

Let Us Not Drift:
Indigenous Justice in an Age of Reconciliation

by

Rachel George
B.A., University of Victoria, 2012
M.A., University of Amsterdam, 2013

A Dissertation Submitted in Partial Fulfillment of the Requirements of the Degree of

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Abstract

At the turn of the 21st century, truth commissions arose as a new possibility to address the violence and trauma of removing Indigenous children from their families and nations in what is now known as North America. The creation of two truth and reconciliation commissions in Canada and Maine marked an important step in addressing Indigenous demands for justice and the end of harm, alongside Indigenous calls for truth-telling. Holding Indigenous conceptions of justice at its core, this dissertation offers a comparative tracing of the work of the Truth and Reconciliation Commission of Canada (2009-2015) and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (2013-2015) as they investigated state practices of removing Indigenous children from their homes and nations. More specifically, this dissertation examines the ways these truth commissions have intersected with Indigenous stories and how Indigenous stories can inform how we understand the work of truth and reconciliation commissions as they move to provide a form of justice for our communities. Within both commission processes, stories of Indigenous experiences in residential schools and the child welfare system were drawn from the perceived margins of settler colonial society in an effort to move towards truth, healing, reconciliation and justice. Despite this attempted inclusion of stories of Indigenous life experiences, I argue that deeply listening to Indigenous stories in their various forms—life/ experiential stories, and traditional stories—illuminates the ways that the practice of reconciliation has become disconnected from Indigenous understandings of justice. As such, I argue that listening to Indigenous stories, not just hearing the words but instead taking them to heart, engaging with them and allowing them to guide us, moves toward more informed understandings of what justice looks like for Indigenous communities.

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Abbreviations

ADR – Alternative Dispute Resolution process

APTN – Aboriginal Peoples Television Network

BCTC – British Columbia Treaty Commission

BIA – Bureau of Indian Affairs

CBC – Canadian Broadcasting Corporation

CGL – Coastal GasLink Pipeline

CEP – Common Experience Payment

DOI – Declaration of Intent

DHHS – Department of Health and Human Services

IAP – Independent Assessment Process

ICWA – Indian Child Welfare Act 1978

IRSSA – Indian Residential Schools Settlement Agreement

OCFS – Maine Office of Child and Family Services

OHCHR – United Nations Office of the High Commissioners on Human Rights

MIA – Maine Implementing Act

MICSA – Maine Indian Claims Settlement Act

MITSC – Maine Indian Tribal State Commission

MWTRC – Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission

NTC – Nuu-chah-nulth Tribal Council

RCAP – Royal Commission on Aboriginal Peoples

RCMP – Royal Canadian Mounted Police

TRC – Truth and Reconciliation Commission of Canada

UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples

UNGC – United Nations Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)

nuučaañuł Terminology

- *chaa-chim-hay-up* – make it right
- *cla-ya-hoe-aulth-ee yakh-yew-itk* - greet with joy, gladness, and enthusiasm those who are related to you
- *čuuč* - that is all
- *ħaaħuupaa* - teachings
- *ħaahuuti* – traditional territories governed by our *ħawiiħ*
- *ħawiiħ* – hereditary chiefs
- *ħišukʔiščawaak* – everything is one
- *humwića* – story
- *łimaqsti* – spirit/ soul
- *mamałni* – used to describe the first Europeans who came to our shores whose homes floated on the water. Now used to describe a non-Indigenous people/ white person.
- *oo yoothloothl* – looking after (or, looking beyond)
- *quuʔas* – translates to human. Used to describe Indigenous peoples
- *wikin qayaačil* – let us not drift (from our path)
- *yaaʔakmis* – love and pain
- *yaʔakstalth* - care for one another
- *ħaahuusaqsuups* - an Ahousht woman
- *ʔiisaak* - respect
- *ʔuuʔuuq^waačii* - self-independence/determination

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$\lambda\acute{e}ekoo \lambda\acute{e}ekoo$

Dedication

For those who came before us and for the generations to come.

Introduction

If you are like us, the impulse to dream and work towards justice may feel like it was part of your being since before your birth. The pull toward working for justice can feel transhistorical, like you heard it whispered by ancestors or felt it transmitted back to you from a future-in-waiting. It may feel immensely strong, and encompassing, like gravity, both planetary and personal, all at once.

- Eve Tuck & K. Wayne Yang¹

A Warm Spring Day

The moment Prime Minister Stephen Harper stood before the House of Commons on June 11, 2008 is one that I can recall with distinct clarity. I remember the room I sat in as I watched; I remember the way the late spring air felt on my skin. While it wasn't something we actively talked about in our household, I knew about some of the experiences my grandparents and other relatives had endured in Kakawis (Christie Residential School) and other residential schools in British Columbia. As I listened to Harper offer the “Statement of Apology to former students of Indian Residential Schools,” I remember my heart filling with heavy emotion. I felt relief that—finally—an apology was being made for the abuse my relatives experienced, for the genocide that had been attempted. I remember the ache in my heart that my grandparents never got to

¹ Eve Tuck and K. Wayne Yang, “Born Under the Rising Sign of Social Justice,” in *Toward What Justice: Describing Diverse Dreams of Justice in Education*, (New York: Routledge, 2018): 1.

hear that apology. I remember the promise of that moment as a step in the direction towards justice and balanced relationships between Indigenous peoples and Canadians. And yet, there was something in that moment that seemed to fall short, a piece of justice and balance that was missing. Knowing this, I listened with bated breath as Stephen Harper revised the story of Canada's moral progress to include a recognition of wrongdoing perpetrated against Indigenous peoples through residential schools.

