anthropology of Colonialism: Culture, History, and the Emergence of Western Governmentality,” *Annual Review of Anthropology* 26(1997):163-183.

¹⁵⁴ Clarke, *Toward a Critically Engaged*, S302.

modern research arena, Clarke observes that contemporary anthropology still often fails to acknowledge the role of the politics and profitability of symbolic and structural violence.¹⁵⁵ To minimize negative impacts of anthropological knowledge on marginalized communities and its use as a political tool, researchers need to be aware of how their knowledge is being produced, the potential impacts of the knowledge on living communities, and how knowledge formation can be influenced by systems of power within which the researcher operates. Before this exploration can occur, academics must first question what constitutes knowledge.

Researchers and scientists, especially those who espouse a positivist standpoint, seek truth and fact, and when they harness such information, knowledge is constructed. In English, the notion of truth is synonymous with fact, reality, accuracy, honesty, and certainty - seemingly immutable concepts that stand in contrast to Nietzsche's implication that truth is an ephemeral cultural and individual construct. Similarly, Sverker Finnström questions what constitutes "truth" and observes how "truth," or knowledge, shapes reality. Finnström discusses the presence of *radio kabi*, or unconfirmed rumors, in Acholiland, Uganda. His informant discloses that ultimately, "radio kabi becomes the truth."¹⁵⁶ Like *radio kabi*, anthropological knowledge, regardless of its accuracy or the social theory it is (or is not) framed within, can also become a neo-colonial truth, like the once-believed anthropological "truth" that some societies were inherently more primitive than others. Access to data and experience, both of which are factors in scientific study limit anthropological knowledge. Consequently, knowledge provides people with "premises for action," and actions have consequences, therefore oversights in knowledge production can have very real impacts in colonial or divided societies. This chapter discusses

¹⁵⁵ Clarke, *Toward a Critically Engaged*.

¹⁵⁶ Sverker Finnström, *Living with Bad Surroundings: War, History, and Everyday Moments in Northern Uganda* (Durham, North Carolina: Duke University Press, 2008).

how knowledge (re)production occurs by both the researcher and participants in Canada's transitional justice process.¹⁵⁷

Transitional Justice and Anthropological Knowledge Production

A theoretical framework that has been exercised since the Nuremburg Trials of Nazi war criminals, the term *transitional justice* was not coined until 1991.¹⁵⁸ In the social sciences and law, transitional justice-related writing has permeated academia throughout the last fifteen years. The International Center for Transitional Justice (ICTJ) was founded in 2001; the International Journal of Transitional Justice followed in 2007; the Journal on Rule of Law, Transitional Justice, and Human rights began in 2010; and the Transitional Justice Review was established in 2013. Seminal works published in 2010 gained momentum in 2010, including anthropologist Alexander Laban Hinton's *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*; *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* by Olson and colleagues; *Localizing Transitional Justice: Interventions and Priorities after Mass Violence* compiled by Shaw, Waldorf, and Hazan; and *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* by Priscilla B. Hayner. With the expanding field of transitional justice, the potential impact of knowledge, or truths, on vulnerable populations and its ability to advance theoretical dialogues merits further investigation.

In North America and Europe, Franz Boas, Bronislaw Malinowski, and Alfred Reginald Radcliffe-Brown receive credit as the primary contributors to modern-day anthropology, moving it away from its colonial roots.¹⁵⁹ These researchers incorporated three major changes into

¹⁵⁷ Fredrik Barth, "An Anthropology of Knowledge," *Current Anthropology* 43(2002)

¹⁵⁸ Teitel, *Editorial Note*.

¹⁵⁹ Paul Atkinson and Martyn Hammersley, "Ethnography and participant observation." In *Handbook of Qualitative Research*, Eds. Norman Denzin and Yvonna Lincoln (Thousand Oaks: SAGE Publications, Ltd., 1994), 248-261.

anthropological methods: the use of ethnography, the expansion of anthropological theory beyond evolutionary theory, and the capitalization of a four-field anthropological approach in anthropological knowledge production. Ethnographic research, or study that involves first-hand data collection via methods such as participant observation and interviews, was not utilized until the late 1800s. Prior to this, anthropologists relied on secondary data, or information that was gathered by other individuals. For example, cultural anthropologists reviewed memoirs and notes compiled by explorers and missionaries. While secondary data continues to contribute to improving theory, without the use of primary data, the anthropologist risks biasing the research with an ethnocentric viewpoint or overlooking valuable cultural information.

Ethnographic research methods revolutionized the manner in which anthropologists produced knowledge, expanding anthropology beyond an “armchair” discipline to one that encouraged researchers to enter the field and gather data firsthand. The concept of primary data collection eventually benefited all subdisciplines. For example, forensic anthropologists in the United States initially did not enter the field to recover human remains. Instead, biological anthropologists remained in the laboratory, and valuable contextual information from the scene risked being lost. Eventually, biological anthropologists came to realize that important contextual information could be gained from entering the field and assessing the scenario directly, rather than relying on secondhand information. In addition to the growing emphasis on primary data collection in anthropology as a whole, changes in theoretical approaches also occurred.

Before Boas’ use of a cultural relativist framework, societies were ranked on an evolutionary scale with some viewed as primitive and others viewed as advanced; now it is understood that cultures are not inherently superior to one another but are rich in their own regard. Unfortunately cultural relativism can also be utilized for essentializing societies with

statements such as “that is just part of their culture,” but the theory changed the way of thinking about human evolution. Cultural evolutionary theory relied on the idea that time is linear and that human cultures progress in a linear fashion, with each step forward improving from primitive to advanced. This knowledge, or anthropological “truth,” was then used to support colonial propaganda, as can be seen statements such as that by Canadian Prime Minister John Macdonald in 1883 concerning the “Indian Problem”: “...the child lives with his parents who are savages; he is surrounded by savages, and though he may learn to read and write, his habits and training and mode of thought are Indian. He is simply a savage who can read and write.”¹⁶⁰ The theory employed creates a very specific way of viewing the world and when used to frame the data will affect conclusions drawn and knowledge produced. Equally, in contemporary societies, structural violence and neo-colonialism often rely on stereotypes inspired by the traditional theory of cultural evolution to keep populations marginalized, such as claims that Indigenous people of the United States and Canada are predisposed to alcoholism or that specific races are naturally more intelligent than others. In contrast to evolutionary theory, the use of a comparative method and the theory of cultural relativism operate under the premise that cultures cannot be ranked, but are all valid forms of existence.

As a third aspect of modern anthropology, Boas proposed a four-field approach, employing linguistic, archaeological, cultural, and biological information to investigate and test questions concerning the human condition. For instance, studies concerning human language acquisition in childhood may consider environmental, cultural, and neurological factors as well as evidence from the archaeological record. A single-field approach would be a solely

¹⁶⁰ Canada Parliament, House of Commons, *Official Report of the Debates of the House of Commons of the Dominion of Canada, Volume 14*, (Ottawa: Maclean, Roger & Co., 1883), 1108.

neurological study of language acquisition without accounting for the other aforementioned influences.

While ethnography certainly was used to propagate colonial initiatives, when combined, these three tenets of modern anthropology began to direct anthropology away from its colonial and oppressive heritage. This occurred due to the incorporation of ethnographic and primary data collection; acknowledging cultural equality, and thus lessening cultural imperialism and paternalistic relationships between societies; and using an interdisciplinary line of inquiry to acknowledge complex variables that affect humanity.

In the case of this research, a colonial (or neo-colonial) framework can be seen operating among dominant Canadian society and Indigenous peoples, the latter of whom are often marginalized for economic gain. Colonial contexts reflect societies divided by systemic oppression, and transitional justice frameworks, which are employed in societies divided by human rights violations committed against segments of their own population, appear to be an appropriate choice for redress. However, often these rights violations, like systemic oppression, are ongoing, placing a researcher or other “neutral” stakeholder in a precarious position because his actions and data can be used to further oppressive political agendas and promote historical narratives of the dominant culture. Similarly, in the context of forensic human rights investigations that may involve grave excavation, Cox warns that if not all the evidence from graves is recovered, then it leaves the “door wide open for revisionist histories to be constructed by those with a vested interest in doing so.”¹⁶¹ Knowledge produced in “post-conflict” scenarios, like knowledge produced in “post-colonial” scenarios, can be shaped by political motivations.¹⁶²

¹⁶¹ Margaret Cox, “Forensic Anthropology and Archaeology: Past and Present – a United Kingdom Perspective” in *Handbook of Forensic Archaeology and Anthropology*. Eds. Soren Blau and Douglas H. Ubelaker (California: Left Coast Press, Inc.), 2009.

¹⁶² Colson, *Using Anthropology in a World on the Move*.

The human rights anthropologist needs to be aware of the political implications of knowledge production, as these can reproduce institutional or structural violence.¹⁶³

Unlike many other disciplines which rely heavily on specialized secondary data, anthropological research also utilizes ethnography and collects various types of data (e.g. linguistic, biological, cultural) to obtain a more comprehensive understanding of a given situation. Cohen describes anthropologists as “communicators of knowledge” who are “uniquely positioned to generate precise descriptive and theoretical accounts of the making of diverse kinds of knowledge.”¹⁶⁴ Because of this distinctive perspective, the anthropologist is a potentially powerful intermediary between the different, and in many ways isolated, human rights stakeholders that include politicians, lawyers, survivors, perpetrators, volunteers, community leaders, and religious figures.¹⁶⁵ As a critical theorist will point out, even without intention, the anthropologist often becomes viewed as an intermediary or advocate whose very presence affects the data being collected.¹⁶⁶ Knowing this, efforts are made to identify the power ascribed to oneself while conducting research, especially in human rights and transitional justice scenarios that present already emotionally and politically tenuous situations.

To better understand how knowledge is produced, advertised, and utilized specifically as a device to reproduce systems of power, which may be inadvertently enforced by anthropological research and practice, discrepancies in knowledge production that were revealed throughout the 2011, 2012, and 2013 fieldwork seasons will be discussed. These inconsistencies reflect a disparity in various stakeholders’ knowledge, in academic knowledge versus on-the-ground

¹⁶³ Shannon Speed, “At the Crossroads of Human Rights and Anthropology: Toward a Critically Engaged Activist Research,” *American Anthropologist* 108(2006):66-76.

¹⁶⁴ Emma Cohen, “Anthropology of Knowledge,” *Journal of the Royal Anthropological Institute*, 16(2010):193-202.

¹⁶⁵ Sally Engle Merry, “Transnational Human Rights and Local Activism: Mapping the Middle,” *American Anthropologist*, 108(2006):38-51.

¹⁶⁶ Teun van Dijk, “Principles of Critical Discourse Analysis,” *Discourse & Society* 4(1993):249-283.

reality, and the role of anthropological knowledge production in transitional justice situations. This examination uses the three major marks of modern anthropological knowledge production to organize and reveal the relationship between knowledge production, transitional justice, and politics. Through understanding how knowledge is produced and transmitted, the impact of knowledge on perceptions of efficacy can be examined.

Ethnographic, or Primary, Data in Knowledge Production

While secondary data collection remains a staple technique in social science research, the emergence of ethnographic methods and primary data collection affects knowledge production. During primary data collection, the researcher gathers the data firsthand, granting him contextual information and variables that may affect the data or data analysis; those factors could otherwise be overlooked by a different data collector. Ethnographic data collection also allows the researcher to be in the field and gain an on-the-ground perspective of the sociopolitical climate.

For example, in the Canadian context, the importance of primary data can be seen in the excavation of mass or unidentified graves. Each residential school operated under the supervision of either the United, Catholic, Presbyterian, or Anglican church, and each school had a Christian cemetery associated with it. School administrators buried students who died in their care in these cemeteries. On occasion, school officials sent the remains back to the families, and in other scenarios families never received notification of their child's death. A set of children with whereabouts and fates unknown exist due to these unreported deaths, unresolved escapes, and releases that led to homelessness.

Survivors described deaths of their peers due to starvation, illness, negligence, or physical assault. Additionally, the burial of infants that were allegedly products of the rape of

school attendees also occurred on the school grounds. While known cemeteries occupy the residential schools, many of the locations have been lost to overgrowth and time, and their inhabitants linger unidentified. In 2011, based on secondary data, very little information concerning efforts to locate the remains of lost children and reunite them with their families was available. However, the secondary data collection, a key research component, especially in the preliminary stage of anthropological inquiry, uncovered the presence of the Missing Children Project (MCP), a subcommittee of the Truth and Reconciliation Commission of Canada that was enlisted to investigate the disappearances and deaths of children from the schools.

After contacting the MCP, I learned that the government had not yet begun to excavate cemeteries but that excavation was a viable option. The MCP, led by a historical archaeologist, had been charged with locating graves via ground penetrating radar (GPR) and conducting memorialization ceremonies. Coupled with this, extended literature review identified another facilitator, Kevin Annett as an independent investigator conducting grave excavations in partnership with the Mohawk nation. Despite the history between the United Church and Indigenous peoples, I discovered that Annett previously served as a member of the United Church clergy and currently work as an Indigenous rights activist. Online newspaper articles and academic publications alike describe Annett's collection of forensic evidence from remains of Indigenous children that had been found buried in a mass grave in Brantford, Ontario.

Based on secondary data alone, it appeared as though the investigation led by Annett had unearthed evidence of at least 50,000 deaths of children in the residential schools.¹⁶⁷ A 2012 publication in the International Journal of Transitional Justice identifies Annett as the active,

¹⁶⁷ ITCCS, "First Nations investigate 50,000 missing children," The Canadian, 18 October 2011 http://www.agoracosmopolitan.com/news/canadian_news/2011/10/18/1211.html

albeit independent, forensic investigator in Canada's transitional justice process.¹⁶⁸ Additionally, Annett claims to have recovered forensic evidence of physical abuse and murder from excavations of mass graves, not Christian cemeteries. Annett reportedly sent the human remains to the University of British Columbia, Vancouver and to the Smithsonian Institute for examination.

Only after entering the field and collecting primary data via participant observation, observation, and interviews, did I discover that despite citation in media and academic journals, Annett was and is not conducting legitimate forensic investigations and in fact according to Indigenous community members and TRCC staff, is fabricating evidence. Interviews with known associates of Annett and Indigenous community leaders led to very frank descriptions of Annett as predatory and self-serving. Colleagues of Annett explained that he successfully rallies people to support Indigenous issues but also spreads misinformation, or produces inaccurate knowledge, to further his own personal agenda. Interviews with faculty at both Simon Fraser University and the University of British Columbia revealed that no bones had been sent by Annett's "forensic" team for analysis, in direct contradiction to Annett's claims that not only had remains been examined, but evidenced murder. Upon further inquiry, I also ascertained that the Smithsonian was not collaborating with Annett, nor had its employees examined human remains from residential school graves. Shortly after discovering that both the media and academic literature had mistakenly reported Annett to be conducting forensic investigations, I learned that the misinformation had spread to public knowledge as well.

In 2012, I attended an Indigenous youth conference in Victoria, British Columbia. Because of the trauma-induced silence surrounding residential schools, Indigenous youth, like

¹⁶⁸ Matt James, "A Carnival of Truth? Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission," *The International Journal of Transitional Justice* 6(2012):182-204.

the public (under the government-controlled censorship of knowledge), were largely unaware of the history and continued impact of the schools. The conference specifically intended to discuss the residential school history, consider the intergenerational effects, and unite the older generations with the youth. At this event I witnessed one of the many instances in which propagation of false knowledge based on secondary data impacted the lives of surviving communities.

We were in a gymnasium with about 150 people in attendance. At least ninety-five percent of the participants were Indigenous and ranged in age from about fourteen to ninety years old. Funded through the TRCC's commemoration initiative, the conference was held at an Indian Friendship Center on Vancouver Island. We sat in a large circle. While it was not a sharing circle, it was constructed to create the same type of space that a sharing circle would enable; a space imbued with honesty, vulnerability, and safety. A young woman stood at a podium that fell in line with the margin of the circle of chairs. She was eighteen and slender with dark hair, and she had been charged with presenting a brief history of the residential schools to the audience. All watched her attentively as she described the assimilatory process, detailed the reports of sexual and physical abuse, and painted an unforgettable image of the theft and violation of Indigenous culture. She ended her oration with statistics. She cited Kevin Annett's fictitious statistics. People gasped at the announcement of 50,000 murdered children buried across Canada. Sobbing echoed through the room at the horror of evidence of murder found in mass graves littered with bones of generations lost.

Thus, according to secondary data, both peer-reviewed publications and public media portrayed Annett's investigations as legitimate and ongoing, when in reality, neither is the case. The dangerous ease of reproducing incorrect information, or knowledge, quickly became

apparent in the emotional havoc I witnessed. In 2014, the TRCC announced that archival research conducted by the Missing Children Project revealed at least 4,000 children had died while in residential school care.¹⁶⁹

Politically, several interests are served by relying on this misinformation. By allowing knowledge of Annett's investigations to proliferate, many Indigenous and non-Indigenous believed that the missing children were actively being excavated and identified, and thus the government was not called into question for its lack of action. Moreover, to academics, it also appeared as though grave excavation and repatriation was being pursued, a key component to many transitional justice processes. Furthermore, strategically-speaking, the proliferation of Annett's misinformation allows the verifiable estimate of 4,000 to seem "better" than an alternative narrative that accuses the government of murdering 50,000 children. Without moving beyond secondary data research, the facts were confusing at best. Not only did primary data collection clarify the status of missing Indigenous children, but it also indicated how knowledge was transmitted on the ground. Historical archaeologists gathered archival information to assess the number of residential school deaths; no forensic excavations transpired; evidence of murder due to assault had not been procured. The confusion and misinformation surrounding grave excavation served to deflect responsibility of victim location and identification from the government. The transitional justice process also gleaned credibility amongst Indigenous individuals who believed that the government excavated graves in communities seeking assistance. Awareness of the facts via ethnographic interviews and participant observation allowed me to produce more nuanced knowledge and to understand how inaccurate information affects on the ground perceptions.

¹⁶⁹ Mark Kennedy, "At least 4,000 aboriginal children died in residential schools, commission finds," National Post, 3 January 2014. <http://news.nationalpost.com/2014/01/03/at-least-4000-aboriginal-children-died-in-residential-schools-commission-finds/>

As another example, primary data collection exposed factors that affected both knowledge production for my own research and knowledge production on the ground. Members of an Indian Residential School survivors group reported that Phil Fontaine, an Indigenous leader and primary negotiator of the Indian Residential School Settlement Agreement, is politically and morally corrupt, failing to represent the best interests of the people. Fontaine served as national chief for the Assembly of First Nations for three terms, but in British Columbia his support is split. Information concerning rape allegations against him, money laundering, and extortion circulate among subsets of the Indigenous population. Because of his role in the transitional justice process, those who believe him to be corrupt also believe the transitional justice process to be biased in favor of government initiatives, which reflect neo-colonial orientations and the maintenance of structural violence against Indigenous peoples. The mixed and contentious support for Fontaine and its influence over some opinions of the transitional justice process would have been overlooked had on the ground interviews not been conducted. Aside from the presence of ongoing human rights violations, which will be discussed further in chapter three, financial support of Truth and Reconciliation Commission of Canada events garnered from resource extraction companies such as KinderMorgan or BC Hydro support suspicions of Fontaine's corruption. Some view the use of transitional justice as a intentionally-constructed attempt to maintain the status quo and deter social transformation, and if this is indeed is the case, then cooperation of a prominent and corrupt Indigenous leader would further that agenda. In addition to these ethnographic findings concerning perceptions of efficacy and factors in knowledge production, the revelations derived from ethnographic data collection were bolstered by the four-field approach and my own anthropological intradisciplinary training.

Four-field Approach

A four-field approach, including linguistic, biological, cultural, and archaeological data, allows the researcher to be aware of a variety of factors that affect knowledge production that may be overlooked by a narrower academic reference base. Certainly utilizing an intradisciplinary approach affected my ability to produce knowledge regarding the resolution of unmarked graves in Canada, and the types of information gathered. For example, biological anthropology and archaeology skills allowed me to question information that I encountered concerning forensic evidence, but I also found that cultural and linguistic training aided in my observation of the nuanced information that was present in the dialogue surrounding residential school graves. Not only did vocalized information from primary data collection shape my own knowledge production, so did silence, an artifact influenced by both language and culture. First, silence was used as a tool by the Missing Children Project. Though tasked with documenting the accounts of missing children, the MCP did not actively seek statements from aging survivors. Unlike the TRCC proper, which continuously sought witness testimony, the MCP operated without advertising its work until 2012.

At the Saskatoon, Saskatchewan National Event I learned that the MCP set up a table at each of the TRCC national events; at this table survivors could volunteer statements about those who were missing. However, the TRCC did not publicize the subcommittee's existence and a survivor's ability to participate until the Saskatoon event. There, TRCC facilitators posted to 8½" x 11" signs to notify participants of the MCP presence. The silence surrounding the MCP work also impacted knowledge production by restricting it, which brings into question the political motivation behind limiting public awareness. Statements gathered and witness reports could reveal the location of graves and otherwise undocumented information. Since the content of

these testimonies could lead to the recovery of physical forensic evidence, one would think that the MCP's work would be of the utmost importance, were justice, accountability, and reconciliation the goals of transitional justice. Furthermore, statements that could prove to be valuable to the MCP's inquiry were not being collected, limiting the knowledge produced concerning whereabouts of the missing children. With survivors aging, their eyewitness testimonies concerning the missing children threaten to be lost forever if not actively collected. Because few Indigenous individuals knew of the MCP's presence, they did not have opinions concerning its efforts.

Of further linguistic and cultural interest is the absence of dialogue concerning the locations of the missing children; this silence, too, affects knowledge production. Academic literature makes few references to the presence of Native graves at residential schools. Moreover, until the 2014 announcement of 4,000 missing children, conversations at Indigenous events and reconciliation venues rarely mentioned the fate of the unmarked graves. While survivors or facilitators sometimes mentioned the deaths, dialogue rarely included discussion of repatriation or identification of remains.

Only after months in the field did a well-respected Musqueam Elder and community leader share that many people were not emotionally ready to address the issue of the missing children. Instead, he imparted that both direct survivors and intergenerational survivors needed to heal before decisions could be made concerning the future of residential school cemeteries. His input coincided with the silence that shrouded the topic. It appeared that those who inquired into the outcome of the missing children believed excavations were underway, while others were unprepared to discuss that aspect of transitional justice.

It is important here to take a moment to dispel cross-cultural myths concerning the “silent Indian,” because the silence I observed should not fall victim to etic (outsider) misconceptions. There are many reasons to be silent in a Native community, and the silence I observed in Canada was not the stoic mythos of a wise Indian preserving words—an ironic assumption to make about oratory cultures. Rather, it was the silence of a topic not yet ready to be breached by many members of Indigenous communities who were struggling with imminent social justice issues and what scholars would call reconciliation at the individual level. Silence, like speech, is a communicative tool regardless of the language and should not go unnoted.¹⁷⁰ Only after several months of my presence under his tutelage did the Elder believe me to be in a position to understand that many people in his community were not emotionally ready to delve into the issue of unmarked graves.

Linguistically and culturally, silence acts as a mechanism of knowledge production and repression; silence should not be conflated with mere absence.¹⁷¹ As the Canadian government omitted residential school history from public education, that silence reinforced structural violence and carefully crafted a specific body of knowledge, or lack of knowledge, concerning ongoing rights violations against Indigenous peoples and Aboriginal-Canadian relations. Similarly, through the prohibition of Native language use in the residential schools themselves, the government silenced Indigenous voices, restricting transmission of knowledge critical to cultural and linguistic identity.¹⁷² Furthermore, silence governed by trauma and shame prevented survivors from talking to one another about the abuses they faced in residential schools.

¹⁷⁰ Cheryl Glenn, *Unspoken: A Rhetoric of Silence* (Carbondale, IL: Southern Illinois University Press, 2004).

¹⁷¹ Adam Jaworski, “Introduction: An Overview” in *Silence: Interdisciplinary Perspectives*. Ed. Adam Jaworski (New York: Mouton de Gruyter, 1997), 1-14.

¹⁷² Adam Jaworski, “Aesthetic, communicative and political silences in Laurie Anderson’s performance art” in *Silence: Interdisciplinary Perspectives* (New York: Mouton de Gruyter, 1997), 15-35.

While I had questions concerning graves - a biological anthropology concern - cultural and linguistic training allowed me to extrapolate the complexities surrounding grave excavation. Cultural training also facilitated exploration of political motivations that influenced perceptions of efficacy and the flow of knowledge. Some insight can also be attributed to my unique position as a two-spirited person on both the Red Road and the White Road, and it quickly became apparent that the characteristics of the researcher factored into the knowledge produced. Nonetheless, understanding that cultures and their differences are valid ways of being is a thought process that contributes to the formation of knowledge.

Cultural Relativism and Emic vs. Etic Reporting

Social theory such as cultural relativism and methods of reporting affect how anthropological knowledge is shaped and formed. Cautiously, Farmer suggests the possibility of using anthropological knowledge to promote structural violence.¹⁷³ According to him, the anthropological concept of cultural relativism can be used to mask human rights abuses or structural violence through phrases like “violence is just part of their culture,” a phrase that also reflects the intersection between structural violence and colonialism, as it has been used to essentialize Indigenous populations in colonial efforts.¹⁷⁴

The idea of emic and etic reporting correlates closely to concepts of cultural relativism. Emic reporting takes the viewpoint of someone who belongs to the group under study; data gathered is from the perspective of an insider. In contrast, etic reporting exercises the outsider’s view of a given scenario, or the observer’s perspective. Rather than prioritizing the values of a particular culture, cultural relativism also allows the researcher to understand that these dual

¹⁷³ Farmer, *An Anthropology of Structural Violence*.

¹⁷⁴ Paul Farmer, “On Suffering and Structural Violence: A View from Below.” In *Violence in War and Peace: An Anthology*. Ed. Nancy Scheper-Hughes and Phillippe Bourgois (Malden, MA: Blackwell Publishing, 2012):281-289.

perspectives exist, and if the person producing knowledge has an etic view, that could generate different data and knowledge than that of a person with an emic perspective.

When I encountered other researchers in the field, it quickly exposed me to potential influences of emic and etic or cross-cultural viewpoints regarding the collection and interpretation of data. For instance, I participated in an anti-oppression event that was open to the public and focused on reconciliation. A Cree woman and a Canadian woman who was the daughter of Vietnamese immigrants co-led the workshop. Of the approximately twelve participants, three of us were researchers. The facilitators arranged the chairs in a circle, and we began by smudging, a clear indicator of a sharing circle.

To participate, I had three options, 1) observe and only participate as much as was needed to stay, 2) participate fully, or 3) leave. From my perspective, the context of the sharing circle meant that only the latter two options were viable, and as I wanted to collect data regarding the relationship between the anti-oppression movement and perceptions of reconciliation, the second option was selected. The mood of the event was ceremonial, and to withhold any aspect of myself would be to violate the purpose of the space being created. To maintain respect for myself and for the other participants, I needed to participate fully and honestly if I was to remain. Additionally, the morality that I chose to follow would directly affect the kind of data produced. Were people, especially the Indigenous in attendance, to believe that I was not respecting the space, then future interactions with me would be affected, and potentially the ability for them to fully participate would be impacted as well. These factors would affect the knowledge I was able to produce and receive.

I engaged the sharing circle fully, but not without noticing that the other two researchers were using a different approach that surely would lead to the three of us having different data

and interpretations of that data. First, there was the American we will call Amy. She recently finished her doctoral degree with a focus in human geography. She told the group that she was participating in the sharing circle for the first time because data collection had always prevented her from participating. Instead she only ever observed. I know, based on personal experience and based on interview responses, that there are individuals who would have altered their interactions significantly were there an outside, non-participatory observer present at sharing circles and similar events. The second woman, Marsha, was a political science graduate student, and she chose the first option for participation. She gave measured and minimal responses and remained very guarded. TAt the end of the discussion period, Marsha commented about the structure of the workshop, complimenting the positioning of people in a circle. However, her commentary made it clear that she did not understand the context of the circle, the ceremonial nature, the influence of that context on responses, and so forth. The commentary and behavior of these other researchers revealed the extent to which knowledge production relies on the perspective of the researcher and how the knowledge is framed within the researcher's own understanding of reality, language, and cultural norms. Lewis discusses research methods and explores the relationship between anthropology and colonialism, stating that

“the act of detached observation, in effectively dehumanizing the observed, reduces him to an inferior position. When the observer refuses to go beyond the facade of outward behavior and become a part of the inner workings of the observed's existence, he presumptuously assumes that his outside understanding of the observed is somehow more valid than the observed's own involvement with life.”¹⁷⁵

In this fieldwork experience, it became clear that the methods employed could prioritize different types of knowledge production, and the very act of data collecting could be viewed as a reflection of a colonial framework by participants.

¹⁷⁵ Diane Lewis, “Anthropology and Colonialism,” *Current Anthropology* 14(1973):586.

Conclusion

Principles of basic anthropological research, including ethnographic research methods, use of a four field approach, and understanding the presence of cultural relativism all affect how anthropological knowledge is produced. Through familiarizing the researcher with impacts of the data collection process, theoretical and methodological nuances, and cultural relativity, steps are taken toward reinforcing the integrity of the knowledge produced. As was seen in the Canadian context, the presence or absence of information and knowledge on the ground also affected the data that was gathered by researchers, including the perceptions of transitional justice efficacy. Like *radio kabi*, rumors became truths to such an extent that some were even published in academic journals, like those concerning grave excavations. Use of ethnographic methods, an intradisciplinary approach, and understanding cultural relativism provided opportunities to identify data that otherwise had the potential to be overlooked, creating an assessment of factors influencing knowledge production and public perceptions.

The political context among the Canadian government and Indigenous peoples, which expresses a neo-colonial agenda and the use of structural violence, directly affects knowledge production. As gatekeepers of knowledge, those in power can influence people's ideologies, beliefs, and cultural perceptions through regulating access to knowledge. Sometimes the control of knowledge and information includes allowing the proliferation of inaccurate information, or the erasure of knowledge. As Farmer explains, specifically concerning historical knowledge, "erasing history is perhaps the most common explanatory sleight of hand relied upon by the architects of structural violence."¹⁷⁶ The Canadian government has omitted information regarding residential school policy, implementation, and effects from public education, again restricting knowledge. Existing in part of the system of structural violence, many Euro-

¹⁷⁶ Paul Farmer, "An Anthropology of Structural Violence," *Current Anthropology*, 45(2004):308.

Canadians and non-Indigenous people to respond from a place of frustration with the words, “I didn’t know” upon learning of the residential schools and their efforts on the Indigenous community

Structural violence relies on the control of knowledge to normalize oppression and to allow symbolic violence such as the belief in Natives’ inherent inability to raise children, rather than proliferating knowledge of the complex sociological impacts of residential school on Indigenous family structure. It needs members of society to have a specific set of knowledge, and in this case, one that reinforces a sense of national identity. Many settlers, upon learning the information that has been withheld from them concerning Native-Canadian relations, feel betrayed, angry, and confused. Their very sense of identity is shaken which reveals the depth and strength of the normalization of and invisibility of structural violence. As Scheper-Hughes and Bourgois warn, violence begets violence, creating a continuum in which the type of violence may change but its presence remains, such as a direct colonial violence, to a culturally imperialistic neo-colonial and structural violence.¹⁷⁷ Likewise, in the process of knowledge production, the researcher risks endorsing scientific colonialism, or the expropriation of knowledge from disenfranchised societies. Through awareness of cultural relativism and its relationship to methodology, scientific colonialism, or the colonization of knowledge can be avoided.

Because anthropologists are stakeholders in the political arena of human rights investigations, awareness of knowledge production, its potential effects, and its vulnerabilities to political manipulation, remain critical to both anthropological theory and practice. Building from

¹⁷⁷ Nancy Scheper-Hughes and Phillippe Bourgois, “Introduction: Making Sense of Violence.” In *Violence in War and Peace: An Anthology*, ed. Nancy Scheper-Hughes and Phillippe Bourgois (Malden, MA: Blackwell Publishing, 2012):1-32.

this, chapter three, *An Unending War* will explore the relationship between specific human rights issues, structural violence, and perceptions of transitional justice.

ENTR'ACTE 3

“What follows is not based on fieldwork as such, but on what I remember of family tradition. From the Mingo point of view, the Indigenous peoples have the right of sovereign self-government. Mingos have historically chosen the path of community self-definition without representation within the framework of Indigenous houses on the continent. This means that Mingos do not recognize the authority of non-Indigenous agencies, although in practice they might either take advantage of them or submit to their regulations. Such submission does not imply any more recognition of their jurisdiction than giving over one's wallet to a mugger implies acceptance of mugger authority.

Both the United States and Canada are no more than guest worker unions with no jurisdiction over Mingos. The fact that guests have been on the continent for several generations does not imply that they are no longer guests. The fact that such guests, who are for the most part welcome in the country, have a tradition of behaving badly does not imply a conquest either. If they were truly the extension of the Roman Empire their constituents would be able to pronounce *E pluribus unum*. They have the possibility of adoption or ‘naturalization’ into the Eastern Woodland peoples just as people can be naturalized into legitimate nations such as Finland or Denmark. If they have chosen to remain guests over many generations, they are free to so choose, but they are not free to set up government on Earth where a viable society has been in place continually for hundreds of years. Such pretension is merely bad behavior in guests.”

-Thomas McElwain-

“We are prepared to go to unprecedented lengths to defend and protect our territories and waters from heavy oil.”

-Grand Chief Stewart Phillip-

CHAPTER THREE: AN UNENDING WAR: THE SOCIOPOLITICAL VIEW OF PEACETIME

Gordon's Residential School, a towering brick presence that bore the horrors of forced assimilation, was torn to the ground in Punnichy, Saskatchewan, seventy-eight miles north of the province's capital, Regina.¹⁷⁸ In 1996, this building, the last of Canada's Indian Residential Schools (IRS) closed, supposedly marking the end of a dark era in Canadian history. However, despite the importance of this building's closure, its effects are lasting, as is the greater framework of neo-colonialism and structural violence. In Canada, perceptions of the transitional justice initiative are perhaps most influenced by the presence of ongoing human rights violations and structural violence during the time of reconciliation. If transitional justice aims to provide justice, accountability, and reconciliation, the presence of ongoing violence diminishes perceptions of its efficacy significantly.

Transitional Justice in Brief

Nation-states around the globe have incorporated transitional justice methods and tools into social reconstruction endeavors. Existing independently from international institutions, including the International Criminal Court, the European Court of Human Rights, and the United Nations, transitional justice's flexibility poses an appealing option. When human rights violations are committed within a country by its own government, transitional justice tools can be used to respond to the human rights violations. The first and most well-known use of transitional justice is the Nuremburg trial of Nazi war criminals. Transitional justice mechanisms may include an investigation by an independent tribunal that has the power to prosecute or by a

¹⁷⁸ Canadian Broadcasting Channel News. "Red Road Forward: What Happened at Gordon's?" *CBC News*. 26 February 2010. <http://www.cbcat.com/news/canada/saskatchewan/red-road-forward-what-happened-at-gordon-s-1.969653>

truth commission which lacks judiciary power. Other transitional justice tools include, but are not limited to: monetary reparations for survivors of human rights abuses, memorialization projects to acknowledge the human rights abuses, and excavation of mass or unmarked graves which commonly occur in genocides and ethnic cleansings. Initially, transitional justice primarily facilitated a nation's political transition into a democracy with mechanisms that were intended to reconcile a fractured society. Over time, however, transitional justice has become a popular approach for redressing human rights violations in scenarios that do not include a political transition.

Since its inception, the definition of transitional justice has expanded horizontally to include situations that have: “undemocratic political transitions, transitions from violent conflict to a more peaceful order, or no ongoing transition.”¹⁷⁹ As the contexts for transitional justice implementation have grown beyond countries in which the oppressed have gained political power, it moves further away from its historic purpose. Furthermore, a forensic investigator or facilitator in a transitional justice framework should have a clear understanding of what *type(s)* of transitional justice process and goals she is aiding and if the framework falls under the canopy of transitional justice at all. For instance, there are peace-building and peace education initiatives that have different goals, methods, and frameworks from transitional justice, though on the surface they may look similar. Additionally, as mentioned in the prologue, transitional justice may be driven by a focus on retribution (punishment), restoration (return to previous state of peace/unification), transformation (social reform), or some combination thereof. This concern is of particular significance in scenarios in which there is no change in political regime and the goal is not the obvious transition to democracy, as can be seen the cases of Uganda, Colombia, and

¹⁷⁹ Thomas Obel Hansen, “The vertical and horizontal expansion of transitional justice: Explanations and implications for a contested field,” in *Transitional Justice Theories*, edited by Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth, (New York: Routledge, 2014), 1.

Greensboro, N.C., USA.^{180,181} Lundy and McGovern warn that human rights abuses may continue in situations in which “the norms of liberal democratic accountability prevail,” and it has been suggested that transitional justice in these contexts has been used to placate victims, rather than achieve transitional justice goals.¹⁸² Hansen describes the Canadian context as “internally peaceful” with transitional justice tools utilized to acknowledge historical wrongdoing and provide victim redress. However, the definition of peace can vary significantly to include the cessation of armed conflict, or negative peace, and the absence of both war and social injustices, or positive peace.¹⁸³ For some Indigenous people, peace has not yet occurred in either the positive or negative sense. There are certainly armed conflicts and stand-offs with the Canadian government, such as the 1990 Oka Crisis in Quebec, or the 2013 Mi’kmaq blockade of Highway 11 in New Brunswick which would belie any sense of negative peace (cessation of physical violence). Furthermore, for many Indigenous nations in which treaties have not been signed, the relationship between the Indigenous people and the governments of Canada and the United States are more or less in a state of tenuous ceasefire. More importantly, the presence of ongoing human rights violations against Indigenous people prevents positive peace, the view understood best by many Indigenous Nations.

The notion of peace and its relationship to structural violence is of interest as the transitional justice framework instituted by the Canadian government targets the Indian residential school violations specifically, treating them in isolation. The government describes

¹⁸⁰ Catalina Diaz, “Challenging Impunity from Below: The Contested Ownership of Transitional Justice in Colombia,” in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, edited by Kieran McEvoy and Lorna McGregor, Portland: Hart Publishing, 2008, 189-216.

¹⁸¹ Joshua Inwood, “Righting Unrightable Wrongs: Legacies of Racial Violence and the Greensboro Truth and Reconciliation Commission,” *Annals of the Association of American Geographers*. (2012):1-18.

¹⁸² Patricia Lundy and Mark McGovern, “The Role of Community in Participatory Transitional Justice,” in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, (Portland, OR: Hart Publishing, 2008),101. See also, Hansen, *The Vertical and the Horizontal*, 4.

¹⁸³ David Roberts, “Post-conflict Statebuilding and State Legitimacy: From Negative to Positive Peace?” *Development and Change*. 39(2008):537-555.

the assimilation, physical and sexual abuse, and deaths of Native children placed in state care as *past* wrongs. However, when engaging with Indigenous people in the field, people invariably discuss the residential schools as part of an ongoing sociopolitical schema of colonization and oppression that relies on institutionalized violence experienced in everyday life. I argue that Lundy and McGovern's concern that human rights abuses continue in societies that function under democratic norms is shown to be valid in the Canadian context, and that perspectives on the ground view the residential schools not as isolated historical wrongdoing, but as part of a larger agenda of ongoing human rights violations.

Like Sanford and Lincoln who argue that Guatemala's high numbers of missing and murdered women during "peacetime" can be attributed to a larger systemic practice of marginalizing women, Indigenous people in Canada assert that colonialism, or neo-colonialism, continues through rights violations and structural violence against Aboriginals.¹⁸⁴ Rather than an internal peace as suggested by Hansen, tensions are rising between Canada's first people and the governing body. As recently as 26 February, 2014, British Columbia's Grand Chief Stewart Phillip announced concern that another Oka Crisis, or armed conflict, would unfold if First Nations continue to be ignored concerning the Northern Enbridge Gateway Pipeline project.^{185,186} Herein, I discuss four examples of ongoing human rights issues that are viewed as separate from residential school initiatives by the Canadian government and yet reflect the presence of structural violence, or lack of positive peace, and the presence of neo-colonialism.

¹⁸⁴ Victoria Sanford and Martha Lincoln "Body of Evidence: Femicide, Local Justice, and Rule of Law in "Peacetime" Guatemala" *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, Editor: Alexander Laban Hinton, New Brunswick: Rutgers University Press (2011).

¹⁸⁵ The Oka Crisis refers to a 78-day armed stand-off that occurred in 1990 between the Kanesatake (Mohawk Nation), the Quebec police, and the Canadian military. Oka is also often discussed in conjunction with the 1973 Lakota siege of Wounded Knee, a seventy-one day armed conflict between the Lakota and the Federal Bureau of Investigation, yet another example of armed conflict as a response to institutionalized violence.

¹⁸⁶ Erin Flegg, "Chief predicts repeat of Oka crisis if feds fail to consult First Nations before Enbridge Northern Gateway decision." *Vancouver Sun*, 26 February 2014. <https://www.vancouverobserver.com/news/grand-chief-predicts-repeat-oka-crisis-if-feds-fail-consult-first-nations-enbridge-northern>

These examples were repeatedly mentioned as reasons why transitional justice is unsuccessful in the Canadian context: 1) desecration and destruction of Native burial grounds and historical sites, 2) an unending attack on Canada's Indigenous women, 3) the continued assimilation of Native children, and 4) destruction of the environment and its inhabitants.