The path being created by the framing of the apology to move towards justice and a new relationship seemed to diverge from one grounded in our community stories and truths; one that honoured balance in all aspects of our lives, with all of our relations. Instead, the path being created in that moment emphasized education and “knowledge of our shared history,”² but lacked tangible action and structural change. As more time passed, and the work of the Truth and Reconciliation Commission of Canada (TRC) was fully underway,³ I began to question whether the process of justice and reconciliation envisioned matched our nuučaañuł conceptions of justice which emphasize an end to harm, alongside the maintenance of balance in the breadth of our relationships. I wondered if it matched the visions of justice we hoped we were moving toward when we engaged with the TRC. In particular, I wondered this as I was witnessing a lack of engagement with the temporality of injustice in the TRC process. Violence and harm

² Canada, “Statement of Apology to former students of Indian Residential Schools,” June 11, 2008: https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-REC/STAGING/texte-text/rqpi_apo_pdf_1322167347706_eng.pdf

³ The Truth and Reconciliation Commission of Canada officially began its work in 2009 after a false start in 2008. During the first iteration of the Commission in 2008, the Commissioners resigned due to a conflict of interest. Following this, a new group of commissioners were selected—Murray Sinclair, Chief Wilton Littlechild and Marie Wilson—who stewarded the commission to its completion in 2015. The mandate for the TRC was established as a component of the Indian Residential School Settlement Agreement. While explore this document in more detail in subsequent chapters, you can find the specific parameters of the mandate here: http://www.trc.ca/assets/pdf/v-SCHEDULE_N_EN.pdf

were envisioned as distinct moments rooted in the policy of residential schools rather than rooted in settler colonial logics that extended across multiple different policies.⁴ This revisionism of the violence experienced by Indigenous peoples fails to understand the ways that ongoing injustices against Indigenous nations are connected between past and present, where past violence not only carries forward into the present, but also deeply informs ongoing violence experienced by Indigenous peoples. Matthew Dorrell, in analyzing the 2008 apology issued to Survivors of Indian Residential Schools, notes that the particular framing of the apology established temporal boundaries between past and present.⁵ This particular emphasis seeks to construct our present as separate from our past in an effort to pursue a unified future, but this construction does not have a basis in justice or truth while violence against Indigenous peoples is ongoing.

It seemed then, as it does now, that the forms of justice we are taught about in Canadian public schools is only achievable if you are a white settler, and even more so if you belong to a certain class. As many Indigenous scholars, activists and leaders have

⁴ Patrick Wolfe, "Settler Colonialism and the Elimination of the Native" *Journal of Genocide Research* 8.4 (2006): 384-409.

In his article "Settler Colonialism and the Elimination of the Native," Patrick Wolfe explores the connection between genocide and the settler colonial tendency he refers to as the logic of elimination. Through this analysis he notes that while "settler colonialism is inherently eliminatory, it is not invariably genocidal," (387). The logic of elimination can be understood as the various processes by which settler colonial states seek to secure unrestricted access to territory. Understanding residential schools as one such policy rooted in a logic of elimination is pertinent because it draws the connection between the removal of children from their families and removal from their homelands. As such, we cannot see residential schools, and child welfare systems as merely a process that removed Indigenous children from their families, but must also understand it as intimately connected removal from our homelands, and as such, to the larger motivation of securing settler access to lands and resources. Further, this understanding of the settler colonial process, as outlined by Wolfe and also articulated by Indigenous peoples, is essential in understanding that while the Truth and Reconciliation Commission of Canada, and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission both sought to address the removal of Indigenous children from their homes, it is critical that we also understand this as removal from our homelands as well.

⁵ Matthew Dorrell, "From Reconciliation to Reconciling: Reading What 'We Now Recognize' in the Government of Canada's 2008 Residential Schools Apology," *English Studies in Canada* 35.1 (March 2009): 27-45.

noted before me, justice for Indigenous peoples has proved much harder to attain.

Following the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007, Pawnee legal scholar Walter Echo-Hawk reflected on a question that has also broadly guided my work from that moment in 2008: “*What is justice?* We think we know it when we see it. But relief from historical wrongs committed against Native Americans has proved difficult for our legal system to achieve, if not altogether elusive.”⁶ While Echo-Hawk was specifically writing about legal justice and the United Nations Declaration on the Rights of Indigenous Peoples, the root of his question is applicable to wider conceptions and possibilities of justice for Indigenous peoples.⁷

For generations Indigenous peoples have been calling for justice and the end to harm perpetuated against our bodies and the physical places we call home. Our calls were heard in court rooms,⁸ commission hearings,⁹ and occasionally resulted in new bills that sought to protect Indigenous rights.¹⁰ At the turn of the 21st century, answers to these calls for justice and an end to harm emerged in new ways in the global North. Truth

⁶ Walter R Echo-Hawk, *In the Light of Justice: The Rise of Human Rights in Native America*, (Colorado: Fulcrum Publishing, 2013), 251.

⁷ Echo-Hawk, *In the Light of Justice*, 249 – 279.

Walter Echo-Hawk also begins to take up this question of justice for historical wrongs in the conclusion of his book *In the Light of Justice*. In particular, Echo-Hawk develops a potential framework for addressing and healing historical wrongs. He stresses: “our teachings contain a framework for healing injuries of the kind inflicted upon Native American by the forces of conquest and colonialism,” (250). As Echo-Hawk outlines, this framework includes a detailed discussion of reparative justice as a path to healing historical trauma including the use of truth and reconciliation commissions, apologies, and acts of atonement.

⁸ Consider for example: *R. v. Sparrow*, [1990] 1 S.C.R. 1075 <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/609/index.do> ; *R. v. Van der Peet*, [1996] 2 S.C.R. 507 <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1407/index.do> ; *Delgamuukw v. British Columbia*, 1997 CanLII 302 (SCC), [1997] 3 SCR 1010, <https://canlii.ca/t/1fqz8> ; *Tsilhqot’in Nation v. British Columbia*, 2014 SCC 44 (CanLII), [2014] 2 SCR 257, <https://canlii.ca/t/g7mt9>

⁹ I am thinking here of the Royal Commission on Aboriginal Peoples that held 178 days of hearing with Indigenous communities and released a multivolume report in 1996.

¹⁰ For example, the Indian Child Welfare Act of 1978 was enacted in the United States as a result of decades long activism and resistance of Indigenous women around ending the removal of Indigenous children from their tribal communities.

commissions arose as a new possibility to address the violence and trauma of removing Indigenous children from their families and nations with the establishment of the Truth and Reconciliation Commission of Canada in 2008, and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission in 2013. The creation of these two commissions marked an important step in addressing our demands for justice and the end of harm, alongside our calls for truth-telling. From this moment of promise marked by Indigenous demands for justice for both past and ongoing violence, this project grapples with the emergence of these two truth and reconciliation commissions as they intersect with Indigenous stories and Indigenous conceptions of justice. To that end, this project asks: *How do Indigenous stories provide lenses through which we can understand the work of truth and reconciliation commissions in Canada and the United States, and develop a better understanding of justice for Indigenous nations?*

Holding Indigenous conceptions of justice at its core, this project offers a comparative tracing of the work of the Truth and Reconciliation Commission of Canada¹¹ and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission¹² as they investigated state practices of removing Indigenous children from their homes and nations. More specifically, this project examines the ways these truth commissions have intersected with Indigenous stories and how Indigenous stories can inform how we understand the work of truth and reconciliation commissions as they move to provide a form of justice for our communities. Through this analysis, it is evident that these two truth and reconciliation commissions emerged from direct calls for justice and truth-telling from Indigenous peoples and can and do serve an important role in potential

¹¹ Truth and Reconciliation Commission of Canada, 2009-2015.

¹² Maine-Wabanaki-State Child Welfare Truth and Reconciliation Commission, 2013-2015.

healing and accountability processes. Within both commission processes, stories of Indigenous experiences in residential schools, and the child welfare system, were drawn from the perceived margins of settler colonial society in an effort to move towards truth, healing, reconciliation and justice. Despite this attempted inclusion of stories of Indigenous life experiences, I argue that deeply listening to Indigenous stories in their various forms—life/ experiential stories, and traditional stories¹³—illuminates the ways that reconciliation has become disconnected from Indigenous understandings of justice. As such, I argue that listening to Indigenous stories, not just hearing the words but instead taking them to heart, engaging with them and allowing them to guide us, would move toward a more informed understandings of what justice looks like for Indigenous communities. The Indigenous conceptions of justice discussed here are rooted in the end of harmful practices, and the ability to practice and tend to our relationships and responsibilities in their entirety—both our interpersonal relationships, and our relationships with the natural and spiritual worlds.

The Language of Reconciliation and Transitional Justice

While Indigenous nations were actively pressing for justice for the violent practice of removing Indigenous children from their homes, political discourse was shifting globally during the latter half of the twentieth century to more predominantly

¹³ Jo-Ann Archibald Q'um Q'um Xiiem notes the distinction between Indigenous life stories and traditional stories in *Indigenous Storywork: Educating the Heart, Mind, Body and Spirit* (Vancouver: University of British Columbia Press, 2008). I offer the same distinction here to draw attention to the ways that Indigenous storytelling can move beyond traditional stories such as our creation stories, and include Indigenous life experiences as important moments of storytelling in various capacities. This will be explored in greater detail below, and in Chapter Three.

centre discussions of morality.¹⁴ Forced to confront legacies of trauma emerging from the twentieth century—often referred to as “the century of genocide”¹⁵—states began to more actively contemplate redress and morality’s linkages to past, present and future policy in an effort to respect and protect human rights. Through this contemplation, states have ultimately sought to reflect on the larger question posed by Walter Echo Hawk in the concluding chapter of his book *In the Light of Justice*: “Is there an obligation to repair harm caused by historical wrongs and heal a painful past?”¹⁶ As anthropologist David Scott stressed, “memory and trauma, and their temporal coordinates, are at the center of the idea of reparatory justice, itself an aspect of the larger tectonic shift that has produced our age as one defined by human rights.”¹⁷ While not all states have sought to address their pasts, and the range and depth of these responses varies across space and time, there is a marked movement towards responding to this question in some capacity giving birth to a new field of inquiry: transitional justice.¹⁸ In this section, I consider the work of the

¹⁴ Consider for example the rise of the human rights regime in the wake of atrocities that occurred before and during World War II. See the work of: Elazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustices* (New York: Norton, 2000); Robert Meister, *After Evil: A Politics of Human Rights* (New York: Columbia University Press, 2011).

¹⁵ See Eric D Weitz, *A Century of Genocide: Utopias of Race and Nation* (Princeton: University of Princeton Press, 2003).; Samuel Totten, William S Parsons and Israel Charney eds., *Century of Genocide: Critical Essays and Eyewitness Accounts*, 2nd ed. (New York: Routledge 2004).

¹⁶ Echo-Hawk, 249.

¹⁷ David Scott, *Omens of Adversity: Tragedy, Time, Memory, Justice* (Durham: Duke University Press, 2014): 14.