čəsnaʔəm: An Attack on the Dead

It was May of 2013 and the sun blazed hot in the Vancouver sky over the construction site. Protesters lined the small, one-way street. Based on my cultural teachings, I had worn a long, cotton skirt and cotton shirt that covered my shoulders; I was after all entering a sacred space, and my choice of clothing likely revealed to some my familiarity with Native custom.¹⁸⁷ Similarly, the clothing of the protestors subtly revealed the presence of several nations. A Musqueam feather spinner twirled and danced in the dry wind atop a woven cedar hat. A raven, in easily-recognizable Haida style painting, adorned the face of a fourteen-inch hand drum. With an encampment established underneath the heavily-traveled Arthur Laing Bridge, most of the Natives and their non-Indigenous supporters faced a construction site. There, tarpaulins covered open graves that were discovered where condominiums were about to be built. As a forensic anthropologist, the discovery of human remains caught my attention, and in the era of transitional justice and reconciliation, their desecration required inquiry. Unlike notions of linear time that dominant Euro-Canadian and Euro-American culture, for many traditional Indigenous North Americans, the past, present, and future coalesce. Not only did the destruction of Musqueam graves show great disrespect toward all Canadians through the destruction of Canadian history, it was an attack on the Indigenous dead, disturbing their spirits. I squinted in the blinding sunlight, looking for someone to explain to me the events that had transpired. Mary

¹⁸⁷ Teachings are understandings gained via grokking.

Point, great-granddaughter of *čəsnaʔəm* villager James Point, acting as a spokesperson for the Musqueam Nation, began to tell me of their fight to protect their ancestors.

In the eighteenth and nineteenth centuries, small pox, an Old World disease, devastated Native populations of the Northwest Coast, including a Musqueam village known then as *čəsnaʔəm* and known now as the archaeological site Marpole Midden.¹⁸⁸ In 1884, construction crews uncovered a rich and extensive shell midden and burial ground which became known as one of the most valuable Northwest Coast archaeological sites. In the 1880s, 1890s, and 1920s excavations that included the removal of Musqueam human remains occurred, often resulting in their destruction, despite the presence of living relations at the nearby Musqueam reserve.¹⁸⁹ The legacy of removal from the site began with Reverend Gowan and James Johnson of New Westminster who took human remains from the site and were later destroyed by a museum fire. Shortly thereafter, in the 1890s, Harlan I. Smith, an archaeologist contracted for the Jesup North Pacific Expedition under the direction of Franz Boas, extensively excavated Marpole Midden, recovering human remains and cultural artifacts for the American Museum of Natural History.¹⁹⁰ Finally, Herman Leisk, a self-taught archaeologist, was directed to remove over 700 burials during the 1920s and 1930s excavations conducted by ethnographer Charles Hill-Tout in collaboration with the predecessor to the current Museum of Vancouver.¹⁹¹ A number of skeletons were disposed of due to lack of storage space while others were held at various museums.

¹⁸⁸ Susan Roy. “‘Who were these mysterious people?’ *čəsnaʔəm*, the Marpole Midden, and the Dispossession of Aboriginal Lands in British Columbia.” *BC Studies*. 152(2006/2007): 67-95.

¹⁸⁹ Musqueam Indian Band. *Musqueam Territory: čəsnaʔəm*. www.musqueam.bc.ca/čəsnaʔəm

¹⁹⁰ Brian Thom. “Harlan I. Smith’s Jesup Fieldwork on the Northwest Coast.” In *Gateways: Exploring the Legacy of the Jesup North Pacific Expedition, 1897-1902*, eds. Igor Krupnik and William W. Fitzhugh. (Washington, D.C.: Smithsonian Institution, 2001), 139-180.

¹⁹¹ Musqueam Indian Band. *Musqueam Territory: čəsnaʔəm*. www.musqueam.bc.ca/čəsnaʔəm

In May of 1933, the Historical Sites and Monuments Board of Canada registered the Musqueam village, burial ground, and midden as the Marpole Midden National Historic Site of Canada.¹⁹² In the 1960s however, the government-owned land was sold to private citizens Fran and Gary Hackett with the understanding that subterranean construction was prohibited.¹⁹³ Despite the historic nature of the site and the known presence of human remains, the Hackett family partnered with land developer, Century Development who planned to build a 108-unit condominium that included an underground parkade.^{194,195} On 23 December 2011, the day before Christmas Eve (and the first day that Musqueam band offices were closed for a two-week holiday break) the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) sent a letter notifying Musqueam of the land owner's request for an archaeological permit. When a response was not received, the Ministry of FLNRO issued the permit and a preliminary archaeological survey was completed in January of 2012. While the Hacketts owned lots two through nine, only a permit for lot nine was issued, and in the first survey archaeologists uncovered the human remains of an adult male. Regardless of these findings, construction at the site continued. In March, when members of the Musqueam Nation inadvertently discovered that at least one burial had been disturbed, Mary Point, Musqueam facilities manager, and her sister, Cecilia Point chained and locked the gates to the construction site.¹⁹⁶ At this juncture Musqueam asked for a halt in construction and a peaceful consultation.

Members of the band council, Century Development, and city government administrators met to discuss a land exchange for Musqueam property of equal value to Marpole Midden. The

¹⁹² Canada's Historic Places. "Marpole Midden National Historic Site of Canada."
<http://www.historicplaces.ca/en/rep-reg/place-lieu.aspx?id=15609>

¹⁹³ Mary Point, Musqueam Indian Band, personal communication. May 2012.

¹⁹⁴ Adrian MacNair. "Century Group Sells Marpole Midden to Musqueam." *South Delta Leader*. 1 October 2013.
<http://www.southdeltaleader.com/news/226061831.html>

¹⁹⁵ Mary Point, Musqueam Indian Band, personal communication. May 2012.

¹⁹⁶ Mary Point, *Marpole Musqueam Protest*.

land to be exchanged for *čəsnaʔəm* was land provided to the Musqueam based on a previous contract that was in place with the government. Nevertheless, misinformation from the government and media led much of the public to believe that tax dollars were being used to purchase *čəsnaʔəm* from the Hacketts, making gaining public support difficult for the Musqueam Nation. While land exchange was amenable to all parties, after six weeks, provincial approval had not yet been received, nor had the construction permits been rescinded. Therefore, in the first week of May 2012, the developer entered the site again to resume the project and unearthed the remains of two complete, or near complete, infant skeletons and one partial set of infant remains. In addition to that, monitors who were allowed to inspect the site and report to the Musqueam Nation informed the band that disarticulated remains had been disinterred and were being held in temporary storage facilities. Meanwhile, the known adult and infant graves lay open and were covered by tarpaulins. After the detection of the juvenile skeletons, the Ministry of FLNRO, vocalized that there was a possibility that the archaeological permit paperwork had not been properly and accurately processed. The Ministry of FLNRO called for a cessation of construction; but the permit remained active, and continued to be approved for renewal. Several days later, the owner returned and began digging with large construction equipment. Only after police and Indigenous intervention did he agree to meet with a mediator.

This protest continued twenty-four hours a day until September of 2012, when the provincial government finally refused to renew the archaeological permits. For four months, fire burned in a barrel under the Arthur Laing Bridge, Musqueam leaders smudged protestors with cedar branches, and the spirits of Musqueam family members remained restless. In a country undertaking a nationwide transitional justice process, seeking redress for the atrocities committed in Indian residential schools, Indigenous burials were being unearthed. Permits allowing the

destruction of the burials persisted. Passersby either showed support or shouted in outrage at the First Nations who were trying to “play the Indigenous card” and take all the land. Public outcry voiced fear that if the Musqueam could stop development of privately owned land, then it would lead to the seizure of privately-owned land because, as one member of the public stated, “Please. The land was abandoned and forgotten. Why should someone who worked hard to own land be forced to suffer. If you wanted to get that technical, then no land across Canada would be safe. Arrow heads can be found almost everywhere.”¹⁹⁷ This trivialization of Aboriginal rights and other comments like it quickly revealed that even in a metropolitan location such as Vancouver, the public at large was unaware of Indigenous culture, history, and the complex on-the-ground reality of Aboriginal-Euro-Canadian relations. Moreover, it reflected the idea that somehow Aboriginals were no longer Aboriginal; that Indigenous people had been successfully assimilated in Euro-Canadian culture without valid claim to land, culture, and heritage.

Participants of the protest ranged in demographics to include: Indigenous, non-Indigenous, graduate degree holders, elementary education holders, Christians and practitioners of traditional Native spirituality. Despite the differences, dialogue concerning transitional justice, or as it was more commonly known - “truth and reconciliation”- often elicited looks of frustration, dismay, or sardonic laughter. “Reconciliation? Does this look like reconciliation?” was the response I heard repeatedly as protestors pointed at the site, and at the great disrespect shown to their family members, to their culture, and to all Canadians.

On day 100 of the protest, Cecilia Point stated in an interview with Vancouver Media Co-op, “I think their tactic is to wear us out. ...we’re, we’re, I guess we’re at war. Right? Instead of getting weaker and more tired, we’re putting on our warrior faces, sometimes even our warrior

¹⁹⁷ Canadian Broadcasting Channel News, 02 October 2013 (7:24:AM), comment on “Ancient Musqueam village, burial site saved in Vancouver,” *CBC News*. <http://www.cbc.ca/news/canada/british-columbia/ancient-musqueam-village-burial-site-saved-in-vancouver-1.1875969>.

paint, and singing our warrior songs. And what the Province and the government don't seem to realize is that the songs we are singing are 4,000 years old.”¹⁹⁸ Her statement confirmed what I had witnessed and heard in my own community throughout my childhood—the conflict had not ended. The government was the enemy, and we were in an unending war. Arguably the tactics had changed, but the ongoing violations of Indigenous rights and disregard for Aboriginal culture certainly did not reflect the positive peace, or end to social injustice, that is sought by Native communities around the globe. The normalized, or socially-acceptable, level of oppression of Aboriginal peoples, including the desecration of graves reflects structural violence; and, the presence of cultural imperialism reflects neo-colonialism. The cultural hegemony of dominant Euro-Canadian society was recognized by other marginalized populations whose allegiance to the Musqueam protest grew in numbers, extending beyond First Nations to include the Korean community, the Chinese community, a Jewish community, and others. Flags of various First Nations from both the United States and Canada had begun to consume the fence that surrounded the construction site, arriving with delegates who voiced their support for the efforts of the Musqueam Nation. Pieces of art- banners and paintings mostly- also clung to the metal chain link and were scattered amongst eagle feathers, flowers, and tobacco offerings.

One hot and windy day that June, I stood with a partner of a local chief who was a member of a prominent family. Her voice was steady and easily heard over the cars that roared past us on the street. “I want them to leave our land.”

Blustery wind whipped her long dark hair around her face. Blowing dirt made it hard to see, and I struggled to hold her strong, unwavering gaze.

“Who should leave?”

¹⁹⁸ Cecilia Point “Musqueam Resistance – Cecilia Point on: 100 days – WTH?” YouTube video, 6:03, posted by Vancouver Media Co-op, 11 August 2012.

Her voice was firm, “All of them. The settlers. They need to repeal the Indian Act and leave our land. How will I explain this to my children?” The desire for the practitioners of Euro-Canadian culture to leave was not unique to her; and periodically was a response echoed throughout Indigenous discourse.

The question was one I could not answer as I peered through the fence to see clumsily-placed tarps threatening to blow away, threatening to expose the open graves. Construction had begun, and despite the fact that it was a known Canadian national historic site since 1933, despite the discovery of human bones from a known burial ground with a confirmed time depth of at least 4,000 years, the building permits granted to the land developer remained enforced by the provincial government. I had asked the community leader what truth and reconciliation meant to her, and I had my answer.

For First Nations and Native Americans, at best, unearthing burials and historic sites, was not in the spirit of reconciliation and justice; and at worst, it was evidence of an ongoing colonial attempt to eradicate the history and culture of North America’s first people and an attack on the respected dead. No part of the Canadian education system taught primary or secondary students about the residential schools until 2012 when the Northwest Territories and Nunavut added it to their grade ten and eleven curricula, and the destruction of *čəsna?əm* appeared to be yet another attempt to erase Indigenous people and their history.¹⁹⁹ At the community-level the rights violations, the attack on the ancestors, and the eradication of history were not acts seen in isolation. In conjunction with the residential schools, the threat to Native people is viewed as very real and intentional, as can be seen with the case of the murdered and missing Aboriginal women.

¹⁹⁹ Canadian Broadcasting Channel News. “Northern students to learn residential school legacy.” *CBC News*. 14 June 2012. <http://www.cbc.ca/news/canada/north/northern-students-to-learn-residential-school-legacy-1.1207881>.



Figure 4 . ʔəsnaʔəm, the fence.

(<http://beta.images.theglobeandmail.com/ea2/news/british-columbia/article14657262.ece/ALTERNATES/w220/web-bc-musqueam-02.JPG>)



Figure 5. Musqueam plans for ʔəsnaʔəm site in the future.

(<http://scamcouver.files.wordpress.com/2012/05/musqueam.jpg>)



Figure 6. Mary Point at ʔəsnaʔəm.
(<http://www.dominionpaper.ca/images/4510>)

The Heart of a Nation: Missing and Murdered Women

The missing and murdered Indigenous women of Canada were continually mentioned in reconciliation dialogue, usually as an example of the insincerity of the government's desire to reconcile with Indigenous peoples. At IdleNoMore events, reconciliation events, Indigenous gatherings, and in informal and semi-structured interviews, members of the Indigenous community voiced outrage that during a time of reconciliation, Aboriginal women were still disappearing. When I inquired as to how effective people believed transitional justice and reconciliation to be, they would ask me if I knew about the missing and murdered women. Some asked if I knew about the missing Indigenous men and children too. While the government may not have kidnapped and murdered these Indigenous people themselves, the government was complicit in their deaths and disappearances through a lack of investigation. Structural violence

relies on the denial of resources that would otherwise extend one's life.²⁰⁰ Often the resources discussed are medical resources or healthcare, but also included in the social inequity of structural violence is the denial of protective and emergency services. While forms of structural violence may shorten lifespans, but still contribute to long, lingering deaths that may mask the feeling of violence, the disproportionate number of missing Aboriginal women is a palpable act of physical violence that stood in stark contrast to reconciliatory or transitional justice ideologies.

It was the summer of 2012, and I sat in the small press room next to Cheryl, a an Indigenous key informant and member of the media. Using her press pass, she had brought me as a technical assistant to the Missing Women Commission of Inquiry which was in its final days. Members of the Indigenous community waited to hear the conclusion of the inquest into the poorly-conducted police investigations of missing women from the Downtown Eastside and the Criminal Justice Branch's decision to enter a stay of proceedings against Robert William Pickton who had been charged with their murders.²⁰¹

The Downtown Eastside (DTES) of Vancouver is an impoverished area that encompasses Chinatown, Gastown, Victory Square, Oppenheimer Park, and Strathcona. Recognized as one of the poorest neighborhoods in all of Canada, approximately one third of its population is Aboriginal.²⁰² As one of my key informants worked in the DTES, I spent many days walking through the concrete jungle of dilapidated buildings whose architecture hinted at past days of grandeur. I milled through hoards of the poor with hollowed eyes and emaciated bodies, ravaged by drugs and violence. Often as I passed through doorways I had to mind my step so as not to jostle the addicts who had needles in their arms held by unsteady hands.

²⁰⁰ Johan Galtung and Tord Hoeivik, "Structural and Direct Violence: A Note on Operationalization," *Journal of Peace Research* 8(1971):73-76.

²⁰¹ Wally C. Oppal, *Forsaken: Report of the Missing Women Commission of Inquiry*. British Columbia, 2012

²⁰² Dara Culhane, "Their Spirits Live within Us: Aboriginal Women in Downtown Eastside Vancouver Emerging into Visibility" *American Indian Quarterly* 27(2003): 593-606.

I smiled at the faces filled with hopelessness; I shouted thanks to those who called out to me that I was beautiful; and I listened when people began to tell me how they were trying not to use cocaine anymore because they wanted to have better lives. I did not stare at them as if they were a sideshow like the occasional overdressed Caucasian war tourist, and I did not quicken my pace like those who identified themselves as targets belonging to a higher class. The majority of the homeless I saw were Native and are a living testament to the lasting effects of the residential school system and the continued presence of structural violence. As First Nations ran away or graduated from residential school, many who were displaced from their home communities—sometimes by hundreds of miles—found refuge in the streets. Others were the children of residential school survivors and became part of a cycle of violence and abuse.^{203,204} As one informant, a legal assistant who processed residential school survivor testimonies, told me, “I documented the abuse a man endured and the therapy he had and how that trauma fed his addiction. I see it again and again in many of their files.” The Downtown Eastside is not full of predators, as the uninformed observer might assume; rather it is full of prey, with Aboriginal women oscillating “between invisibility and hypervisibility: invisible as victims of violence and hypervisible as deviant bodies.”²⁰⁵

A hunter of those prey was Robert William Pickton. In 2006, Pickton was charged with first-degree murder for the deaths of twenty-six women who disappeared between 1978 and 2001 from the DTES.²⁰⁶ He was found guilty of six counts of second-degree murder in 2007 and there was a stay of charges for the other twenty victims, but he is suspected to have murdered over

²⁰³ Aboriginal Nurses Association of Canada, *Finding Our Way: A Sexual and Reproductive Health Sourcebook for Aboriginal Communities*, Aboriginal Nurses Association of Canada and Planned Parenthood Federation of Canada, Ottawa, 2002.

²⁰⁴ Deidre d’Entremont, “Seeking Justice for Canada’s 500 Missing Native Women” *Cultural Survival Quarterly* 28 (2004).

²⁰⁵ Yasmin Jiwani and Mary Lynn Young, “Missing and Murdered Women: Reproducing Marginality in News Discourse” *Canadian Journal of Communication* 31 (2006): 899.

²⁰⁶ Jiwani and Young, *Missing and Murdered*, 897.

sixty women.^{207,208} Pickton owned a farm in Port Coquitlam, British Columbia where he murdered and dismembered women from the DTES and fed most of their remains to his pigs; investigators also found severed hands, feet, and heads stored in various locations throughout the farm. After an intensive search, the DNA and/or human remains of thirty-three women were recovered from the Pickton property.²⁰⁹ Because it took police until 2002 to arrest Pickton, when arguably they had enough evidence to charge him in 1998, a public inquiry was called to examine the police investigation.

From the stiff chair in the press room, I could hear the voice of an emergency services call operator, apologizing to the families of the murdered women for not dispatching police to come to women's aid, as were her orders. She told the victims' families that she had been racist, and she did not understand the impact of her actions until now. The woman's admission coupled with earlier testimony painted a picture of structural violence against Aboriginal women instituted by the Vancouver Police Department (VPD). Up to half of Pickton's known victims were Indigenous members of the DTES, many of whom were believed to be prostitutes, drug addicts, and those suffering from intergenerational impacts of the Indian residential school system.²¹⁰ Especially revealing was another testimony from Rae-Lynne Dicks, a call operator at VPD Communications Center. She described the open discrimination against vulnerable and marginalized women,

Uhm, you know, they [VPD] didn't care. It was, it was systemic. It didn't matter. They were marginalized women. Most of them were aboriginal. And as far as I was getting from the Department, I was being told to stop being a bleeding heart.

²⁰⁷ Lori Culbert, "Robert Pickton on Trial" *The Vancouver Sun*, 2007, <http://www2.canada.com/vancouversun/features/pickton/story.html?id=c301d257-77f0-4a85-9988-f275e600a730>

²⁰⁸ Vancouver Sun, "Pickton now a convicted serial killer" *Vancouver Sun*, 9 December, 2007, <http://www.canada.com/topics/news/story.html?id=9fef5df-acf7-4cbf-b254-ead666c00f58>.

²⁰⁹ The Canadian Press, "Facts about the 33 women whose remains or DNA were found on Robert Pickton's farm" *The Canadian Press*, 17 December 2012,

<http://www2.canada.com/vancouversun/features/pickton/story.html?id=c301d257-77f0-4a85-9988-f275e600a730>.

²¹⁰ Wally C. Oppal, *Forsaken: Report of the Missing Women Commission of Inquiry*. British Columbia, 2012

‘Follow policy. Grow up.’ Right? ‘These people are the scum of the earth. We’re not going to spend valuable time and money trying to find them. They’re hookers.’²¹¹

The intentional refusal to send emergency services to rape victims of the DTES and failure to accept missing person reports of women who largely represented the Indigenous population became evident in the proceedings. The systemic discrimination and refusal of care exposed the structural violence against Indigenous people that prevents the existence of positive peace.