¹⁸ Consider for example: Ruti Teitel, *Transitional Justice* (New York: Oxford University Press, 2000); Ruti Teitel, *Globalizing Transitional Justice: Contemporary Essays* (Oxford: Oxford University Press, 2014); Alexander Laban Hinton, ed., *Transitional Justice: Global Mechanisms and Local Realities After Genocide and Mass Violence* (New Jersey: Rutgers University Press, 2010); Melissa Williams, Rosemary Nagy and Jon Elster, eds., *Transitional Justice* (New York: New York University Press, 2012); Alexandra de Brito, Carmen González-Enríquez and Paloma Aguilar, eds., *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001); Paige Arthur, ed., *Identities in Transition: Challenges for Transitional Justice in Divided Societies* (New York: Cambridge University Press, 2011); Richard Ned Lebow, Wulf Kansteiner and Claudio Fogu, eds., *The Politics of Memory in Postwar Europe* (Durham: Duke University Press, 2006); Alexander Laban Hinton and Kevin Lewis O’Neill, eds., *Genocide, Truth, Memory and Representation* (Durham NC: Duke University Press, 2009).

Truth and Reconciliation Commission of Canada, and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission within the larger field of transitional justice. I draw these connections to point to the areas where the work of these two commissions overlapped with transitional justice mechanisms, and where the work of these commissions attempted to diverge from more traditional truth commission structures. I further emphasize this to allude to tensions which emerge from the general structure of truth commissions, and points of disconnect from the visions of justice Indigenous peoples hold when we engage with these processes particularly around conceptions of reconciliation.

The field of transitional justice remains a relatively new site of exploration and consideration. Although the mechanisms within this field are typically traced back to the post-WWII era, the field of transitional justice only began to expand—linking these mechanisms together in their movement to address histories and legacies of violence—in the post-Cold War era of the 1990s.¹⁹ As Scott noted, “the rise of transitional justice as a mechanism for settling past state crimes is an *effect* of the post-Cold War reorganization of the constraints and possibilities, values and expectations, of the global political landscape.”²⁰ In this way, the work of transitional justice is tied not only to the transition from right-wing authoritarian rule, but to the upholding of liberal democracy “as the *single*, indisputable standard of civilization by which political legitimacy can be

¹⁹ See for example but not limited to: Ruti Teitel, *Transitional Justice* (New York: Oxford University Press, 2000); Ruti Teitel, *Globalizing Transitional Justice: Contemporary Essays* (Oxford: Oxford University Press, 2014); Alexander Laban Hinton, ed., *Transitional Justice: Global Mechanisms and Local Realities After Genocide and Mass Violence* (New Jersey: Rutgers University Press, 2010); David Scott, *Omens of Adversity: Tragedy, Time, Memory, Justice* (Durham: Duke University Press, 2014).

²⁰ Scott, 128.

judged.”²¹ Broadly concerning “how states in transition from war to peace or from authoritarian rule to democracy address their particular legacies of mass abuse,”²² transitional justice has also remained focused on emphasizing that the “crimes are taken not to be arbitrary acts of illegality, but on the contrary *exemplifications* of the practice of ‘illiberal’ politics.”²³ In exploring these connections, scholars of transitional justice often seek to understand the ways in which mechanisms of redress simultaneously legitimize new liberal governments, while they strive to provide justice for the survivors of violence.²⁴

The centering of liberal democracy as the exclusive form of political regime eligible of claiming to protect and promote human rights²⁵ has raised critical questions for the emergence and role of redress mechanisms in countries already perceived to be democratic. The war, violence, and human rights abuses that have occurred within Canada and the United States—states that have actively positioned themselves as democratic international defenders of human rights—seemed to have precluded the same kind of international condemnation seen in the global South. Not wanting to foreclose a

²¹ Scott, 128.

²² Mark Freeman, *Truth Commissions and Procedural Fairness* (New York: Cambridge University Press, 2006): 4.

²³ Scott, 128.

²⁴ Take, for example, the following works: Alexandra De Brito, Carmen González- Enríquez, eds. *The Politics of Memory: Transitional Justice in Democratizing Societies* (New York: Oxford University Press, 2001).; Ruti Teitel, *Transitional Justice* (New York: Oxford University Press, 2000).; Mark Freeman, *Truth Commissions and Procedural Fairness* (New York: Cambridge University Press, 2006).; Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* 2nd ed. (New York: Routledge, 2011).; Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence*, (Boston: Beacon Press, 1998).; Elazar Barkan, *The Guilt of Nations*, (New York: W.W. Norton & Company Inc, 2000).; Paige Arthur, editor, *Identities in Transition: Challenges for Transitional Justice in Divided Societies* (Boston: Cambridge University Press, 2010).; Teresa Godwin Phelps, *Shattered Voices: Language Violence and the Work of Truth and Reconciliation Commissions*, (PA: University of Pennsylvania Press, 2006); John Torpey, editor, *Politics and the Past: On Repairing Historical Injustices*, (Maryland: Rowman and Littlefield Publishers, 2003).

²⁵ Scott, 129.

more widespread application of transitional justice, Mark Freeman—scholar and one of the founders of the International Centre for Transitional Justice—notes that there are other less conventional transitions where these mechanisms might apply. He notes, for example, “more subtle transitions from a democracy in which human rights are weakly observed to one in which they are more effectively observed.”²⁶ Many scholars have actively contemplated the relevance of a transitional justice framework to describe the emergence and work of the Truth and Reconciliation Commission of Canada, including Matt James,²⁷ Courtney Jung,²⁸ Rosemary Nagy,²⁹ Jennifer Matsungaga,³⁰ and Kim Stanton.³¹ Similarly, the emergence of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission raises questions of the relevance of a transitional justice framework to describe redress for settler colonial violence. While these commissions certainly departed from more traditional truth commission structures in some capacities,

²⁶ Freeman, 4.