On the last day of proceedings for the Missing Women Commission of Inquiry, I joined a crowd of approximately 150 Indigenous people; friends of victims, and family of the murdered and missing women that gathered at the busy intersection of West Georgia and Granville to honor the women who died. Entering the street and forming a circle, traffic in all directions came to a halt. Prayer songs streamed forth, echoing off the tall downtown buildings. The Women’s Warrior Song, given to Mechelle Pierre by the Creator, had quickly become a mantra of the Indigenous who were fighting for human rights and many of the women singing fought through tears. The prayer circle was little understood by the mainstream, Euro-Canadian members of the Vancouver community. Standing there, I was on the cusp of two worlds.

Literally with voices raised in song that could be heard for blocks throughout downtown Vancouver and with a physical presence that impeded the flow of traffic, very few non-Indigenous appeared to hear or see what was actually happening. Onlookers snapped photos of what they likely perceived as a spectacle—Indians in their traditional “costumes,”-- while pedestrians crossed through the sacred circle and the occasional driver shouted in anger because

²¹¹ Murdered and Missing 69, lines 14-22

traffic was inconveniently redirected. Even news stations reported the emotional, heartfelt memorial service as another Indigenous protest.²¹²

The murdered and missing women are part of the everyday reality of Native communities, not just in Vancouver, but across Canada and the United States. For an Indigenous woman, the world is not safe, because when preyed upon, and often by non-Natives, the system will fail them. When departing Native events at night, I was often escorted out of fear for my safety, despite my attempts at refusal. Almost every day, regardless of where I traveled, I saw flyers of missing Native women. I got Facebook messages asking if I had seen beautiful young missing Indigenous women and girls. The Indian Friendship Center, a cultural hub for Vancouver's urban Indigenous population, advertised at least two missing Native community members at any given time. The danger is real.

At the memorial for the missing women, a woman with black, shoulder-length hair entered the center of the circle at Granville and Georgia. Her body was tense as she spoke into the microphone. Tears streamed down her face as she described in horrifying detail her kidnapping, her brutal rapes, and her assault at the hands of Robert Pickton and his brother (who has not faced charges). Her fury was palpable as she described being ignored by the police and shared how the violence against her was dismissed. I held her in my arms as she sobbed. I felt her rage and pain echo through us. Seeing this, several others made a concerted effort to smudge us both, over and over, drowning us in healing medicines, but no amount of cleansing was enough in that moment; her suffering was deep.

The Cheyenne say that a nation is not defeated until the hearts of its women are on the ground. During my fieldwork, it became clear that from an Indigenous perspective that the

²¹² Sonia Aslam, "Protesters gather downtown as Missing Women Inquiry wraps up" *News 1130*, 6 June 2012, <http://www.news1130.com/2012/06/06/protesters-gather-downtown-as-missing-women-inquiry-wraps-up/>

Canadian government, at all levels, was allowing Aboriginal women to be preyed upon in its continued attempts to oppress Native peoples. Spanning 1990 to 2010, there were 582 documented cases of missing and murdered Aboriginal women across Canada, and by 2013 the number of known cases grew to 824.^{213,214} Of those, at least eighteen disappearances are associated with British Columbia's Highway 16, colloquially known as the Highway of Tears.²¹⁵

²¹⁶ To contextualize these numbers, data from the Native Women's Association of Canada found that in the 2000s, while only three percent of the female population was Indigenous, they comprised ten percent of all female homicides.²¹⁷ So well-established is the concern with the outstanding number of missing and murdered Indigenous women that in October of 2013, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, recommended that the Canadian government establish a national investigation.²¹⁸ Anaya's comment that amongst Natives there was "a widespread lack of confidence" in the Canadian government's efforts to resolve the issue of the missing women coincided with the prevailing feeling in the field of an adversarial relationship between the government and First Nations.²¹⁹

After attending the Missing Women Commission of Inquiry proceedings and multiple memorialization events for them, the pervasiveness of the pain felt in the Native communities became clear. While the residential schools assimilated, abused, and experimented on children,

²¹³ Native Women's Association of Canada, "Sisters in Spirit homepage" last accessed 11 March 2014, <http://www.nwac.ca/sisters-spirit>.

²¹⁴ Craig Kielburger and Marc Kielberger, "Over 800 aboriginal women missing, murdered" *The Vancouver Sun*, 20 January 2014, <http://www.vancouversun.com/news/Over+aboriginal+women+missing+murdered/9407023/story.html>.

²¹⁵ Highway of Tears: Preventing Violence Against Women, "About Us," Highway of Tears, last accessed 11 March 2014.

²¹⁶ Canadian Broadcasting Channel News, "BC's infamous 'Highway of Tears'" *CBC Digital Archives*, 19 December 2012, <http://www.cbc.ca/archives/categories/society/crime-justice/cold-cases-unsolved-crimes-in-canada/bcs-infamous-highway-of-tears.html>

²¹⁷ Native Women's Association of Canada, "Fact Sheet: Missing and Murdered Aboriginal Women and Girls"

²¹⁸ The Canadian Press, "James Anaya, UN Official, Backs Inquiry Into Missing, Murdered Aboriginal Women," *The Huffington Post*, 15 October 2013, http://www.huffingtonpost.ca/2013/10/15/james-anaya-united-nations-inquiry_n_4101817.html.

²¹⁹ The Canadian Press, *James Anaya, UN Official*.

sometimes leading to their deaths, the government was allowing Indigenous women to be hunted as well. One could argue that the violence of the residential schools ultimately led to the homelessness and poverty of Aboriginal women, transforming into a physical and sexual violence manifested through sexual assaults and murder. Others could argue that the colonial practice of using Indigenous women in such a manner never ceased, but just changed its appearance. The murdered and missing Aboriginal women were not the only issue that was repeatedly brought to my attention when I asked about the efficacy of transitional justice; the continued removal of children from Native homes was also mentioned as ongoing violence in the “post-residential school era,” and during the time of reconciliation.



Figure 7. Murdered and Missing Women Memorial

(http://womensmemorialmarch.files.wordpress.com/2013/12/1462974_10152003311244337_1787291818_n.jpg)



MISSING WOMEN TASK FORCE

MISSING WOMEN

VANCOUVER, BRITISH COLUMBIA, CANADA



 Marlene ARGENTI Last Seen: Nov 1984	 Deborah ARDREY Last Seen: Aug 1984	 Marian ARRAVIA Last Seen: Dec 1989	 Elaine ALLENBETH Last Seen: May 1984	 Angela ARSENAULT Last Seen: Aug 1984	 Sherry BAKER Last Seen: Jan 1991	 Cindy BECK Last Seen: Aug 1991	 Yvonne BEEN Last Seen: May 1984	 Andrea BODDART Last Seen: Mar 1991
 Deborah BITTINGLEY Last Seen: May 1984	 Deborah CHINOCK Last Seen: May 1984	 Nancy CLARK Last Seen: Aug 1984	 Wanda CRAWFORD Last Seen: Dec 1984	 Maritella CRIBBON Last Seen: May 1984	 Dawn CREY Last Seen: Nov 1984	 Sherry DOCKES Last Seen: Aug 1984	 Sherry DONAHUE Last Seen: May 1984	 Tiffany DREH Last Seen: Mar 1991
 Elaine DEBIA Last Seen: 1989	 Shelia EGAN Last Seen: Dec 1984	 Lore ELLER Last Seen: Jan 1991	 Gloria FIDYSHYN Last Seen: Feb 1984	 T. Patricia FILLIS Last Seen: Dec 1984	 Sharon FRY Last Seen: Jul 1989	 JENNIFER FURMINGER Last Seen: Dec 1984	 Catherine GONZALEZ Last Seen: May 1984	 Barbara GUNO Last Seen: Feb 1984
 Marbella GURNEY Last Seen: May 1984	 Steph BAILE Last Seen: Dec 1984	 Sherry HALLMARK Last Seen: Dec 1984	 Randy HAREY Last Seen: Jul 1987	 Annet HENRY Last Seen: May 1987	 Teresa HERNAN Last Seen: Dec 1984	 Sherry HIRUNG Last Seen: Aug 1984	 Angela LAMONGNE Last Seen: Nov 1984	 Andrea HERRICK Last Seen: Dec 1984
 Patricia JOHNSON Last Seen: Dec 1984	 Debra JONES Last Seen: Dec 1984	 Catherine KNIGHT Last Seen: Aug 1984	 Barry KIRK Last Seen: Dec 1984	 Marie KALIBREDE Last Seen: Dec 1984	 Stephanie KANE Last Seen: Jan 1989	 Richard Keller SETTLE Last Seen: Aug 1984	 Laura MAH Last Seen: Aug 1984	 Margaret McTAVELL Last Seen: Dec 1984
 Debra MELLON Last Seen: Dec 1984	 Lynne MENDIS Last Seen: Dec 1984	 Jacqueline MERRICK Last Seen: May 1987	 Lillian O'DARE Last Seen: Aug 1984	 Georgina PLYN Last Seen: May 1984	 Tina PETERSEN Last Seen: Feb 1984	 Sherry RAB Last Seen: Nov 1984	 Sherry RICE Last Seen: Dec 1984	 Lisa SEABASTIAN Last Seen: Dec 1984
 Angela SNEY Last Seen: Aug 1984	 Doreen SPENCE Last Seen: Aug 1984	 Teresa TRIFF Last Seen: Aug 1984	 Sharon WARD Last Seen: Feb 1987	 Kathleen WATLEY Last Seen: Dec 1984	 Olivia WILLIAM Last Seen: Dec 1984	 Teresa WILLIAMS Last Seen: Dec 1984	 Sherry WILSON Last Seen: Dec 1984	 Doreen WOLFE Last Seen: Dec 1984
 Frances YOUNG Last Seen: Aug 1984	 Julia YOUNG Last Seen: Aug 1984							

10. All names are approximate and are subject to change as more information becomes available. (October 1987)

Charges have been laid

IF YOU HAVE INFORMATION ON ANY OF THE ABOVE WOMEN AND HAVE NOT YET SPOKEN TO POLICE, PLEASE CALL THE MISSING WOMEN TASK FORCE TIP LINE:

1 877 687 3377

\$100,000 REWARD

The Ministry of Attorney General and the Vancouver Police Board have authorized a reward of up to \$100,000 for information leading to the arrest and conviction of the person or persons responsible for the unlawful confinement, kidnapping, or murder of any or all of the listed women, missing from the streets of Vancouver. Upon the arrest and conviction of a person or persons responsible for the unlawful confinement, kidnapping, or murder of any one or more of the women listed as missing in this poster, a reward will be decided by the Vancouver Police Board. In its sole discretion, and that decision is final, binding and not reviewable.

Only those people who come forward and volunteer information which is received by the Vancouver Police Department or the Missing Women Task Force on or before December 31, 1987 will be eligible to receive a reward.

Any person having information regarding the unlawful confinement, kidnapping or murder of any of the missing women listed in this poster are requested to communicate that information immediately to the Vancouver Police Department, Missing Persons Unit or the Missing Women Task Force.

Figure 8. Murdered and Missing Women (<http://www.turtleisland.org/photo/mwtf.jpg>)

Forcibly Transferring Children to another Group

“The Ministry is here I need you here right now.”

The text message made my heart stop in my chest. Dee had her nine year old daughter taken away before by the Ministry of Child and Family Development (CFD). I had heard the story repeatedly from Native women; the tale is not new. The Ministry arrives and without preamble takes your child. There is no investigation into any accusations made against you; there is no defense. Her daughter, whom I will call Megan, had told me that she was afraid. She was scared that the Ministry would come for her again and separate her from her mother. Since the last time they took Megan, Dee had acquired an apartment of her own, rather than sharing one with roommates. She had found a job, been awarded a grant, and from all I had witnessed, was a loving, caring mother. I had told Megan that she had nothing to worry about. I had naively believed it, and I was wrong. I received Dee’s text at 8:26 P.M., and one minute later Megan was gone.

When discussing Indian residential schools with Indigenous community members and leaders, I was often reminded that the government had not stopped taking the children. Recognized by Natives in both Canada and the United States as a continued effort to colonize the Americas, the removal of children is also understood by the United Nations to be an act of genocide under the 1951 Convention on the Prevention and Punishment of the Crime of Genocide. Article 2(e) includes in the definition of genocide “forcibly transferring children of the group to another group.”²²⁰ This tactic has been seen in numerous contexts, including that of Nazi Germany and Argentina’s “Dirty War”.^{221,222} First, the residential school system effectively

²²⁰United Nations General Assembly, Resolution 260 (III), “Convention on the Prevention and Punishment of the Crime of Genocide,” 12 January 1951, <http://legal.un.org/avl/ha/cppcg/cppcg.html>

²²¹ Tara Zahra, “Reclaiming Children for the Nation: Germanization, National Ascription, and Democracy in the Bohemian Lands, 1900-1945” *Central European History* 37 (2004): 501-543.

removed Native children from their communities, displaced them, and forcibly assimilated them. When the schools declined in numbers in the mid-1900s, they become augmented by the child welfare system, creating a continuum of violence against Native peoples.

The “Sixties Scoop” refers to the 1960s-1980s Canadian removal of thousands of Native children from their homes and their placement into non-Native households via the child welfare system.²²³ The statistics are staggering. From 1960 to 1990 an estimate of 11,132 to 16,000 First Nations children were adopted, and seventy percent of removed children were placed in non-Aboriginal homes. In 2003, 25,500 First Nations children were in state care, and by 2010, the number had grown to 27,500. In 2010, Indigenous children were six to eight times more likely than non-Indigenous children to be taken from their families.²²⁴ Inspired by the lawsuit that resulted in the Indian Residential School Settlement Agreement, children who were removed during the “Sixties Scoop” announced in July of 2013 that they received approval from the Ontario Superior Court of Justice to pursue a class-action lawsuit against the federal government. With this continued assimilation of Native children into dominant Euro-Canadian society, there is evidence of intentionality and misinformation on the part of government officials. One woman discovered that her parents had been lied to by social workers who stated that she had a mental illness and needed to be placed in state care.²²⁵ Likewise parents also remain misinformed, if informed at all of their rights.

One informant, a Cree social worker shared his experience working in the foster care system. He explained that often Indigenous parents were told that they had to sign paperwork as

²²² Laura Oren, “Righting Child Custody Wrongs: The Children of the “Disappeared” in Argentina” *Harvard Human Rights Journal*, 14(2001):123-196.

²²³ Raven Sinclair, “Identity lost and found: Lessons from the sixties scoop” *First Peoples Child & Family Review*, 3(2007):65-82.

²²⁴ Joan Riggs, “Working with First Nations, Inuit and Métis Families who Have Experienced Family Violence,” *Government of Ontario*.

²²⁵ Canadian Broadcasting Channel News, “First Nations ‘60’s scoop’ lawsuit heads to trial,” *CBC News*. 17 July 2013. <http://www.cbc.ca/news/canada/thunder-bay/first-nations-60-s-scoop-lawsuit-heads-to-trial-1.1310678>

part of the process to regain custody of their children, when in truth, the paperwork confirmed surrender of parental rights. Furthermore, appointments, meetings, or forms that were necessary to reclaim custody were often omitted from information shared with parents. Unable to afford legal counsel and frequently without higher education, in his experience Native families are often incapable of bringing their children home. This results in the continued eradication of culture, language, spirituality, and other aspects of Native life.

Again, with policies and rights violations mirroring those in Canada, the United States has come under similar scrutiny. In an effort to prevent loss of cultural transmission and assimilation, the U.S. instituted *the 1978 Indian Child Welfare Act*, stating that Native children, when removed by Child Protective Services, must be placed with family members or members of their tribe. However, in 2011, an investigation conducted by National Public Radio (NPR) found that at least thirty-two of the fifty states were failing to meet this criteria.²²⁶ Moreover, as mentioned before, the state of Maine has a government-approved TRC known as the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, mandated to “uncover and acknowledge the truth about what happened to Wabanaki children and families involved with the Maine welfare system.”²²⁷ Both the United States and Canada continue to remove Native children from their homes and place them in non-Native households, resulting in assimilation, displacement, and theft of language. The fourth human rights issue, or exemplar of structural violence, that was repeatedly brought to my attention as a hindrance to effective reconciliation was the neo-colonial endeavors on the part of dominant, Euro-Canadian society to maintain control of land and natural resources for economic gain.

²²⁶ Laura Sullivan and Amy Walters, “Native Foster Care: Lost Children, Shattered Families,” *National Public Radio*. 25 October 2011. <http://www.npr.org/2011/10/25/141672992/native-foster-care-lost-children-shattered-families>

²²⁷ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, “Home,” last accessed 25 March 2014. <http://www.mainewabanakitrc.org/>

The Lakota is the Earth.

Cecilia and Mary wore traditional cedar hats and button blankets, and I felt underdressed as we gathered in the hallway. Amnesty International had invited Cecilia to speak about the destruction and desecration of graves at *čəsnaʔəm* as part of a panel on Indigenous rights and human rights issues. I had been asked to sing a Musqueam Entering into the House song with the rest of the entrance procession, and I was honored. By now they had quit offering me a hand-drum, understanding that my Indigenous teachings did not allow me to play because I was a woman. I found no fault or error in their practice of having powerful female drummers, but to respect my traditions, I could not participate in that way; instead I sang. We entered into a brightly lit classroom on the University of British Columbia's campus, drums reverberating the heartbeat of Mother Earth, and when the song ended I took my seat in the small audience of about fifty people. Cecilia spoke well and her words painted a picture of the frustrating and painful struggle to protect *čəsnaʔəm*, but what I had not prepared for were the words of another woman. She was young in her mid-twenties with creamy skin and dark hair. She was from Alberta, she said. She was from the tar sands.

At this point, I had only heard of the tar sands in passing, stumbling across the occasional newspaper article. Tar sands are a naturally occurring phenomenon comprised of sand, clay, water, and viscous petroleum known as bitumen. To extract the oil, natural gas is burned, generating heat that melts the oil out of the sand. Up to five barrels of water are needed for every one barrel of oil harvested.²²⁸ Aside from the intense resource requirement to extract the oil from the sands, the impact on the environment and its people is detrimental.

The woman stood before us, her voice strong until she started to struggle with tears. I do not remember the name of her First Nations community, but I remember her voice. I remember

²²⁸ Greenpeace Canada. "Tar Sands." <http://www.greenpeace.org/canada/en/campaigns/Energy/tarsands/>

her eyes. I remember the beautiful images of her community she projected onto the wall—the streams where they fished for food and collected drinking water—the streams that were contaminated by tar sands extraction. She showed pictures of the forests where her family hunted. Then she showed us images of a barren wasteland. The mountains in the horizon were the same mountains, but not a tree stood, and not a plant lived as trees were razed, the contaminated watershed poisoned all that relied on it, and toxic emissions filled the air. She shared how a week passed before her community had been notified of a toxic spill into their water supply. She listed all the instances of cancer that soon followed. Her story became one of many that I encountered from Indigenous people who lived in the rural forests and wetlands of Alberta.

She was on a mission to protect Mother Earth and her children. Her voice is one among many of Indigenous people across the America's. The Oglala Lakota Nation is fighting the construction of the 1,700-mile Keystone XL pipeline which would intersect with the pipeline that provides water to Pine Ridge and Rosebud reservations. Keystone was preceded by the Transcanada pipeline which spilled twelve times in its first year of operation alone. As the Lakota explained, they would be “dead or in prison before we allow the Keystone XL pipeline to pass.”²²⁹ Yet another example of Indigenous people standing against natural resource extraction and its damaging effects is known as the Cowboy-Indian Alliance, which is a group of Aborigines from both the U.S. and Canada, ranchers, and environmentalists who are protesting the Keystone XL pipeline. Rural communities, including farmers and ranchers have also seen and felt the effects of toxic byproducts and are standing in solidarity with Indigenous peoples.

²²⁹ Camila Ibanez, “Lakota vow: ‘dead or in prison before we allow the KXL pipeline,’” *Waging Nonviolence: People-powered news & analysis*. 13 March 2014.

In September of 2013, as part of a months-long protest, the Mi'kmaq blockaded Highway 11 in Rexton, New Brunswick, until South Western Energy (SWE) left in December, preventing SWE from extracting natural gas. The blockade was also discussed in tandem with the Oka Crisis. As of this writing, the Unist'ot'en Clan of the Wet'suwet'en Nation continues to maintain an encampment directly on the path of the Northern Enbridge Gateway Pipeline. Chief Reuben George of the Tsleil-Waututh First Nation often organizes events to raise awareness of the need to “protect the Salish Seas,” from the Northern Enbridge Gateway Pipelines and its associated tanker routes. In January of 2014, the Gitxaala First Nation, the Haisla, and four environmental agencies have filed lawsuits in the Federal Court of Appeal. The Gitxaala are arguing that the



Figure 9. Mi'kmaq Blockade faces RCMP.
(http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/imagecache/bigimg/screen_shot_2013-10-17_at_12.30.16_pm.png)



Figure 10. Mi'kmaq Blockade.