²⁷ See for example Matt James, “A Carnival of Truth: Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission,” *International Journal of Transitional Justice* 6 (2012):182-204; Matt James and Michelle Bonner, “The Three R’s of Seeking Transitional Justice: Reparation, Responsibility and Reframing in Canada and Argentina,” *The International Indigenous Policy Journal* 2.3 (2011): 1-29.

²⁸ Courtney Jung, “Canada and the Legacy of the Indian Residential Schools: Transitional Justice for Indigenous Peoples in a Nontransitional Society,” in *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, edited by Paige Arthur (Cambridge: Cambridge University Press, 2011): 217-250.

²⁹ See for example, Rosemary Nagy, “Truth, Reconciliation and Settler Denial: Specifying the Canada-South Africa Analogy” *Human Rights Review* 13 (2012): 349-367.; “The Truth and Reconciliation Commission of Canada: Genesis and Design,” *Canada Journal of Law and Society* 29.2 (2014): 199-217.

³⁰ Jennifer Matsungaga, “Two Faces of Transitional Justice: Theorizing the Incommensurability of Transitional Justice and Decolonization in Canada.” *Decolonization: Indigeneity, Education and Society* 5.1 (2016): 22-44.

³¹ Kim Stanton, “Canada’s Truth and Reconciliation Commission: Settling the Past?” *International Indigenous Policy Journal* 2.3 (2011): 1-18.

there is important overlap between these specific truth and reconciliation commissions, and the work of truth commissions and redress mechanisms more broadly.³²

Within the field of transitional justice, apologies, compensation payments, revision of national histories, various forms of international courts, commemoration, and truth and reconciliation commissions are often touted as facilitating justice for the survivors of violence. Since the 1970s, over forty truth commissions have emerged in states across the world, although their use in what is now North America is a more recent phenomenon. Their emergence and use have ultimately engaged with a “politics of memory, whereby societies rework the past in a wider cultural arena,”³³ and they have often privileged the notion that truth telling addresses a “social need for knowledge to become acknowledgement,” where truth “is seen as a weapon against oblivion, which can combat ‘social amnesia.’”³⁴ As truth commissions increased in their emergence, their

³² The connections between transitional justice and the work of the Truth and Reconciliation Commission of Canada and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission is evident in layered ways. For example, the mere contemplation of the applicability of a transitional justice framework to the work of these commissions suggests commonalities in the guiding principles of their work – namely the role of truth-telling in providing justice for survivors of violence. Further, the involvement of the International Center for Transitional Justice (ICTJ) in both of these commissions provides additional evidence to the importance of considering broader transitional justice principles in the work of these two truth commissions. For example, the ICTJ notes that they provided technical advice to the TRC, worked to engage communities, shared knowledge in the form of participating in TRC events and worked with the TRC to develop a youth engagement strategy (ICTJ, 2021 - <https://www.ictj.org/our-work/regions-and-countries/canada>). In the case of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, the first Executive Director attended a training lead by the ICTJ, and consulted with the commission at various points throughout their mandate. There are also several updates on the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission’s work on the ICTJ Website (<https://www.ictj.org/search-results?search=Maine>).

While it would be inaccurate to suggest that the ICTJ stewarded the truth and reconciliation commission process in Canada or Maine, it is accurate to note that they played a role in consulting and advising at various times throughout the work of both commissions. I understand this as noting a direct connection between transitional justice mechanisms broadly, and the work of these commissions specifically.

³³ de Brito, González-Enríquez and Aguilar, 1-2.

³⁴ de Brito, González-Enríquez and Aguilar, 25-26.

mandates often became tied to the larger goal of reconciliation.³⁵ For example, the mandate for the Truth and Reconciliation Commission of Canada explicitly noted the desired vision of moving towards reconciliation as a goal of the commission: “there is an emerging and compelling desire to put the events of the past behind us... the truth of common experiences will help set our spirits free and pave the way to reconciliation.”³⁶ Similarly, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission also connected reconciliation as an important objective of the Commission’s work: “Promote individual, relational, systemic and cultural reconciliation.”³⁷ As a part of their connection to the transitional justice field, truth and reconciliation commissions can also be seen as tied to larger projects of state/governmental legitimation that seek to draw people back into a collective oneness,³⁸ which can include the work of reconciliation. As a mechanism of transitional justice, truth and reconciliation commissions are “opportunities for myth making that may bind a community,”³⁹ while seeking to build unity amongst the population.

³⁵ See for example the breakdown of common aims and goals of a truth commissions by Priscilla B Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, 2nd edition (New York: Routledge Press, 2011): 20.

³⁶ Indian Residential School Settlement Agreement, *Schedule N: Mandate for the Truth and Reconciliation Commission*, 1. http://www.trc.ca/assets/pdf/v-SCCHEDULE_N_EN.pdf

³⁷ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, June 29, 2012: 3.

³⁸ See for example, de Brito, Alexandra Barahona, Carmen González-Enríquez and Paloma Aguilar, “Introduction,” *The Politics of Memory: International Justice in Democratizing Societies* (New York: Oxford University Press, 2001). Within this introduction, the authors not only situate a range of transitional justice mechanisms within the wider constellation of moments of transition, but they also note the role that truth and reconciliation commissions play in developing national unity: “it is said to bring victims back into the fold of society by recognizing their suffering, providing a form of distributive or social justice and giving out non-conventional resources such as social awareness, collective memory, solidarity and the overcoming of low self esteem.” [sic] (25).