<http://briarpatchmagazine.com/articles/view/the-battles-in-new-brunswick>

project review panel did not take into consideration public opinion, or Aboriginal title and rights. Likewise, the Haisla state that their heritage was not considered and the Crown's responsibility to First Nations consultation was not upheld. Not only are hunting and fishing regions, animals, and vegetation affected, but the lives of Indigenous people who rely heavily on those resources and are exposed to toxic byproducts are threatened.

Land cannot be discussed without a mention of time.²³⁰ Space and place scholars reveal that concepts of one affect notions of the other.²³¹ Indigenous concepts of time and space are understood to be significantly different than what academics call Euro-Christian, or Western

²³⁰ I find this a particularly difficult concept to discuss, because I understand it conceptually, rather than linguistically.

²³¹ Dawn E. Bastion and Judy K. Mitchell, *Handbook of Native American Mythology* (Oxford:ABC-CLIO, 2004).

concepts of linear time.²³² This is a relevant piece of information when understanding the presence of cognitive pluralism, or the concept that different groups may have differing cognitive frameworks that lead to different methods of perceiving information and reasoning. While many scholarly discussions about time, such as that inspired by Lévi-Strauss concerning langue, or reversible time, and parole, or non-reversible time, often deliberate the possibility of cyclical time, that is beyond the scope of this research.^{233,234} Instead, there is acknowledgement that Indigenous concepts of time are cyclical rather than linear. There is not a past, present, and future on a straight line that progresses; rather, the past, present, and future exist simultaneously in a circle or a spiral. In some sense, the present for Indigenous people includes what Euro-Christian concepts of time would consider to be the future. Indigenous cyclical time does not progress, as does linear time, instead it repeats patterns with infinite outcomes. Therefore, it is not a question of *if* current actions *will* impact the next seven generations, those actions *are* impacting those generations; we exist in the same moment. In addition to the current assault on health, lifeways, and livelihood of Indigenous people through the contamination of the environment, “future” generations are also affected. As the woman from the tar sands showed in her powerful images, life in the path of the tar sands is destroyed..

Discussion and Conclusion

In 2011, 4.3% of the Canadian population self-identified as Aboriginal.²³⁵ Out of the hundreds of Indigenous people I spoke to, every person was directly affected by the residential

²³² Stephen Muecke, *Ancient and Modern: Time, Culture, and Indigenous Philosophy*, (Sydney: University of New South Wales Press, 2004).

²³³ Claude Lévi-Strauss, “The Structural Study of Myth,” *American Folklore Society* 68(1955):428-444.

²³⁴ Barbara Adam, “Perceptions of Time” in *Companion Encyclopedia of Anthropology: Humanity, Culture, and Social Life* ed. Tim Ingold, (New York: Routledge, 1994), 503-526.

²³⁵ Government of Canada. “Aboriginal Peoples in Canada: First Nations People, Metis and Inuit.” *Statistics Canada*. 2011.

schools, desecration of Native culture, the missing and murdered women, the foster care system, or environmental development. Most Aboriginals I spoke to felt the effects of more than one of these issues in their everyday life.

I have only chosen to highlight a few of the examples that I encountered repeatedly in the field of actions viewed as part of systemic assimilation and eradication of Indigenous people. Other evidence brought to my attention includes the 2010 cessation of government funding to the Aboriginal Healing Foundation (AHF), an organization established in 1998 and mandated to “encourage and support... community-based Aboriginal-directed healing initiatives which address the legacy of physical and sexual abuses suffered in Canada’s IRS [Indian residential school] System, including intergenerational impacts.”²³⁶ After this funding cut, approximately 134 AHF projects across the country were unable to continue as they were currently organized, if at all.²³⁷ Informants also emphatically pointed out that this occurred only two years after the government’s official apology for Indian residential school system and during the tenure of the national Truth and Reconciliation Commission of Canada.

Most recently, on 6 February 2014, with less than two months’ notice, the Government of Canada announced the elimination of the Aboriginal Friendship Centre Program (AFCP). A forty-year institution, Friendship Centers in British Columbia comprise the largest network of social services for Indigenous people.²³⁸ Urban Natives, who in 2011 comprised 56% of the Indigenous population, rely heavily on community support, and use the Friendship Centres for social services, community-building, cultural transmission, and networking.²³⁹ At the Vancouver Friendship Centre, located near on Hastings near the Commercial Drive intersection, there were

²³⁶ Aboriginal Healing Foundation. “FAQs.” last accessed 10 March 2014. <http://www.ahf.ca/faqs>

²³⁷ Maya Rolbin-Ghanie, “Funding cuts a catastrophe for residential school survivors,” *Rabble*, 30 March 2010.

²³⁸ British Columbia Association of Aboriginal Friendship Centres. “News & Events: Press Release.” 10 March 2014.

²³⁹ Aboriginal Affairs and Northern Development Canada. “Urban Aboriginal People.” 22 May 2013.

a range of services available, including a message board for communication, missing person notices, traditional dance classes, family nights, youth programs, community mediation services, education services, residential school survivor resources, and a computer lab to name a few. With a lack of technology and access to resources, much information in the Native community is spread via word of mouth and the Friendship Centres act as critical information hubs. Closure of these community gathering spaces will further destabilize the Native populations, and there is concern that there will be increased incidences of foster care placement of Indigenous children, youth suicide, and child hunger.²⁴⁰

Awareness of these highly polarized sociopolitical issues between Indigenous peoples and the government of Canada is critical to understanding the relationship between survivors of human rights abuses and the perpetrating government. The purpose of the transitional justice framework in Canada is clearly not to facilitate a political transition into a different kind of system, and arguably could be in place to transition into a more peaceful era. Some may maintain that the purpose of Canada's transitional justice framework is situated firmly in a reconciliatory context which will be further explored in another chapter. Nor is the Canadian transitional justice agenda transformative in nature. Were a transformative approach driving the process then institutional reform would be a priority as political, socioeconomic, and psychosocial justice are key components of transformative justice.²⁴¹

Tensions between the Canadian government and Indigenous people have not eased, and positive peace, or cessation of social injustices against Native people, has not been achieved. The ongoing rights violations which are viewed by Indigenous people as part of the continued

²⁴⁰ British Columbia Association of Aboriginal Friendship Centres. "News & Events: Press Release." 10 March 2014.

²⁴¹ Wendy Lambourne, "Transformative Justice, reconciliation, and peace-building" in *Transitional Justice Theories*. eds. Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Miethe (New York: Routledge, 2013), 32.

assimilation efforts of a neo-colonial government, and take the form of structural violence: as is seen by the persistent desecration of Indigenous graves, the disregard for the murdered and missing women, the continued use of the child welfare system, and the growing conflicts over land and resources. Moreover, if the transitional justice framework is pursuing the redress of *past* wrongs, then the legitimacy of the use of transitional justice is called into question. The government-administered, top-down initiatives exist exclusively to address the residential school legacy, which is not viewed by Indigenous people as a singular, *past* act of assimilation and genocide. While the last residential school closed in 1996, the intergenerational effects continue to permeate Native lifeways.

Some may argue that purpose of Canada's transitional justice framework is situated firmly in a peace-building and reconciliatory context which will be further explored in another chapter. Nor is the Canadian transitional justice agenda transformative in nature. Were that the case, then institutional reform would be a priority as political, socioeconomic, and psychosocial justice are key components of transformative justice.²⁴²

The residential schools created generations of individuals who comprise a large component of the homeless population, who have high suicide rates, and who have become an even more vulnerable and marginalized population. Arguably, to redress all of the effects caused by the IRS - which were part of an assimilatory system - a much more extensive sociopolitical overhaul would need to occur. Instead, evidence appears to support Hansen's postulation that "ruling elites may choose to conceptualize an often limited or half-hearted attempt of addressing past or still ongoing abuses—often committed by various actors, including the current regime itself—as transitional justice to avoid international interference; shun more profound reforms of

²⁴² Wendy Lambourne, "Transformative Justice, reconciliation, and peace-building" in *Transitional Justice Theories*.eds. Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Miethe (New York:Routledge, 2013), 32.

the system of governance; disseminate a particular, though not necessarily complete, picture of whom is to blame for the abuses.”²⁴³ Any facilitator working in a transitional justice framework, including the forensic anthropologist, needs to understand the sociopolitical context in which she is working as each element of the process, including grave excavation is embroiled in political agendas.

Practically, as a forensic anthropologist or human rights investigator, the actual intentions of one’s employers may not be as transparent as is assumed, and one’s work can unwittingly be used as part of a system of oppression that is disguised as a weak attempt at transitional justice. While the human rights investigators will gather evidence, they must understand the framework within which they are working, the biases instilled in their work, and the impact that their work has on living communities. Moreover, in situations operating within transitional justice or post-conflict reconstruction, the work of the human rights investigator extends beyond the role of fact-finding into the humanitarian realm of healing, cultural sensitivity, reconciliation, and historical redress. For Natives in British Columbia, the overwhelming perspective was that there has yet to be a transition to peace, that a battle for land and lives continues, and that the government’s efforts are not genuine, as is evidenced by the ongoing human rights issues.

²⁴³ Thomas Obel Hansen, *The Vertical and Horizontal*, 117.



Figure 11. Tarsands Before (top) and After (bottom).

(http://38.media.tumblr.com/tumblr_m3i1du5kRY1rolmsno1_1280.png)

ENTR'ACTE 4

"I am a woman.

I am an Indian.

That means I am allowed to be hunted, stalked, and abused.

I'm not allowed to feel safe...ever. Because I am disposable and invisible. Because I am even not supposed to be here. WE are not supposed to be here. We were supposed to be eradicated from this land now called 'Canada'. That is WHY I use my voice. To speak for all those who feel the same. For those who have been preyed upon and treated with brutal, merciless, and inhumane cruelty. And WE are called the 'Savages'.

For 500 years, since contact, we have endured the societally, and government condoned violence and hatred towards us, towards our women. It continues still today.....Proof? 1,181 Murdered and Missing Women. The Highway of Tears. It enrages me. It hurts my heart. Mostly, it fires me up. It spurs me on be strong. To protect. To defend.

staməx cən. (I am a Warrior.)

stəmtaməx ct. (We are Warriors.)"

-Audrey Siegl, *Musqueam Nation*-

CHAPTER FOUR: TRANSITIONAL JUSTICE IN CANADA: A COUNTER-NARRATIVE

“I think the people they [TRCC] hired to interview people aren’t qualified to interview people on subject matter that is as emotionally triggering, traumatic, and as intense as the subject matter is. You need to have the best of the best in there, and for the most part, when I see people go into the statement-gathering, it’s like I’m seeing an undergrad student interviewing. It’s an embarrassment to the TRC. It’s a federal commission, the government of Canada, and the people that they hire - even a concept as simple as cultural-sensitivity - isn’t understood by the people that they hire... it reminds me of the qualifications required for the people who were teachers at the [residential] schools- no qualifications. They are repeating history again even within the structure itself... There is an expectation on First Nations people to understand a very complex settlement agreement, and within that the TRC’s mandate, and within that the Missing Children’s mandate. That’s one of my largest complaints about the whole settlement agreement in general is expecting First Nations elders and former students to be able to comprehend all those pieces, and that expectation coming directly from people working within the structure [transitional justice system]. It shows a lack of understanding of First Nations people, knowledge, a lack of empathy, a lack of care.”

—Former TRCC employee—

Theoretical concerns posed by transitional justice scholars question the appropriateness of the application of a universal transitional justice format to various local contexts. Similarly, practitioners and stakeholders on the ground, such as the TRCC employee quoted above, continued to illuminate difficulties in adapting transitional justice tools to specific contexts. For example, the use of a truth and reconciliation commission in Canada has been at the focal point of such dialogues. Traditionally, truth and reconciliation commissions have been utilized as a transitional justice tool to aid in political transition and to contribute to redress, prevention, and justice in the wake of civil war.²⁴⁴ More recently, the use of transitional justice mechanisms has expanded beyond democratic transition to address “historical” injustices as can be seen in the use of several North American truth commissions.²⁴⁵ The Greensboro Truth and Reconciliation Commission investigated a police-sanctioned hate crime that occurred in 1979. The legacy of the

²⁴⁴ Mark Freeman, *Truth Commissions and Procedural Fairness* (New York: Cambridge University Press, 2006).

²⁴⁵ Hayner, *Unspeakable Truths*.

massacre left a city steeped in institutionalized racism.²⁴⁶ Similarly, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, established in 2012, is investigating the historical and current disproportionately high number of Indigenous children in the foster care system, and the national Truth and Reconciliation Commission of Canada is documenting the history of government-sponsored assimilatory Indian Residential Schools.²⁴⁷ These “historical” injustices exist as part of an often well-masked system of structural violence, rather than the unmistakable physical violence of “post-conflict” societies, adding a new contextual component.

Theories of structural violence begin with Galtung, who explains that violence is not restricted to physical or bodily harm; rather, violence can be built into social systems, via an unequal distribution of power and disparate access to resources such as education, healthcare, housing, or safety. Expressed as “chronic, historically entrenched political-economic oppression and social inequality,” structural violence therefore creates unequal “life chances” for different demographics of the population.²⁴⁸ The power distribution may be designed to keep individuals oppressed or disadvantaged through the use of institutionalized racism, classism, sexism, or nationalism, to name a few.²⁴⁹ Paired tightly with structural violence, the concept of cultural violence describes the use of cultural phenomena, such as science, religion, ideology, or language, to legitimize structural violence. Cultural violence makes the structural violence “invisible,” or socially acceptable, preventing dominant society from perceiving it as morally wrong. Moreover, cultural violence may even succeed in normalizing the inequalities.²⁵⁰

²⁴⁶ Crew, *Learning from Greensboro*.

²⁴⁷ Courtney Jung, “Canada and the Legacy of the Indian Residential Schools: transitional justice for indigenous people in a non-transitional society. (2009):1-29. <http://ssrn.com/abstract=1374950>

²⁴⁸ Phillippe Bourgois, “The Continuum of Violence in War and Peace: Post-Cold War Lessons from El Salvador.” In *Violence in War and Peace: An Anthology*. ed. Nancy Scheper-Hughes and Phillippe Bourgois (Malden, MA: Blackwell Publishing, 2012):426.

²⁴⁹ Galtung, Violence, peace, and peace research, 171.

²⁵⁰ Johan Galtung, “Cultural Violence,” *Journal of Peace Research* 27(1990):291-305.

Another means of using cultural violence to reinforce structural violence includes the creation of exceptions to moral rules. Galtung uses a popular example of cultural violence via moral ideologies: murder on behalf of oneself is wrong, but murder on behalf of the state is allowable.²⁵¹ By creating ideologies around a specific group of people (in this case, those sentenced to capital punishment or those identified as an enemy during warfare), differential treatment can come to be expected and rationalized by the dominant society; when it too becomes accepted by those who fall victim to the structural violence, symbolic violence is achieved as well. Symbolic violence relies on those experiencing the violence to believe it is justified or deserved. Moreover, structural violence can be seen in countries that are often considered in a state of “peacetime,” “post-conflict,” or “post-colonialism.” Scheper-Hughes and Bourgois illustrate the presence of a *continuum of violence* in these states through every day acts of violence and the normalization of oppression and marginalization.²⁵² Analyses of structural violence have also entered the human rights debate, in which scholars argue that structural violence itself constitutes a violation of human rights through systemic, asymmetrical access to resources that leads to increased mortality and reduced quality of life.²⁵³ In scenarios in which “historical” injustices that constitute more than physical violence are being addressed, often structural violence becomes part of the transitional justice dialogue amongst those experiencing the violence.

In transitional justice theoretical debates, many scholars allude to the role of structural violence, while others highlight its impact on systems of justice. Hansen warns that transitional justice may be used by the dominant society to half-heartedly address its own human rights crimes; with the government’s true intention comprised of ulterior motives such as alleviating

²⁵¹ Galtung, *Cultural Violence*.

²⁵² Scheper-Hughes Bourgois, *Introduction: Making Sense of Violence*, 1-32.

²⁵³ Kathleen Ho, “Structural Violence as a Human Rights Violation,” *Essex Human Rights Review* 4(2007):1-17.

international pressures for justice or avoiding greater social reform.²⁵⁴ Because of the depth to which structural violence is imbedded in society, remedying facets of it, such as healthcare, education, or other quality of life variables, would require social transformation, which is not requisitory of transitional justice. If the government in question avoids genuine social change, then in this sense, transitional justice and its tools can be used to propagate structural violence, to divert attention away from greater social reform, and to maintain the neo-colonial agenda. This section will use ethnographic data to situate transitional justice in Canada's non-transitioning context to investigate the relationship between structural violence and transitional justice mechanisms, including: the commemoration projects, monetary reparations, and the truth and reconciliation commission.

Commemoration

The guidance note from the UN Secretary General describes the goals of transitional justice as accountability, justice, and reconciliation; to achieve these goals memorialization or commemoration remains a common component of reconciliatory efforts.²⁵⁵ Fitting within this expectation, the Truth and Reconciliation Commission of Canada was tasked with distributing twenty million dollars in the form of grants for the purpose of “honoring, educating, remembering, memorializing and/or paying tribute to residential school former students, their families and their communities and acknowledging their experiences and the broad and systemic impacts of the residential school system. Commemoration initiatives may involve the creation of,

²⁵⁴ Thomas Obel Hansen, “The vertical and horizontal expansion of transitional justice: Explanations and implications for a contested field,” in *Transitional Justice Theories*, edited by Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth, (New York: Routledge, 2014).

²⁵⁵ Ki-moon Ban, “Guidance Note of the Secretary General: United Nations Approach to Transitional Justice,” March 2010, 1. <http://www.unrol.org/doc.aspx?d=2957>

or improvements to existing, permanent memorials and commemorative structures, or ceremonies or other projects.”²⁵⁶

The maximum award per grant was \$500,000, supporting a minimum of forty projects throughout Canada. Funded projects have varied in nature. One woman created informational installations that were displayed in Indian Friendship Centers throughout British Columbia; these beautiful prints contained the history of the IRS system. Her project also funded three youth conferences to create dialogue between the Indigenous youth and residential school survivors. Another supported initiative, receiving the full award of half a million dollars, is entitled “Resonating Reconciliation.” Led by Gunargie O’Sullivan, the Resonating Reconciliation project funded forty Canadian community radio stations, providing money for each to create a thirty-minute radio documentary and to train Indigenous producers.²⁵⁷ Yet another commemoration project, the Witness Blanket, entailed the construction of an eight foot by thirty foot art installation (See Figure 12) that wove artifacts from residential schools and current Indigenous cultural centers into a blanket, symbolic of ongoing reconciliation. When finished, the blanket will tour the nation, traveling to rural Indigenous communities and ending in a permanent display at the National Research Centre.²⁵⁸ The scope of funded projects varies while maintaining a commitment to documenting the Indian Residential School Era while strengthening Indigenous sense of community.

While the commemoration fund is potentially the least controversial aspect of transitional justice in Canada, discussion surrounding it still reflects the presence of structural violence. Its necessity has come into question in British Columbia as some parts of the Indigenous community

²⁵⁶ Indian Residential School Settlement Agreement, Schedule J, 2006.

²⁵⁷ National Campus and Community Radio Association, “Resonating Reconciliation,” <http://www.ncra.ca/resonating>, last accessed 17 February 2014.

²⁵⁸ Witness Blanket, “Home,” <http://witnessblanket.ca/#!/contact/>, last accessed 12 January 2014.



Figure 12. Witness Blanket

(<http://ring.uvic.ca/media/photo-essays/witness-blanket-cuvic-2014>)

argue that the 20 million dollars could instead support healthcare and other needs of the Indigenous community. The suggestion ultimately reflects a desire to address institutionalized violence against Native peoples, and the desire for some outweighs the funding of commemoration projects. However, the commemoration initiative has allowed members of the Indigenous community to participate in the transitional justice process at the local level with endeavors that encourage education, documentation, and community building of Indigenous-prioritized aspects of the residential school era. While existing as a lesser known aspect of the reconciliation process and targeting Indigenous, rather than European, populations the commemoration projects appeared to be inspirational and healing for those who participated

Interestingly, the receipt of commemoration funding also affected perceptions of the transitional justice process. For example, one gentleman vocalized that because he received a commemoration grant, he felt he could no longer speak against the work of the TRCC. While he believed that most of their work was symbolic and failed to create the necessary social reform, he felt obligated to stop discussing his views of the TRCC. Meanwhile, another woman remained undeterred by receipt of commemoration funding, and continued to vocalize her disdain of the shortcomings of the TRCC. Of the projects encountered in the field, the goals appeared twofold: 1) bring awareness to the Canadian community at large concerning residential schools and their lasting effects, and 2) facilitate community-building and healing at the individual or local level.