³⁹ de Brito, González-Enríquez and Aguilar, 26.

Navigating the terrain in which reconciliation has emerged has remained complex as competing definitions and understandings intersect and collide with one another. When discussing reconciliation alongside truth and reconciliation commissions, there is a tendency to look to transitional justice literature to offer definitions or explanations of how reconciliation should be understood or what it looks like. As Jonathan VanAntwerpen observed in the years following the work of the South African Truth and Reconciliation Commission: “with the international proliferation of truth commissions and a range of other truth-telling modes of response to mass atrocity, the language of reconciliation—if not the reality it sought to bring into being—had gone global, becoming closely intertwined with the field of transitional justice.”⁴⁰ Much of the literature on transitional justice and truth commissions alludes to reconciliation as a regeneration of a broken relationship which is also connected to the promotion of peace. For example, in the opening of *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, Priscilla Hayner suggests that “society as a whole must find a way to move on, *to recreate a livable space of national peace*, build some form of reconciliation between former enemies, and secure these events in the past”⁴¹ (emphasis added). By noting the need to “*recreate... national peace*” the underlying sentiment emphasizes a national wholeness, or oneness, and can be suggested to connote a nation-building project focused on unity, that potentially forecloses the existence of multiple self-determining nations within a defined geographical space.

⁴⁰ Jonathan VanAntwerpen, “Reconciliation as Heterodoxy,” in *Restorative Justice, Reconciliation and Peacebuilding*, edited by Jennifer Llewellyn and Daniel Philpott (Oxford: Oxford University Press, 2014): 78.

⁴¹ Hayner, 3-4.

Discussions of the definitions and parameters of reconciliation are not without debate. When considering some definitions described within transitional justice literature, serious questions are raised about its applicability to the vision Indigenous peoples have for justice when we engage with these processes. For example, often through the application of justice mechanisms, reconciliation projects seek connection between societal groups and not separation to orient the work.⁴² In other words, reconciliation projects often orient their work around drawing people together within a collective national identity. We see this for example when we consider the societal utility of apologies. As Anishinaabe political scientist Sheryl Lightfoot has noted, “studies of apology and official state apology have largely found them to be helpful in diffusing tensions, and problematically from the perspective of Indigenous peoples, a useful tool of minority group assimilation into a national polity.”⁴³ While this is not to say that apologies are the same as truth and reconciliation commissions, it is important to reflect on how their objectives towards reconciliation might share similarities in a potential usefulness in building a national polity which may be at odds with Indigenous conceptions of justice that call for a recognition of Indigenous self-determination/political authority. Further, as Gabrielle L’Hirondelle Hill and Sophie McCall point out in *The Land We Are: Artists and Writers Unsettle the Politics of Reconciliation*, reconciliation has tended to fixate on resolution and absolution through seeking national unity and providing closure⁴⁴ through justice. In emphasizing this closure, justice has

⁴² Jennifer Llewellyn and Daniel Philpot, “Restorative Justice and Reconciliation: Twin Frameworks for Peacebuilding,” *Restorative Justice, Reconciliation and Peacebuilding*, eds. Jennifer Llewellyn and Daniel Philpot (Oxford: Oxford University Press, 2014), 17.

⁴³ Sheryl Lightfoot, “Settler-State Apologies to Indigenous Peoples: A Normative Framework and Comparative Assessment,” *Native American and Indigenous Studies* 2.1(Spring 2015): 17-18.

⁴⁴ Gabrielle L’Hirondelle Hill and Sophie McCall, “Introduction,” *The Land We Are*, edited by

often focused on redress through accountability,⁴⁵ restitution,⁴⁶ reparations,⁴⁷ truth,⁴⁸ and apology.⁴⁹

When considering its application to redress settler colonial violence, the concept of reconciliation discussed above has a potentially problematic premise. As the late Patrick Wolfe asserted, settler colonialism destroys in order to replace;⁵⁰ it is a practice of state-building through nation-destroying in which violence often transcends a specific event and is instead a structure which continues to operate. Given the violent history (and present) of settler colonialism in which the destruction of nations is necessary for settler

Gabrielle L'Hirondelle Hill and Sophie McCall (Winnipeg: Arbeiter Ring Publishing, 2015), 7-8.

⁴⁵ Daniel W. Van Ness, "Accountability," *Restorative Justice, Reconciliation and Peacebuilding*, eds. Jennifer Llewellyn and Daniel Philpot (Oxford: Oxford University Press, 2014).

⁴⁶ Elazar Barkan, "Restitution and Amending Historical Injustices in International Morality," *Politics and the Past: On Repairing Historical Injustices*, ed. John Torpey (Maryland: Rowman and Littlefield Publishers, 2003).

⁴⁷ Roy L. Brooks, "Reflections on Reparations," *Politics and the Past: On Repairing Historical Injustices*, ed. John Torpey (Maryland: Rowman and Littlefield Publishers, 2003).

⁴⁸ Various pieces have been produced on the role of truth in justice, see for example: Mark Freeman and Priscilla B Hayner, "Truth-Telling," *Reconciliation After Violent Conflict: A Handbook*, edited by David Bloomfield, Teresa Barnes and Luc Huyse, (Sweden: International Institute for Democracy and Electoral Assistance, 2003):122-138; Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* 2nd ed. (New York: Routledge, 2011); Robert I Rotberg and Dennis Thompson, editors, *Truth v. Justice: The Morality of Truth Commissions* (Princeton: Princeton University Press, 2000); Mark Freeman, *Truth Commissions and Procedural Fairness* (Cambridge: Cambridge University Press, 2006).

⁴⁹ There is a wealth of material on apology and its role in reconciliation, see for example: Sheryl Lightfoot, "Settler-State Apologies to Indigenous Peoples: A Normative Framework and Comparative Assessment," *Native American and Indigenous Studies* 2.1 (Spring 2015): 15-39; Matt James, "'Wrestling with the Past: Apologies, Quasi-Apologies, and Non-Apologies in Canada,'" in *The Age of Apology: The West Faces its Own Past*, ed. Mark Gibney, Rhoda Howard-Hassmann, Jean-Marc Coicaud, and Niklaus Steiner. Philadelphia: University of Pennsylvania Press, 2007; Jeff Corntassel and Cindy Holder. "Who's Sorry Now? Government Apologies, Truth Commissions and Indigenous Self-Determination in Australia, Canada, Guatemala, and Peru." *Human Rights Review* 9 (2008): 465-489.; Pablo De Greiff, "The Role of Apologies in National Reconciliation Processes: Making Trustworthy Institutions Trusted" in *The Age of Apology: Facing Up to the Past*, edited by Mark Gibney, Rhoda E Howard-Hassman, Jean-Marc Coicaud and Niklaus Steiner (Philadelphia: University of Pennsylvania Press, 2008): 12-136.; Mark Gibney and Erik Roxstrom. "The Status of State Apologies," *Human Rights Quarterly* 23.4 (2001): 911-939.; Michael Marrus, "Official Apologies and the Quest for Historical Justice," *Journal of Human Rights* 6.1 (02/2009):75-105.; Nicholas Tavuchis, *Mea Culpa: A Sociology of Apology and Reconciliation* (Stanford: Stanford University Press, 1991).

⁵⁰ Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research*, 8.4 (2006): 384-409.

state-building, reconciliation as a return to a previous version of the relationship begs the question: What exactly are we returning to? The privileging of national unity within many reconciliation discourses silences Indigenous voices who do not subscribe to state citizenship because they understand themselves to be self-determining nations whose existence extends far before and beyond that of the Canadian or American state.⁵¹ Further, it is especially challenging to restore a relationship to a national wholeness that never existed between Indigenous nations and the settler state. In effect, from this standpoint, reconciliation raises the potential for a more capacious inclusion in the nation-state framework while negating Indigenous nationhood.

To further complicate this discussion, reconciliation as a concept—while it can be expressed in secular terms and concepts—also has deep religious roots. As Jennifer Llewellyn and Daniel Philpot point out in their article “Restorative Justice and Reconciliation: Twin Frameworks for Peacebuilding,”: “it is in fact in ancient religions, their texts and their traditions, that the concept of reconciliation can be found.”⁵² They further note that within Judaism, Christianity and Islam, understandings of reconciliation strongly converge with the meaning of justice, peace and mercy.⁵³ Stephen J. Pope further elaborates on these deep religious resonances by tracing forgiveness and reconciliation’s central position within Christianity: “if the effect of sin is alienation, then grace, God’s free and forgiving self-communication to humanity, restores our

⁵¹ See for example: Jeff Corntassel and Cindy Holder, “Who’s Sorry Now? Government Apologies, Truth Commissions, and Indigenous Self-determination in Australia, Canada, Guatemala and Peru,” *Human Rights Review* 9.4 (2008): 465-489.

Alexandra Barahona de Brito, Carmen González-Enríquez and Paloma Aguilar, also point this out in *The Politics of Memory: International Justice in Democratizing Societies* wherein they specifically note that “official reports can become histories that obscure and render marginal other accounts and narratives of past violations,” (26).

⁵² Llewellyn and Philpot, 23.

⁵³ Llewellyn and Philpot, 23.

relationship with God... If God is reconciling, then the person restored to God wants to reconcile with others where possible.”⁵⁴ In this sense, reconciliation is central in righting a relationship with God.

These debates around the applicability of the term reconciliation become even more complex when we consider the use of a term that both has roots within larger nation-building projects, and alien religious connotations to describe the visions of justice Indigenous peoples hold when we engage with truth and reconciliation commissions. For nuučaañuł peoples, like many Indigenous nations⁵⁵ there is no word for reconciliation. The closest approximation might be *oo yoothloothl* to mean ‘looking after (or, looking beyond).’⁵⁶ Another possibility is *chaa-chim-hay-up*, meaning ‘make it right.’ Yet, these conceptions do not equally align with what is alluded to when reconciliation is referenced in transitional justice literature or even by structures that purport to use a more Indigenous conception of reconciliation as will be discussed below. For example, unlike the above conceptions of reconciliation, these particular nuučaañuł terms foreground family as the starting place for repairing relationships, and emphasize the vital importance of understanding our teachings as guiding our pathways forward as *quu?as-sa*.⁵⁷ So much is lost when we attempt to translate from the languages gifted to us by the creator to English. Even where it is possible to offer some close approximation, the most insight is gleaned from turning to our cultural values and our stories.

⁵⁴ Stephen J. Pope, “The Role of Forgiveness in Reconciliation and Restorative Justice: A Christian Theological Perspective,” *Restorative Justice, Reconciliation and Peacebuilding*, eds. Jennifer Llewellyn and Daniel Philpot (Oxford: Oxford University Press, 2014), 184.

⁵⁵ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 122.

⁵⁶ Jeff Corntassel, Chaw-win-is, and T’lakwadzi, “Indigenous Storytelling, Truth-telling and Community Approaches to Reconciliation,” *ESC: English Studies in Canada* 35.1 (March 2009): 145.

⁵⁷ nuučaañuł term that originally meant human. It is now used to reference who we are as Indigenous peoples.