Commemoration initiatives were not a highly contested facet of the transitional justice process in Canada. Overall, most people were unaware of the commemoration fund, and those who were aware either thought the money could be spent elsewhere or were grant award winners who overall felt positive about being able to control and direct some aspects of the transitional justice process. Discussion concerning the commemoration funds stood in harsh contrast to conversation concerning monetary reparations.

Monetary Reparations

Arguably, monetary reparations function as the most contested aspect of the transitional justice process employed in Canada. Any person who attended an IRS could be awarded a base payment of \$10,000 with an additional \$3,000 for every year of attendance.²⁵⁹ Effectively, for experiencing forcible assimilation, destruction of language and culture, displacement, and destabilization of community and family, someone who attended residential school for ten years

²⁵⁹ Cultural Survival, "Canada Agrees to Reparations for All Residential School Students," 17 June, 2005. <http://www.culturalsurvival.org/news/canada-agrees-reparations-all-residential-school-students>

would receive \$40,000, a figure many view as insultingly low for the crime committed.²⁶⁰ To demonstrate proof of enrollment, survivors had to rely on documentation from the residential school files. For victims of sexual and physical abuses, as defined by the law, survivors could request individual hearings through the Independent Assessment Process (IAP).²⁶¹ At the maximum end of the spectrum, IAP hearings could result in a \$120-150,000 reward, depending on the severity of the abuse. Ethnographic research reveals that this process, at best, reflects the government's lack of understanding of the local realities of implementing transitional justice, and at worst, reveals continued use of structural violence and a disingenuous attempt at reconciliation.

The IAP procedure itself reinforces power differentials and contributes to the continuum of violence experienced by Indigenous peoples. First, to participate in the IAP, because it exists as a result of the Indian Residential School Settlement Agreement (IRSSA), one relinquishes his or her right to pursue further litigation concerning the residential school experience. Large-scale confusion surrounded this point. Many individuals were unaware of the IAP options; there was confusion about whether or not people had to *opt-out* of monetary reparations; there were deadlines and forms people did not know existed. Individuals were also required to provide a statement about their experiences and complete a form that would be submitted for judicial review. Immediately, this poses a problem as older survivors applying for IAP funds often do not read English, let alone legalese. In some cases, the paperwork problem was tempered by the role of community organizations and NGOs that took the initiative to organize workshops to help attendees with their legal documentation. Moreover, individuals who belonged to more affluent

²⁶⁰ Jason Warick, "Residential school payments unable to compensate for 'genocidal practices': survivor," *National Post*, 17 December 2011, <http://news.nationalpost.com/2011/12/17/residential-school-payments-unable-to-compensate-for-genocidal-practices-survivor/>

²⁶¹ Indian Residential Schools Adjudication Secretariat, "Home," last accessed 18 March 2014. <http://www.iap-pei.ca/home-accueil-eng.php>

bands often were able to approach their councils for legal aid. A significant number of incarcerated, homeless, rural, and urban Natives were left to seek aid on their own.

Once a survivor obtained a consultant and learned the requirements, many survivors felt aghast at the government's requirements. To provide a statement required revealing deeply personal experiences to both strangers and loved ones who may attend the hearing. For some, sexual assaults, rape, and physical violence that had never before been discussed, now had to be recalled in vivid detail and spoken aloud. After consultants recorded the traumas, they then calculated a score, in a similar fashion to assessment of injuries suffered by war veterans from battle. The severity of the trauma was ranked and that number quantified the suffering and correlated to a suggested amount of monetary compensation. Psychologically and emotionally, survivors found this process difficult and it recreated the structural and symbolic violence that it was supposed to be acting against.

The government colluded with churches to strip Indigenous peoples of their identity, to divide and conquer them, and to culturally eradicate them. Part of this system, like warfare, included physical and sexual assault. To receive compensation as part of the reconciliation and justice process, the surviving individual must assert and prove how the government and churches succeeded in violating one's personhood, reinforcing the power differential. Appallingly, the outcome of the hearing resides in the hands of the government. Because individual perpetrators were not required to be part of this process, it functions by and large as an individual revealing his personal traumas to the system that encouraged and allowed the assaults to happen. Rather than the court acting as an arbitrator between two disputing parties, the court is viewed as the offending party. The negative effects of this process are real, as suicide rates among Indigenous

people have been linked to the passage or anticipation of IAP hearings.^{262,263} At the hearings themselves, Health Canada provides a mental health support worker, but there is no large scale system in place to address the re-traumatization caused by the IAP.

Additionally, the residential school student bears the burden of proof. One former employee of the TRC revealed that he was one of many individuals tasked with entering IRS information into an archival database that also acted as a resource for IAP lawyers representing the government. Upon inquiry with a government IAP lawyer, this was in fact true; the government had access to documentation organized and collected as part of the investigative aspect of the TRC. Survivors and their legal representation did not have access to this database. Rather, survivors and their representatives had access to the tens of thousands of physical documents. These documents, which are being used to substantiate claims of abuse, were created by the school administrators and government officials. Again, the individual had to rely on the offending system to substantiate his case. Another agonizing aspect of the IAP became clear as I heard one woman ask a legal consultant in confusion why having her teeth pulled out without anesthetic as a form of punishment did not qualify as abuse, and he explained to her that it was considered practicing medicine without a license, which was not covered by the settlement agreement. Claims had to fall under the legal definitions outlined by Canadian law.

Throughout the IAP, the government holds survivors in a disempowered state, a situation that develops regardless of the outcome of the process. For instance, if a hearing has a negative verdict, the survivor does not receive any compensation for his or her trauma- after enduring the

²⁶² Rob Smith, “Penelakut Elder committed suicide day he was to recount residential school experiences for settlement payout,” *Aboriginal Peoples Television Network News*, 15 June 2012, <http://aptn.ca/news/2012/06/15/penelakut-elder-committed-suicide-day-he-was-to-recount-residential-school-experiences-for-settlement-payout/>

²⁶³ Rob Smith, “Residential school payouts may have played role in Cowichan First Nation suicide spike,” *Aboriginal Peoples Television News Network*, 16 May 2012, <http://aptn.ca/news/2012/05/16/residential-school-payouts-may-have-played-role-in-cowichan-first-nation-suicide-spike/>

IAP; if the hearing has a positive outcome, then an individual will potentially receive \$120,000. Even in the winning scenario, the quantity of money awarded is not a life-changing amount, especially when the government fails to provide financial advising in accompaniment to the individual hearings. For many impoverished families, the money quickly diffuses throughout generations of children and grandchildren to aid in basic livelihood needs. For Indigenous community members who have suffered from substance abuse, which has been greatly influenced by the lasting effects of the residential school system, the money sometimes dissolves into drug addictions—which also have resulted in premature deaths.²⁶⁴ For others, up to half of their award has been illegally taken as payment by their lawyers.²⁶⁵ For the elderly, time lapses, and they may not live to see the completion of their independent assessment process.

Others endure the individual hearings not for the monetary compensation alone, but to be able to hear an apology from a representative of the government, or to contribute their experience to the official record. Unfortunately, even these tokens of closure are not always available. An IAP lawyer who represents the government relayed dismay in an interview I conducted with him. He recounted to me the story of a man who did not win his hearing and was not awarded money, but only sought an apology. The lawyers, legally, in that situation could not apologize on behalf of the government, as that would be an admission of guilt. Instead, the defense lawyer sent the man a copy of Stephen Harper's national apology in his own personal attempt to support the spirit of the reconciliation process. A different IAP lawyer in a separate interview said that even that individual act took creative liberty with the law, and that action outside of the hearings cannot be taken, as that exceeds the bounds of the law.

²⁶⁴ Indigenous Foundations, "The Residential School System," The University of British Columbia, last accessed 10 April 2014. <http://indigenousfoundations.arts.ubc.ca/home/government-policy/the-residential-school-system.html>

²⁶⁵ Kathleen Martens, "Residential schools chief adjudicator to resign," *Aboriginal Peoples Television Network News*, 10 March 2013, <http://aptn.ca/news/2013/03/10/residential-schools-chief-adjudicator-to-resign/>.

In addition to the desire for a face-to-face apology from a government representative, many individuals endured the painful process of sharing their experiences in order to have their testimony be a part of the official record and an aid in reframing Canadian image and identity. However, at the end of June 2014, Dan Shapiro, the Chief Adjudicator of the Independent Assessment Process announced plans to destroy over 800,000 documents and the evidence from the case files of nearly 38,000 applicants. While the desire to protect privacy is understandable, the intent to destroy these records was not explained or divulged to participants, some of whom believed that their testimonies and evidence were going to be part of a lasting record. The Truth and Reconciliation Commission of Canada has offered to redact personal information from the evidence and to incorporate the remainder into a national research center that it is constructing. However, Shapiro does not believe that presents an adequate solution and continues to push for destruction of the evidence.²⁶⁶ For some, this appears as yet another attempt of the Canadian government to eradicate the Indigenous experience from Canadian national identity, feeding into the continuum of violence.

Behavioral discrepancies between various stakeholders in the IAP also reflect ongoing structural violence via the unequal access to resources and further marginalization. Lawyers and adjudicators completed rudimentary training in preparation for the IAP hearings. According to interviews with IAP lawyers, training did not address *how* verdicts would be reached and compensation awarded. The form completed by the survivors acted as a guide, but the adjudicator decided on an award amount, if there was one, after the hearing. This lack of uniform training has led to cases with relatively similar evidence and testimony resulting in dramatic differences in outcomes. For some they receive the high end of the award spectrum, others

²⁶⁶ The Canadian Press, "Fate of documents detailing abuse at residential schools undecided," *CBC News*, 19 June 2014. <http://www.cbc.ca/m/touch/canada/thunderbay/story/1.2681138>

receive nothing.²⁶⁷ In the small Indigenous community knowledge of these discrepancies quickly spreads amongst survivors, acting to further marginalize those who did not receive reparations.

A process with inconsistent results in further marginalization of parts of the Native population and validates some experiences while invalidating others. The hearings themselves can constitute an act of structural violence as they are designed to preferentially treat the government, rather than the survivors. Regrettably, the lawyers interviewed failed to see many of the imbalances in the process. Instead, because hearings were moved out of courtrooms to more informal locales and Native ceremonies were allowed to be incorporated, some members of the court viewed the process as very Indigenous-friendly in nature, missing the fact that nothing about the Euro-Canadian court systems is inherently Indigenous.

Furthermore, the IAP excludes Indigenous students who attended non-residential day schools and intergenerational survivors. Intergenerational survivors are defined as Indigenous individuals who did not themselves attend residential school, but have experienced trauma due to the lasting effects of the schools. Not only did schools strip Aboriginals of their cultural identity, but also tainted understandings of interpersonal relationships. For those abused, some continued on in life to be abusers. Others did not abuse their own children, but never told their children that they loved them, because family structure and interpersonal relations were a foreign concept to someone who had been raised exclusively in an institution. Some went on to have functioning families but usually still with a great loss to culture and identity because their parents had very little knowledge to transmit. Despite these lasting effects on non-attendees, only residential school students themselves qualified for monetary reparations. Designed at the highest political levels to keep survivors in a position of reduced power without invoking societal change, and

²⁶⁷ Canadian Broadcasting Channel News, "Residential school survivor says compensation process failed him," *CBC News*, 11 February 2013, <http://www.cbc.ca/news/canada/north/residential-school-survivor-says-compensation-process-failed-him-1.1411981>.

perhaps unintentionally enforced at the lower levels, the IAP in many ways fails to ensure accountability, justice, or reconciliation.

Truth and Reconciliation Commission

Without any judicial power, a truth commission concentrates on restoring society without taking punitive measures. Presumably as a victim-centered commission of inquiry, the primary purposes include investigating the causes and impacts of human rights violations and recommending action for redress and prevention.²⁶⁸ Though not judicial bodies, truth commissions seek to realize the same goals of criminal tribunals: deterrence or future prevention, justice or investigation into the causes and consequences of violence, and peace restoration or recommendations for the redress. Many times the commissions occur as part of a peace agreement or are part of an initiative of a new government regime.²⁶⁹ The use of a truth commission has well-noted disadvantages such as the lack of prosecutory power or the enforced anonymity of perpetrators. Furthermore, researchers propose that the creation of the commission by a nation-state can transform a TRC into a political tool, rather than a truth-seeking organization. Correspondingly, the TRC of Canada has been critiqued by members of Indigenous society as a government tool that fails to penetrate the settler society; neglects to engage in reconciliation at the community level; and by its structure and funding reflects the government's insincerity in its transitional justice efforts. Rather, the TRCC replicates the very violence it is supposed to remedy.

²⁶⁸ Freeman, *Truth Commissions and Procedural Fairness*.

²⁶⁹ Chandra Lekha Sriram, *Confronting Past Human Rights Violations: Justice vs. Peace in Times of Transition* (Abingdon: Frank Cass, 2004).

The Truth and Reconciliation Commission of Canada (TRCC) developed from Schedule N of the 2006 Indian Residential School Settlement Agreement (IRSSA). As originally envisioned by a small group of prominent Indigenous community leaders, including Alvin Dixon and Chief Robert Joseph, the TRCC would have a ten year mandate and participate in intensive, local community healing projects. Instead, with a budget of only 60 million dollars, the courts negotiated a five-year operating period, the establishment of a national research centre, and the organization of seven events that would occur at the national level. In 2009, after its first year, all three of the truth commissioners were replaced seemingly due to internal Indigenous politics, but the details eluded me in my field research. Despite this setback, the TRCC went on to host seven national events; distribute commemoration funds; and create the Missing Children Project to identify the number of children that disappeared in the Indian Residential School system, their identity, and potentially the location of their graves.

Functioning as a “non-traditional” truth commission, controversy surrounds the TRCC concerning its effectiveness, given that it is a state-based strategy employed in a colonial context that has not achieved positive peace. Cornthassel and Holder state that if “truth commissions cannot effectively address historic and ongoing injustices committed against Indigenous peoples, then they are fundamentally flawed mechanisms for transforming inter-group relations.”²⁷⁰ Under this premise, and in correlation to findings discussed in the previous chapter, ongoing injustices need to be included in the scope of the TRCCs mandate to achieve inter-group reform. Cornthassel and Holder describe the extraction of natural resources from Indigenous communities, arguing under a framework of self-determination, that resource rights be returned to Native groups. Ultimately, the researchers are recognizing that Indigenous and non-Indigenous relations

²⁷⁰ Jeff Cornthassel 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(2008):466.

cannot succeed until Natives have greater agency and independence from the federal government. The argument for transitional justice tools to support self-determination follows organically when viewing transitional justice mechanisms within a context of structural violence. Farmer discusses structural violence and its relationship to resistance and oppression in colonial, first world countries; he states that the magnitude of restrictions on an oppressed group's agency is inversely correlated to the ability to resist oppression.²⁷¹ Corntassel and Holder's desire for self-determination and increased agency therefore reflects an effort to thwart ongoing oppression and social injustice.

Matt James, transitional justice scholar and political scientist, cautions that 1) Canada's lack of political regime change and enduring colonial power may hinder the work of the TRCC, 2) the TRCC may not pursue challenging institutions that are implicated in abuses (e.g. RCMP, Health Ministry), and 3) the TRCC will have the challenge of working in a political climate that is inhospitable to accountability—one of the three fundamental goals of transitional justice.²⁷² James' concerns also find support in structural violence theory; the lack in regime change will allow the instituted forms of structural violence to continue and be replicated within and by the TRCC, limiting the accountability of offending government institutions and continuing to marginalize the power, agency, and rights of the Indigenous population.

Under a lens of knowledge production James further analyzes the abilities of a victim-centered (as opposed to a perpetrator-centered approach) utilized by the TRCC, arguing that the use of a TRC, while not without its limitations, is still a form of symbolic reparation.²⁷³ In the same vein, Indigenous community leaders have called attention to the potential for symbolic

²⁷¹ Paul Farmer, *An Anthropology of Structural Violence*.

²⁷² Matt James, "Uncomfortable Comparisons: The Canadian Truth and Reconciliation Commission in International Context," *Les ateliers de l'éthique* 5(2010):23-35.

²⁷³ Matt James, *A Carnival of Truth*.

violence embedded in Canada's transitional justice framework. According to Bourdieu and Wacquant, symbolic violence manifests when the dominated willingly participate.²⁷⁴ For example, symbolic violence transpires when both men and women agree that women are weaker and more emotional than men. Indigenous community members and leaders have repeatedly voiced concern that the public statement-gathering at TRCC national events, while potentially educating the public, also paints a picture of traumatized societies that are trapped in a cycle of violence. Relatedly, concerns have arisen with the creation of Residential School Syndrome, the medicalization of residential schools' psychological effects on survivors that is viewed as a form of post-traumatic stress disorder. It is not uncommon for the testifying survivor to believe that his inability to raise his children with love resulted from participating in the residential school system or as a result of this syndrome. Propagation of this concept is easily taken a step further to justify the current removal of Native children from their homes. If both the oppressor and oppressed believe that the oppressed is incapable of anything but abusive behavior, then symbolic violence has taken place, reproduced, whether intentionally or not, by the construction of the TRCC.

Counter to these concerns, Nagy sees the TRC as a tool to advance "decolonization" and address systems of structural violence.²⁷⁵ In contrast to James and Nagy who view the use of TRCs in colonial contexts as an opportunity, albeit limited, to promote societal transformation, I found that the TRCC is also in many ways a colonial extension with intentional limitations as part of the ongoing sociopolitical hegemonic efforts to maintain the status quo. Despite its emphasis on Indigenous participation, the political and Euro-centric nature of the TRCC was

²⁷⁴ Pierre Bourdieu and Loic Wacquant, *Invitation to Reflexive Sociology* (Chicago: University of Chicago Press, 1992).

²⁷⁵ Rosemary L. Nagy, "The Scope and Bounds of Transitional Justice and the Canadian Truth and Reconciliation Commission," *The International Journal of Transitional Justice* 7(2013):52-73.

evidenced through ethnographic research conducted primarily with Indigenous community members and leaders in British Columbia. Interviews and participant observation revealed counter-narratives to the popular portrayal of a well-meaning, government endeavor to achieve reconciliation.

Research and the Missing Children Project

Initially, I had volunteered to work for the TRCC out of its Winnipeg, Manitoba headquarters in May of 2011 to gather data via participant observation and interviews. However, after arriving in Winnipeg and discussing my interest in forensic investigation procedures and TRCC government-goals versus grassroots-goals, it was suggested that I work with the Vancouver-based research offices instead. Arrangements were made for me to relocate to British Columbia to work with the severely understaffed TRCC that only had about seventy employees and volunteers nationwide. The research offices were charged with conducting thorough archival research into the history of the residential schools, historical archaeological investigation, and spearheading the Missing Children Project (MCP). The latter was of particular relevance to my interests because the MCP sought to identify which children did not return home from residential school, learn the events surrounding their death or disappearance, and potentially excavate graves located at the residential schools. After my preliminary trip in 2011, the TRCC staff and I agreed that I would return in the summer of 2012 to work with the MCP.

In the spring of 2012, shortly before my return to the field, members of the TRCC research staff solicited my help in writing a chapter for the interim report. Because I felt that doing so would be a conflict of interest, I informed the TRCC that I as a neutral observer, it would be inappropriate. Upon my arrival to Vancouver in May of 2012, the TRCC research staff

informed me that I was no longer needed by the MCP.,In response, I requested access to staff contact information to conduct interviews pursuing my line of inquiry into perceived efficacy and goals of the TRCC. *Were the goals of individual staff members in alignment with the mandate outlined in the settlement agreement? With Indigenous community leaders? Did goals include grave excavation and identification? How did stakeholders perceive the efficacy of the accomplishment of these goals?* Before I could proceed I was informed that I needed permission from the TRCCs legal representatives to interview the staff. This began a series of redirections to various individuals who did not seem to know if it was possible for me to conduct interviews. I submitted evidence of my Internal Review Board approval and a list of my interview guide questions. The questions did not pursue confidential information concerning survivors; rather, I asked for individual staff member's perceptions, goals, and observations of the transitional justice process. While I waited for the paperwork to be processed, I met with a leader of the TRCC research staff who strongly encouraged me to pursue a different line of questioning, stating that research concerning the efficacy and goals of the TRCC (which was only halfway through completing its mandate) had already been exhausted.

A similar conversation ensued with a representative of the Missing Children Project, who told me that it would not be appropriate for the TRCC to inform staff that I was seeking interviews, regardless of the legal team's conclusions. In a final effort, I requested that the TRCC post my contact information on its website, allowing Indigenous community leaders and members to contact me. TRCC staff declined my request, explaining that it would be unfair to other researchers if my contact information was made available on the webpage. Any questions for TRCC staff I would have to pursue independently; a difficult endeavor considering there was very limited staff information available online. Another challenge, I soon learned, was that

members of the TRCC staff had been directed not to cooperate with me or participate in my interviews, despite their participation in projects for other researchers.^{276,277} The Euro-Canadian, bureaucratic, and political nature of the TRCC administration, often to the exclusion of Native involvement, became a recurring theme throughout the TRCC component of my research. When trying to assess the individual perspectives of the TRCC staff, I was forced to rely on interviews with former TRCC employees. This was unfortunate as it limited access to information concerning TRCC employees' motivations, goals, and understanding of transitional justice. That data could have shed more light onto the pervasiveness of systemic, symbolic, and cultural violence within the TRCC itself.

National Events

It was June of 2012, and the sun shone brightly in the sky of Saskatoon, Saskatchewan as I made my way up the bleachers, seeking a bench in the shade. The bleachers faced an amphitheater, and the entire scenario was reminiscent of a county fair. The mid-twenties Euro-Canadians, or settlers, that were housing me were not in attendance. They had voiced interest in the event though they did not really understand the purpose of it or that they were part of the target audience. It was surprising that the use of a nation-wide justice framework went largely unnoticed..Moreover, were the purpose of transitional justice in this context restorative and reconciliatory, seeking to unify a divided society, then one could argue that the presence and participation of the settler population of society is required.

I scanned the crowd at the opening ceremony. Four or five hundred were gathered, with at least three quarters of the audience being Indigenous. The master of ceremonies welcomed the

²⁷⁶ Rosemary L. Nagy, *The Scope and Bounds*.

²⁷⁷ *Jesse's Thesis*, <http://jesseboiteau.wordpress.com/2013/09/06/behind-the-scenes-the-trcs-missing-children-project/>

crowd; in his well-tailored suit with the cadence and energy of the Hunger Games' host Caesar Flickerman, he stood in contrast to the solemn program cover that depicted a young mother holding her child.

The event had many hints of Indigeneity: an obvious effort to incorporate traditional songs, cleansing ceremonies, the presence of honorary witnesses, and a sacred fire to name a few. However, I could not shake the feeling of being at an academic conference. Sessions were organized in various rooms with chairs lined up in neat rows, but instead of hearing presentations of academic research, the stage was a venue for horror as survivors spoke about their trauma and the effects of residential school on their lives. There were private sessions and small, public sharing circles for those who did not prefer the stage. A hall was dedicated to tables and booths like those found at a science fair with vendors of native goods, representatives from various government support agencies, and other information for participants. Despite the overwhelming presence of Natives, it still did not *feel* very Native, but rather felt voyeuristic. It appeared as a Western activity, painted with Indigeneity and suffering, and I was just another war tourist.

The TRCC was tasked with hosting seven national events throughout Canada, which are described as “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.”²⁷⁸ The government settlement agreement resulted in seven events which did not replicate the original vision of truth commissioners traveling to small communities to conduct intimate, personal, and culturally-specific statement-gathering and reconciliatory events. Instead, the TRCC had been allotted funds to distribute to community reconciliation projects and individuals could request that a TRCC representative meet them to take their statement concerning the residential school

²⁷⁸ Indian Residential School Settlement Agreement, Schedule N, Section 10.

experience. Additionally, regional coordinators had been hired to communicate the needs of communities to the TRCC. By the summer of 2012, only halfway through its term, the nine regional coordinators who were tasked with bridging the TRCC administration with all Canadian Indigenous communities had been reduced by half and funds for community-level events had been depleted. In an interview an Indigenous facilitator who had witnessed the interactions between the TRCC directors and the regional coordinators, he voiced that the TRCC was unwilling to consider ground-up, or community, recommendations for change and that the TRCC operated with a bureaucracy and bias of a Western organization. Where, he asked me, was the Indian in it?

The apparent “Westernness” is unsurprising considering that transitional justice was birthed from a Western legal framework. However, the perceived half-heartedness, or superficiality in incorporating Indigeneity into an obvious institution of the dominant settler society proved frustrating for some—reflecting the metanarrative of colonization. Others participated, feeling inspired or obligated to contribute their experiences to the historical record; some reported that their testimony was part of their own spiritual journey to alleviate their own feelings of guilt and shame; others still shared their desire to participate in any effort made by the government—as some effort was better than none. A prominent Elder viewed the use of a truth commission as an important first step on a long journey. Indigenous leaders who supported the use of transitional justice shared with me that the time of transition would last for generations--long past the five year life-span of the TRCC.

While the juxtaposition of Native traditions onto a European/American business model may also have been a compromise and an attempt to create an event that the Euro-Canadian population could find culturally relatable, it did also create a war-tourist effect. As was observed

in both the Vancouver and Saskatoon national events, European descendants milled through the aisles of seats sitting quietly, clapped inappropriately at ceremony, and stood at attention with cameras ready to capture photographs of the regalia. A spectacle. Murmurs through the crowd caught my attention, “I do hope they wear their outfits.” Like Ishi, the last known member of the Yahi, who worked and lived in a museum, Native culture and tradition still often exists as a curiosity, or as Thomas King explains, “the entertainment.” King, an American and Cherokee storyteller and writer, reflected on his vast experience of public speaking during his Massey Lectures, explaining to the audience that he learned “as long as I dressed like an Indian and complained like an Indian, I was entertainment; but if I dressed like a non-Indian and I reasoned like a non-Indian, then not only was I not entertainment—I wasn’t an Indian.”²⁷⁹ His sentiment reflects the popular notion of Indigenous cultures and life as static with expectations drawn from Hollywood’s fictitious portrayals. The essentialization of Aboriginal identity by dominant culture lays the foundation for structural violence as Indigenous peoples are forced to justify their culture and its existence. The TRCC national events were not advertised as entertainment, yet their design failed to mitigate the tourist effect reflecting the continuum of structural violence and neocolonialism.

Further dissatisfaction with the TRCC’s work and the transitional justice process became vocalized as other members of the Native community arrived at the Vancouver national event in an act of protest. People belonging to the Indian Residential School Critical Analysis and Radical Thoughts (CART) group stated that they felt that the government was disingenuous in their apology and programs for redress. Additionally, they felt that the TRCC and other aspects of the transitional justice process were being controlled largely by a handful of key members of the

²⁷⁹ King, Thomas. “The Truth about Stories: A Native Narrative.” Lecture, CBC Massey Lectures, 2003. <http://www.cbc.ca/ideas/massey-archives/2003/11/07/massey-lectures-2003-the-truth-about-stories-a-native-narrative/>

Indigenous community, some of whom were profiting financially or figuratively via social status. It has been argued that Indigenous leaders whose goals align with the interests of the government, regardless of opinions of Indigenous community members, are the ones who remain in positions of power within the transitional justice framework. Protesters were incensed that the events revealed TRCC paraphernalia for purchase, expensive food vendors, and that there was not funding to transport survivors across the country for the national events or to provide them with food and lodging. Events that were operating under the auspices of promoting healing and documenting the truth were inaccessible to most members of the Indigenous community. The style of venue, the voyeuristic tone, and the presence of protestors creates a counter-narrative to the adulations of the government's acceptance of a nation-wide transitional justice process.

Conclusions

The symbolic power of memorialization projects, minor financial reparations, and truth-telling, must be weighed against the symbolic and structural violence present in Canada's transitional justice process. The transitional justice tools utilized in Canada's specific context are not without their benefits as IRS history is carefully documented, memorialization projects promote Indigenous nation-building, survivors begin reconciliation with self and others through statement-giving, and some financial aid is arguably better than none. However, the process principally fails to address structural violence and, as was voiced by the former TRCC employee, can be seen as lacking empathy and understanding of Native culture.

Truth commissioners have urged provinces to include IRS history in primary and secondary school curricula with the hope that the Euro-Canadian audience will then become informed members of Canadian society and create allyship surrounding the current

socioeconomic reality for Aboriginals. However, the commemoration projects are little known to members of the Native community, and all but absent from settler dialogue. The financial awards from the IAP process have destabilized families, potentially contributed to increased Indigenous suicide rates, retraumatized participants, and failed to remedy existing institutionalized violence. Further, the documentation of the lasting effects of the residential school systems has been used to create Indian Residential School Survivor Syndrome, perpetuating the misconceptions of an Indigenous inability to care for children and portrayal of a broken people. It is at this juncture between tool for justice and tool for violence, that Hansen warns that transitional justice can be wielded as a political strategy for diversion.

ENTR'ACTE 5



Figure 13. Graffiti.

(http://www.lisacharleyboy.com/wp-content/uploads/2013/08/2769692138_5bcd3c2c8b_z.jpg)

“Canada’s Indigenous history is often overlooked, or seen as outside popular mythology,”²⁸⁰
-Hayden King, *Director of the Centre for Indigenous Governance, Ryerson University-*

²⁸⁰ Hayden King, “Closing the gap between Canada and Kanata,” *The Star News*, 30 June 2014.
[http://www.thestar.com/news/ken_dryden_canada_day/2014/06/30/closing_the_gap_between_canada_and_kanata.h](http://www.thestar.com/news/ken_dryden_canada_day/2014/06/30/closing_the_gap_between_canada_and_kanata.html)
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CONCLUSION: THE GENOCIDE CONTINUUM AND HUMAN RIGHTS

“We use many different terms to describe the original people of North America. The First People, First Nations, Aboriginal People, Native Americans, Indians. "Indigenous" and "Aboriginal" communicate well for me. Let me define "Indigenous" in this way. It is simplest to say that we are not *from* this continent, we are *of* it. These lands on which we stand contain and are made of the bones of our ancestors and reach back beyond pre-history, thousands upon thousands of years. These lands and the wisdom and knowledge carried within them are what inform our way of thinking, living and learning.”²⁸¹

-Rose von Thater-Braan, *Tuscarora-Cherokee*-

Von Thater-Braan provides the non-Indigenous with insight into understanding Indigeneity as an identity. Unlike settler counterparts, Aboriginals of Canada and the United States have a relationship with the land that has a time depth of thousands of years. There is no home of the ancestors to return to; home has always been as it is. The resilience of Aboriginal cultures and their avid relationships with the Earth pose a threat to dominant, neo-colonial Euro-Canadian society which relies on the creation of national identity. For generations, continuous efforts have been made to eradicate and assimilate the Indigenous people of Canada and the United States. Since contact, Aboriginals have been enslaved, displaced, forcibly sterilized, experimented on, tortured, massacred, and assimilated; as historical documents reveal, these actions have been built on the paternalistic propaganda to “save the savages” from themselves. However, the seizure of land and resources underlies these colonial efforts and the lasting violence.

The acts of once overt, physical, direct violence have become more sophisticated and nuanced over time, manifesting in what Scheper-Hughes and Bourgois refer to as the *continuum of violence*, a factor that became increasingly apparent as I assessed transitional justice in Canada. The continuum of violence is the perpetuation of violence as it changes forms. Intertwined with direct, physical violence is the presence of indirect violence that appears in the

²⁸¹ Rose von Thater Braan, “The Six Directions: A Pattern for Understanding Native American Education Diversity and the Need for Cognitive Pluralism,” SECME Summer Institute, University of Arizona, 2001.

form of structural violence via social injustices and unequal access to resources. Structural violence, like war, is driven by politics and economics, but also exists as a normalized oppression. Structural violence is embedded within society with many as unknowing participants and others motivated by capitalistic or patriarchal interests; together they can reproduce the violence..For example, Scheper-Hughes and Bourgois explain that those who abuse were often victims of abuse; that structural violence in forms such as hunger or poverty often generates domestic violence.²⁸² Violence creates violence.

For the Aboriginal, the violence that permeates everyday life cannot be ignored, and the residential schools exist as one part of a greater continuum of violence. By definition, the incorporation and use of the residential schools existed as part of a genocide, with genocide being defined by Article 2 of the 1951 Convention on the Prevention and Punishment of the Crime of Genocide as:

“any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”²⁸³

Article 3 of the Convention defines the crimes that can be punished under the convention as:

- “(a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.”²⁸⁴

²⁸² Scheper-Hughes and Bourgois, *Introduction: Making Sense of Violence*, 1.

²⁸³ United Nations Treaty Collection, “Convention on the Prevention and Punishment of the Crime of Genocide,” *Treaty Series* 78(1951). https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-1&chapter=4&lang=en

²⁸⁴ United Nations Treaty Collection, *Convention on the Prevention*.

Execution of residential schools alone fulfills Article 2.b and Article 2.e, and in the lived realities of Indigenous peoples of Canada and the United States the ongoing genocidal efforts of the governments have not ceased. What is apparent to those on the receiving end of the violence would be the presence of what Scheper-Hughes refers to as the *genocide continuum*.²⁸⁵ The genocide continuum exists as “small wars and invisible genocides” that have been incorporated into daily life, and can consist of structural violence that pursues the same neo-colonial ideologies of a genocidal framework.^{286, 287}

Bourdieu suggests that these acts of violence are so common that their familiarity masks them in invisibility, becoming part of symbolic and structural violence. As part of the violence continuum, Bourdieu’s symbolic violence, which deeply permeates culture in forms as seemingly innocuous as architecture or religious rites, can be seen in critiques of the residential schools as well. Carr investigates the relationship between the physicality of the buildings themselves and the schools’ assimilatory purposes. Building designs divided students and fostered the “disruption of the political, social, and cultural life of Canada’s Indigenous populations.”²⁸⁸ It is perhaps this same form of colonization that made the organization of the Truth and Reconciliation national events so unsettling for some. Created with the sterility and uniformity of a residential school itself, with chairs neatly in a row, it reflected the nature of the settler society rather than the nature of the survivor.

Scheper-Hughes situates the *genocide continuum*, describing everyday violence, such as that experienced in emergency rooms, public schools, nursing homes, and clinics, as the enabler

²⁸⁵ Nancy Scheper-Hughes, “The Genocide Continuum: Peacetime Crimes,” in *Power and the Self*, edited by Jeannette Marie Mageo. (Cambridge: Cambridge University Press, 2002).

²⁸⁶ Nancy Scheper-Hughes, “Small Wars and Invisible Genocides,” *Social Science and Medicine* 43(1996):88.

²⁸⁷ Adam Jones, “When the Rabbit’s Got the Gun: Subaltern Genocide and the Genocide Continuum,” in *The Scourge of Genocide: Essays and Reflections*, (New York: Routledge, 2013).

²⁸⁸ Geoffrey Carr, “Atopoi of the Modern: Revisiting the Place of the Indian Residential School,” *English Studies in Canada*. 35(2009):110.

of genocide and structural violence. With this, Scheper-Hughes discusses humans' ability to dehumanize societal classes or groups in the process of creating "the Other," and it is this dehumanization that facilitates everyday acts of violence.²⁸⁹ Within genocidal frameworks exists dehumanizing language, casting groups as the dangerous "Other," and making violence against them expected.²⁹⁰ In the context of Indigenous life in Canada, the normalization of the missing and murdered Aboriginal women would be an example of dehumanization and desensitization to violence. These women are often viewed as the impoverished, prostitutes, or drug users, thus violence against them is in some sense to be expected and is normalized by mainstream society. It is the structural violence and everyday violence that mirror the same ideology as acts of genocide; they are just expressed on a smaller scale, both existing on the genocide continuum. This peace-time violence, such as the physical assault of illegal aliens or the disproportionate incarceration of young black men, often has public consent while successfully marginalizing a specific group of people. Scheper-Hughes also discusses the treatment of the mentally ill in comparison to the treatment of criminals; some groups of society are viewed as somehow less than human.²⁹¹ Insidious and sophisticated, it is this everyday marginalization that Aboriginals can be nothing but aware of in daily lived experience.

Each chapter presented herein increasingly uncovered the intimate relationship between violence, which has transformed from the colonial violence of warfare to the more sophisticated, socially-acceptable structural violence and neo-colonial quest for resources. *Chapter One: Definitions of Reconciliation* sought to identify whether or not there was more than one

²⁸⁹ Nancy Scheper-Hughes, *Death without Weeping: the Violence of Everyday Life in Brazil*. (Berkeley: University of California Press, 1992).

²⁹⁰ Alexander Laban Hinton, "The Dark Side of Modernity: Toward an Anthropology of Genocide," in *Annihilating Difference: The Anthropology of Genocide*. Ed. Alexander Laban Hinton. (Berkeley: University of California Press, 2002), 1-42.

²⁹¹ Scheper-Hughes, *The Genocidal Continuum*, 36-38.

definition of *reconciliation*, and if there was, then themes or patterns within the responses were to be ascertained. It became apparent that myriad of possibilities for *reconciliation* permeated transitional justice discourse, ranging from “having a conversation” to the physical decolonization of Turtle Island. When observing Indigenous-dominated discussions, *reconciliation* included tangible actions that reveal the presence of structural violence and neo-colonialism. Dialogue of decolonizing ideologies, lands, and laws in an effort to achieve Indigenous rights, human rights, or equal rights overshadowed more ephemeral and abstract suggestions such as “forgiveness” or “peace,” which appeared more frequently in non-Indigenous responses. Aspirations for an end to asymmetrical access to resources and treatment within society reflect the desire to end structural violence. Abstract definitions of *reconciliation* that include terms such as “peace” from the heterogeneous online opinions perhaps show good intentions on the part of the participants, but also expose ignorance to what Indigenous people have described as ongoing human rights violations.

The nature of structural and symbolic violence is that it becomes normalized, invisible, or socially-accepted by dominant society and thus maintains power over the oppressed. Absence of requests for tangible social reform from non-Aboriginals reveal the invisibility of the structural violence. Moreover, the widespread lack of engagement of the Euro-Canadian populace with the transitional justice process exemplifies the wheels of structural violence in motion. Much of Canadian dominant society are bystanders to violence against Aboriginal people, as it has become part of everyday life. Complacency and complicity prevent the achievement of both negative peace, or cessation of physical violence, and positive peace, or cessation of structural violence. In the continuum of violence, or the continuum of genocide, violence between Aboriginals and the government has yet to come to an end.

Chapter Two: Anthropological Knowledge Production explored how knowledge was (re)produced and altered by researchers and participants, discrepancies in knowledge, and potential implications for inconsistent knowledge creation. Framed in knowledge production, I critiqued how perceptions of transitional justice efficacy were affected by the manner in which knowledge, both anthropological and otherwise, was being produced. I organized data based on the concepts of incorporation of primary data collection, use of a four-field anthropological approach, and understanding cultural relativism. Ethnographic data allowed for unpublished information to be gathered and misinformation to be rectified; a four-field approach provided insights into data interpretation; and cultural relativism revealed factors that influence data collection, analysis, and dissemination.

For example, false knowledge that is propagated, such as the alleged presence of 50,000 murdered Indigenous IRS students, can allow information supported by fact to appear more agreeable; such as the presence of 50,000 murdered Indigenous IRS students, as opposed to 4,000. Additionally, the methods for data collection and knowledge production can replicate colonial ideologies or systems of oppression as access to knowledge is controlled, thus responsibility falls on the researcher to mitigate that phenomenon as much as possible while conducting research. Colson reminds the anthropologist that the research is occurring in a politically-charged arena, and transitional justice scholars, such as Daly, identify political and economic reasons for implementing transitional justice; for instance, acquiring external funding from donors and relieving international pressure. The control of knowledge and the suppression of narratives that do not support transitional justice and reconciliation expose the agenda of those in power. For example, to this day policies concerning Indigenous and government relations are omitted from most Canadian primary and secondary education, as well as from the Canadian

citizenship test. Instead negative stereotypes are propagated, keeping the oppressed marginalized. As knowledge production is controlled through these systems of violence and oppression, *Chapter Three* explores the notions of peace and violence in Canada's transitional justice process.

Chapter Three, An Unending War, identifies the pervasive presence of violence against Indigenous peoples committed by both the government and dominant society. After identifying the underlying factors for the various definitions of *reconciliation*, the question was posed concerning why reconciliation, or transitional justice, was perceived as ineffective. Four issues dwarfed all other responses, 1) the continued desecration of Indigenous burial grounds and historic sites; 2) the disproportionate and increasing number of missing and murdered Indigenous women; 3) the disproportionate number of Indigenous children taken by child welfare services; and 4) the exploitation of Indigenous people to gain access to land and resources. All four issues reflect structural violence through the unequal access to resources and cultural lifeways and therefore unequal chances for life expectancy and cultural transmission. The presence of institutionalized racism hinders the ability for reconciliation at the local or national level to be achieved.

These acts of social injustice and violence have been framed by Indigenous peoples as human rights violations. Practically speaking, there are several reasons for this. First, the particular instances of structural violence mentioned here do violate human rights as outlined by the United Nations' 1948 Universal Declaration of Human Rights (UDHR) (see Appendix D). While declarations are not legally-binding, many lawyers consider the UDHR as enforceable under international customary law. International customary law is not codified or written in treaties, instead it is law that is commonly accepted as normative. Rather than providing consent,

countries must actively oppose rights bound in customary law. The exception to this is when *jus cogens* applies; in this situation nation-states view the laws as universal, from which there can be no derogation. Thus, the UDHR, arguably a document enforceable by customary law, states:

“Article 3.

Everyone has the right to life, liberty and **security of person**.

Article 7.

All are equal before the law and are **entitled without any discrimination to equal protection of the law**. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”²⁹²

All of which apply to the four instances of structural violence as described by Indigenous peoples. Similarly, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) which entered into force in 1976, ensures protection of the family unit, of individuals’ health, and their right to cultural life. The ICESCR protects the family unit in Article 10; Article 11 ensures an adequate standard of living; Article 12 confirms the right to physical and mental health; and Article 15 explicitly states a right to experience one’s own culture.²⁹³ Additionally, the Convention on the Rights of the Child (CRC), which entered into force in 1990, states in Article 30: “In those States in which ethnic, religious or linguistic minorities or persons of

²⁹² United Nations General Assembly, Resolution 217 A(III), “Universal Declaration of Human Rights,” adopted 10 December 1948.

²⁹³ United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”²⁹⁴

Canada has ratified both the ICESCR and the CRC, making it legally bound to adhere to policies within them. Moreover, the 2007 Declaration on the Rights of Indigenous Peoples asserts in Article 7 that:

- “1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.”²⁹⁵

Meanwhile, Article 8 protects Indigenous people from “forced assimilation or destruction of their culture.” Interestingly, Canada voted against the adoption of the Declaration on Rights of Indigenous Peoples, as did the United States, Australia, and New Zealand; the latter three voicing concern that the document threatened political unity and had unwelcome implications for land and resources.²⁹⁶ Considering these four countries have long-standing histories of colonization and ongoing tension between Aboriginals and the governments, the position taken is not surprising, and is consistent with the overall marginalization of Indigenous peoples. This is a sampling of human rights as outlined by the United Nations as many other applicable covenants exist, including the International Covenant on Civil and Political Rights (ICCPR) and the

²⁹⁴ United Nations General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html>

²⁹⁵ United Nations General Assembly, Resolution 61/295, “United Nations Declaration on the Rights of Indigenous Peoples,” 2 October 2007.

²⁹⁶ Aboriginal Affairs and Northern Development Canada, “Canada’s Position: United Nations Draft Declaration on the Rights of Indigenous Peoples,” 15 September 2010. <http://www.aadnc-aandc.gc.ca/eng/1100100014078/1100100014079>

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The issues framed as human rights issues are described accurately.

Furthermore, through using terms such as *human rights* or requesting *reconciliation*, the issues at hand become more relatable to the non-Indigenous than uses of terminology such as *violence*, *structural violence*, or even *genocide*. With the very nature of the continuum of violence, including the genocide continuum, those in positions of privilege are often blind to the violence as they do not experience it themselves. To discuss everyday violence that occurs for Aboriginal people stands in direct contrast to mainstream Canadian's notions of multiculturalism, reality, identity, and nationalism. It is this dominant Euro-Canadian narrative that is challenged by the Indigenous-driven movement for decolonization. Instead, *human rights* is a more palatable idea for those beginning to learn about the systemic violence against Indigenous peoples, and potentially greater support can be gathered in the context of human rights dialogue. *Reconciliation* also presents itself as a difficult term to oppose, and it provides an avenue to incorporate actions that exists as part of structural violence into settler-Indigenous conversations.

Likewise, while *human rights* and *reconciliation* engage the Euro-Canadian settlers in a more agreeable way, they also serve to unite marginalized groups that also call for equal rights or reconciliation for historical wrongs. This can be seen in the LGBTQ community's growing cooperation with the Indigenous as well as the support from those seeking reparations for the Chinese Head Tax. In fact, as of the 2013 visit to the field, human rights and reconciliation discourses were being used to actively engage non-Indigenous minorities to collaborate in various social justice movements. For those who did not find government efforts for *reconciliation* or transitional justice effective, all reasons for the ineffectiveness included

structural violence and the presence of the genocide continuum, that had shifted from physical warfare into more subtle acts of daily violence.

In addition to inquiry concerning the perceived efficacy of transitional justice and reconciliation as goals, *Chapter Four: A Counternarrative to Transitional Justice* problematized the individual transitional justice mechanisms in the Canadian context. While there are those participating in and supporting government reconciliation efforts, those individuals appear to be focused on healing at the individual level. *A Counternarrative* reveals how knowledge production can be intertwined with colonization and structural violence.

Although the symbolic gestures of reconciliation, such as ceremonies, can be quite powerful for relationship-building, symbolic actions also require no tangible arrangements for social change on the part of the government. For example, government apologies are often viewed as a component of transitional justice processes and are touted as relationship-building endeavors; however, they do not necessitate a commitment by the government to create meaningful change. Even worse, they can be used for public manipulation, as was found in the scandal about British Columbia's premiere, Christy Clark. Her political party had outlined the use of public apologies for minority histories as strategic tool to gain ethnic minority votes. apologies sit on the continuum of violence, reproducing systems of power.

Though transitional justice tools may be perceived by some in Canada as helpful in self-healing and creating space for *reconciliation* dialogue, they most certainly are not perceived by all as effective in redressing injustice, especially considering the incompatibilities in cross-cultural understandings of knowledge, history, time, and reconciliation. Lambourne suggests that transitional justice be reframed from an interim, or temporary measure, to a transformative

approach that seeks long-term sustainable peace across cultures.²⁹⁷ Again, the relationship between peace, and therefore violence, and the goals of transitional justice illuminates the desire for societal change.

In the Canadian context, *reconciliation* and *decolonization* have been used as part of human rights discourse to rally support for social change and the end to various aspects of structural violence that permeate Aboriginal life. Various minority groups have begun to mutually support each other's endeavors and environmental groups have begun to ally themselves with Indigenous movements to effect social change. For example, in June of 2014, a Healing Walk was conducted in Alberta through the tar sands for the purpose of creating alliances and building relationships while drawing attention to the tar sands' toxic effects on both the environment and the Indigenous inhabitants.²⁹⁸

Additionally, the use of the legal system, which created Canada's transitional justice process, may have mixed results for efficacy, but other court cases are proving successful. In the Supreme Court ruling on 26 June 2014 in *Tsilhqot'in Nation versus British Columbia*, the court unanimously voted in favor of the Tsilhqot'in. The ruling is precedent-setting in redefining Aboriginal land title. Essentially, rather than restricting title claims to only to lands that were continuously inhabited by a nation, claims can now be made for land that was traditionally used for hunting, fishing, and other migratory activities. This case is of relevance because there are serious implications for the construction of pipelines and other resource extraction, as large tracts of land may now become exclusive property of First Nations.²⁹⁹

²⁹⁷ Wendy Lambourne, "Transitional Justice and Peacebuilding after Mass Violence," *International Journal of Transitional Justice*. 3(2009):28-48.

²⁹⁸ Vancouver Observer, "Final Healing Walk draws more than 200," 29 June 2014.

<http://www.vancouverobserver.com/news/final-first-nations-healing-walk-takes-place-edge-tar-sands-videos>

²⁹⁹ Canadian Broadcasting Channel News, "Tsilhqot'in First Nation granted B.C. title claim in Supreme Court ruling." *CBC News*. 26 June 2014. <http://www.cbc.ca/news/politics/tsilhqot-in-first-nation-granted-b-c-title-claim-in-supreme-court-ruling-1.2688332>

While chapters one and three reveal the complex relationship between violence and transitional justice, chapters two and four reveal the relationship between the knowledge and politics that maintain the continuum of violence as described by Scheper-Hughes and Bourgois. Because of the colonial history and the absence of positive (and arguably the absence of negative) peace, as a forensic anthropologist entering into Canada's transitional justice process, caution should be used when pursuing forensic investigation. The research presented here has illuminated the complex and variable definitions of *reconciliation*, the impact of knowledge production and reproduction in Canada's transitional justice process, the ongoing violations that prevent peace, and a counter-narrative to the transitional justice process. All of these factors inform the facilitator or researcher of the complex and tenuous state of Aboriginal-government relations, which would cause significant suspicion were state-sponsored excavations to take place.

Transitional justice in Canada has facilitated archival documentation of Indian Residential School history and the gathering of 7,000 statements via the Truth and Reconciliation Commission; monetary reparations, and commemoration initiatives. Space for dialogue concerning residential school history and self-healing has been created through the work of the Truth and Reconciliation Commission of Canada and other reconciliation facilitators. However, the residential schools were part of a much larger systematic attack on Indigenous peoples, and the transitional justice framework does not hinder the genocidal continuum that is present in the everyday lives of First Nations, Inuit, and Métis.

The insidious nature of structural violence silences and normalizes the oppression of Indigenous peoples as children are removed from homes, women fear for their safety, people are poisoned through contamination of their environment, and Indigenous history is often ignored or

desecrated. While reconciliation, justice, and social change are parts of everyday Indigenous conversation, the dominant Euro-Canadian public remains largely disengaged with some sporadic participation, revealing an underlying framework of structural violence. To connect mainstream Canada with their own history - the shared history with Indigenous peoples - is one approach for bringing settler society into the reconciliation conversation.

Though dominant settler society has been slow to support the end of structural violence, a necessary component of reconciliation at the local or national level, other minority groups have begun to ally with the Indigenous community, subverting Canadian national identity and supporting social reform. Canadian transitional justice tools, with their temporary design will not resolve Canada's violence against Indigenous peoples; instead, sustainable and long-term measures need to be employed. The ephemeral reconciliation discourse of the government has been adopted by Indigenous people and reframed as an attack on the continuum of violence with growing support. Indigenous people were once divided by colonial forces, with their identity so savagely attacked that they were made unrecognizable to each other, but that is no more.

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APPENDICES

APPENDIX A – Text of the Apology of Prime Minister Stephen Harper

Paragraphs in parentheses were spoken in French:

Mr. Speaker, I stand before you today to offer an apology to former students of Indian residential schools. The treatment of children in Indian residential schools is a sad chapter in our history.

(For over a century the residential schools separated over 150,000 native children from their families and communities)

In the 1870's, the federal government, partly in order to meet its obligation to educate aboriginal children, began to play a role in the development and administration of these schools. Two primary objectives of the residential schools system were to remove and isolate children from the influence of their homes, families, traditions and cultures, and to assimilate them into the dominant culture. These objectives were based on the assumption aboriginal cultures and spiritual beliefs were inferior and unequal.

Indeed, some sought, as it was infamously said, "to kill the Indian in the child."

Today, we recognize that this policy of assimilation was wrong, has caused great harm, and has no place in our country. 132 schools financed by the federal government were located in all provinces and territories with the exception of Newfoundland, New Brunswick and PEI. Most schools were operated as "joint ventures" with Anglican, Catholic, Presbyterian or United Churches.

The government of Canada built an educational system in which very young children were often forcibly removed from their homes, often taken far from their communities.

Many were inadequately fed, clothed and housed.

All were deprived of the care and nurturing of their parents, grandparents and communities.

First Nations, Inuit and Metis languages and cultural practices were prohibited in these schools.

Tragically, some of these children died while attending residential schools and others never returned home.

The government now recognizes that the consequences of the Indian residential schools policy were profoundly negative and that this policy has had a lasting and damaging impact on aboriginal culture, heritage and language. While some former students have spoken positively about their experiences at residential schools, these stories are far overshadowed by tragic accounts of the emotional, physical and sexual abuse and neglect of helpless children, and their separation from powerless families and communities.

The legacy of Indian residential schools has contributed to social problems that continue to exist in many communities today. It has taken extraordinary courage for the thousands of survivors

that have come forward to speak publicly about the abuse they suffered. It is a testament to their resilience as individuals and to the strength of their cultures. Regrettably, many former students are not with us today and died never having received a full apology from the government of Canada. The government recognizes that the absence of an apology has been an impediment to healing and reconciliation.

Therefore, on behalf of the government of Canada and all Canadians, I stand before you, in this chamber so central to our life as a country, to apologize to aboriginal peoples for Canada's role in the Indian residential schools system.

To the approximately 80,000 living former students, and all family members and communities, the government of Canada now recognizes that it was wrong to forcibly remove children from their homes and we apologize for having done this.

We now recognize that it was wrong to separate children from rich and vibrant cultures and traditions, that it created a void in many lives and communities, and we apologize for having done this.

We now recognize that, in separating children from their families, we undermined the ability of many to adequately parent their own children and sowed the seeds for generations to follow, and we apologize for having done this.

We now recognize that, far too often, these institutions gave rise to abuse or neglect and were inadequately controlled, and we apologize for failing to protect you.

Not only did you suffer these abuses as children, but as you became parents, you were powerless to protect your own children from suffering the same experience, and for this we are sorry.

The burden of this experience has been on your shoulders for far too long.

The burden is properly ours as a government, and as a country.

There is no place in Canada for the attitudes that inspired the Indian residential schools system to ever again prevail.

You have been working on recovering from this experience for a long time and in a very real sense, we are now joining you on this journey.

The government of Canada sincerely apologizes and asks the forgiveness of the aboriginal peoples of this country for failing them so profoundly.

(Nous le regrettons.)

We are sorry.

In moving towards healing, reconciliation and resolution of the sad legacy of Indian residential

schools, implementation of the Indian residential schools settlement agreement began on September 19, 2007.

Years of work by survivors, communities, and aboriginal organizations culminated in an agreement that gives us a new beginning and an opportunity to move forward together in partnership.

A cornerstone of the settlement agreement is the Indian residential schools truth and reconciliation commission.

This commission presents a unique opportunity to educate all Canadians on the Indian residential schools system.

It will be a positive step in forging a new relationship between aboriginal peoples and other Canadians, a relationship based on the knowledge of our shared history, a respect for each other and a desire to move forward together with a renewed understanding that strong families, strong communities and vibrant cultures and traditions will contribute to a stronger Canada for all of us.

APPENDIX B: Responses from Reconciliation Canada

When your soul is free. Life gets wings to soar. Together, we are all one.
Peace <3
Justice, Healing, Hope for the future of Canada
Building bridges and enriching our multi-cultural canadian society
a healing journey, closure, education
education is empowerment! Let's all love one another!
respecting our DIVERSE paths
raising awareness and closure
acknowledging the past, learning and moving forward together
Harmony
encouraging empathy
sharing your story, truly being heard
moving love forward
Balance
moving forward to make a new history
community peace happiness
Peace
love peace!!
coming together by letting go of being "right" in favour of moving forward to heal what's
Convincing
Restoration
Repair
get along with myself and accept who I am
to let the sun shine! Life is hard for us all!
making amends
Acceptance
breathe easier
to repair the wrongs of the past
restoring connections and relationships
creative consensus
a new start, know what happened and who's responsible, apology from those responsible
reconciliation means restoring what was taken away from you, to be reconciled with each other,
peaceful outcome
deep listening
Harmony
fairness and forgiveness
the unification of two opposite forces for the end of a greater good
Everything
reconnecting justice
I don't know
reconciliation = acknowledgement + empathy + forgiveness
an open mind with brains!
reconciliation = a new beginning

creating a brighter future for all our children
remembering the past to share the future
strengthening relationships and building hope for tomorrow
understanding, honoring, moving forward together
be a part of the solution
create: awareness, understanding, healing
finding a shared understanding, empathy and love for one another
restoration of relationships
reconciliation is healing, peace, love
reconciliation is moving forward towards a brighter future for aboriginals and for all Canadians.
two opposing groups or people working towards an agreement on a certain issue, coming
equal rights and justice
justice, forgiveness, healing, remembering
moving forward together
healing, awareness, empathy
peace and harmony, giving and sharing
Acknowledging the past, taking action in the present, embracing the future
raising awareness and closure
understanding, acceptance, grace
connecting communities
it is the transformation that occurs after apology and forgiveness. It cannot be achieved without
Reconciliation means ending apartheid in the land and food system.. Establish biocultural
true forgiveness and the ability to build new relationships and friendships, built on a foundation
sharing enough stories that we learn how to travel together
really hearing others, unity of purpose

APPENDIX C: Responses from “Why Reconciliation Matters to Me”

residential school history and legacy are Canadian issues and only together can we heal this great land
I have children and nobody has the right to take them away from me. How did we ever think it was OK to do it to others? It's never OK. It never was and now we are all affected whether we want to admit it or not.
it is part of our share Canadian history
my children matter and all children deserve to grow up safe, with their families and with pride in their own unique culture and identity
continued feelings of sorrow, guilt, and mistrust are exhausting and unhealthy for everyone. We need to work towards replacing those feelings with joy, respect and trust
I want my daughter to inherit a better country
we all must learn and understand our shared history, respect each other, become healthier, and eliminate racism and discrimination
the cycle of hurt has gone on for too long. We are one blood. It's stime we start acting like the brothers and sisters we are.
because our children deserve a better tomorrow
as a non-aboriginal canadian, I wish for my children and grandchildren (both of which I do not yet have) to live a life of love and acceptance; to love and accept everyone they meet, everyone in their communities, and I wish for everyone to live in a Canada where there is no indifference. As a non-aboriginal canadian I see the importance of connecting and learning with aboriginal partners and friends, and have the ambition to go the distance, to learn, to connect and promote reconciliation
I'm done being angry. I want ot be healthy and happy on my own terms while respecting others
it was my Anglican church, here on Vancouver Island through the Residential School System, that helped cause so very much pain and grief for Aboriginal peoples. I intend to spend the rest of my days working to help Aboriginal post-secondary students in financial need
my kids are going to inherit this relationship
we are all treaty people. I hope that through this healing process we will all become more whole
when horrific stories of the past are not given space in our public consciousness, they fester and spill into the next generation
I believe in everyone getting their just deserts. Those who have perpetrated offences should be rehabilitated, and those who have been victimized should be allowed to influence legislation so the act does not recur.
because all Canadians deserve equal treatment under the law. The TRC reports are absolutely vital to the education of generations to come, both to combat ignorance and avoid such horrible acts in future. We all need to forge ahead into a new Canada with a more respectful understanding of citizenship where such racist atrocities and cultural genocides would be unthinkable and abhorrent
wrong was done, and it's time to move forward in strength together
this dark part of Canadian history should not be ignored
to find peace in the future and the "now", you must make peace with the past
it helps me understand the impact of colonialism on my community and my country
we have to heal the wrongs of the past and work towards not repeating/continuing
we all belong on his land and should support one another in living, loving and thriving here. It's

about acknowledging harm, past and present; and taking into account everyone's life experiences. Most of all, reconciliation is about respect and dignity over ignorance and stereotypes

it is the just and honourable course of action that respects all Indigenous peoples. We need to build a future that is a People's future. I want to understand the past and work on trying to understand the present, but I also want another kind of world here. I want a real future that is something other than the prepackaged future forced on us by oppression.

I was born in an area that, generations later, is still feeling the impacts of the residential school system. I hate that people I grew up alongside should have had any disadvantage compared to my own experience. I want for today's children to have bright futures.

it allows us to move on from the past and rebuild the relationships that a healthy society is based on. Reconciliation makes you stronger, it births hope. May it bring greater understanding to those who didn't live the damage.

Canada is a multi-cultural nation that prides itself on entitling people with the rights and freedoms. However, removes any rights and freedoms a person may have when their children are taken away. We can find a common ground but we have a lot of healing to do and the key is understanding one another.

APPENDIX D: Universal Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote

understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

VITA

Jaymeelee Jane Kim completed her Bachelor of Science degree in packaging science (material science), a minor in Japanese language and culture, and a concentration in criminal justice at Rochester Institute of Technology in Rochester, New York. She finished the honors program requirements and was awarded her degree with high honors in 2006. Following from this, Jaymeelee finished a six-week mortuary archaeology field school in Tragana, Greece, and received her Master of Arts degree in anthropology at the University of Tennessee in 2008. Her Master of Arts research was funded by the University of Tennessee, Forensic Anthropology Center's William M. Bass Endowment Award.

After earning her M.A., Jaymeelee received her Doctorate of Philosophy in anthropology, Graduate Certificate in Linguistics, and Graduate Certificate in Disaster, Displacement, and Human Rights in 2014. Her doctoral research was funded by the University of Tennessee Center for International Education, the Wenner-Gren Foundation, and the National Science Foundation. While in graduate school, Jaymeelee held several positions, including autopsy technician, forensic anthropologist, supervising archaeologist, and human anatomy laboratory instructor.

Most importantly of all, Jaymeelee is honored to be a much-loved sister*, aunt, granddaughter, daughter, daughter, figurative mother, friend, and partner.

*Female titles were chosen, though both male and female are appropriate.