Many Indigenous scholars, leaders, and activists have indicated the potential danger in accepting widely recognized conceptions of reconciliation such as those described above.⁵⁸ In particular, many indicate that there is a danger in accepting definitions of reconciliation which re-inscribes the status quo,⁵⁹ or has converged with earlier conceptions of the politics of recognition,⁶⁰ thereby reproducing the forms of settler colonial power Indigenous peoples sought to transcend. Given these potential dangers and the fact that reconciliation is not an Indigenous conception, as Jeff Corntassel, Chaw-win-is and T’lakwadzi argue, “our overarching goal as Indigenous peoples should not be to restore an asymmetrical relationship with the state but to restory our communities toward justice.”⁶¹ To my mind, as I will discuss in the next section, this means centering Indigenous conceptions of justice in our understandings of the workings of truth and reconciliation commissions born of our calls for truth-telling, justice and specifically and the end to harm.

In an attempt to navigate the complex terrain of reconciliation and justice definitions, the Truth and Reconciliation Commission of Canada set out to define the parameters of their understanding of reconciliation which guided their work throughout and beyond their mandate. In considering the uptake of reconciliation, the Commission also noted the tendency of some to understand reconciliation as a return to, or the “re-

⁵⁸ See for example: Taiaiake Alfred, *Wasáse: Pathways of Action and Freedom* (Toronto: University of Toronto Press, 2009); kekinusuqs. Interview with author. *čišaaʔath̄ haahuuḷi*. May 9, 2019; Jeff Corntassel, Chaw-win-is and T’lakwadzi, “Indigenous Storytelling, Truth-telling and Community Approaches to Reconciliation,” *English Studies in Canada* 35.1 (March 2009): 137-159; Leanne Simpson, *Dancing on Our Turtle’s Back* (Winnipeg: ARP Press, 2011); Glen Coulthard, *Red Skin White Masks* (Minnesota: University of Minnesota Press, 2013); Arthur Manuel, *Reconciliation Manifesto* (Toronto: James Lorimer & Company Ltd., 2017).

⁵⁹ Corntassel, Chaw-win-is and T’lakwadzi, 139.

⁶⁰ Coulthard, 106.

⁶¹ Corntassel, Chaw-win-is, and T’lakwadzi, 145.

establishment of a conciliatory state,”⁶² and noted that many Indigenous peoples push back against this with assertions that this state “never has existed between Aboriginal and non-Aboriginal peoples.”⁶³ The Truth and Reconciliation Commission of Canada has instead chosen to embrace an alternative understanding of reconciliation which is focused on “coming to terms with events of the past in a manner that overcomes conflict and establishes a respectful and healthy relationship among people, going forward.”⁶⁴ Here there are direct connections to the language often used within transitional justice and redress mechanisms more broadly which emphasize “coming to terms with the past”⁶⁵ as part of the road to reconciliation, justice, peace and national unity. The Commissioners of the Truth and Reconciliation Commission of Canada further assert that “‘reconciliation’ is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country. In order for that to happen, there has to be an awareness of the past, acknowledgement of the harm that has been inflicted, atonement for the causes, and action to change behaviour.”⁶⁶ While the definition of reconciliation shared by the Commission offers space for a more encompassing

⁶² Truth and Reconciliation Commission of Canada, *What We Have Learned: Principles of Truth and Reconciliation* (Winnipeg, Manitoba: Truth and Reconciliation Commission of Canada, 2015): 113.

⁶³ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 113.

⁶⁴ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 113.

⁶⁵ See for example (but not limited to): John Torpey, editor, *Politics and the Past: On Repairing Historical Injustices*, (Maryland: Rowman and Littlefield Publishers, 2003); Ruti Teitel, *Transitional Justice*, (New York: Oxford University Press, 2000); Elazar Barkan, *Guilt of Nations* (New York: Norton Press, 2000); David Bloomfield, Teresa Barnes and Luc Huyse, editors, *Reconciliation After Violent Conflict: A Handbook* (Sweden: International Institute for Democracy and Electoral Assistance, 2003); Mark Gibney, Rhoda E Howard-Hassman, Jean-Marc Coicaud and Niklaus Steiner, editors, *The Age of Apology: Facing Up to the Past* (Philadelphia: University of Pennsylvania Press, 2008); Hinton, Alexander Laban, editor, *Transitional Justice: Global Mechanisms and Local Realities After Genocide and Mass Violence* (New Jersey: Rutgers University Press, 2010); Melissa Williams, Rosemary Nagy and Jon Elster, editors, *Transitional Justice* (New York: New York University Press, 2012).

⁶⁶ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 113.

application to the wide range of settler colonial violence experienced by Indigenous peoples, one cannot assume that theory translates to practice.

Unlike the Truth and Reconciliation Commission of Canada, who offered their reflections on the principles of reconciliation, as well as a full chapter on reconciliation in their report titled *What We Have Learned*, and an entire volume in the complete Final Report, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission did not offer the same in-depth consideration of the scope and parameters of reconciliation. Instead, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission offered reflections on the relative elusive and challenging nature of reconciliation.⁶⁷ More specifically in reflecting on the work of the Commission, the Commissioners of the Maine-Wabanaki TRC noted that “The discussions we had with providers and communities, the testimony we gathered from Wabanaki and non-Native people, in connection to research conducted in the state archives and through a variety of other sources, allowed us to achieve in some measure—some smaller than others—each of the objectives of the mandate. *Reconciliation, however, at any level remains an elusive although potent goal,*” (emphasis added).⁶⁸ The Commissioners went on to further emphasize that many Wabanaki people voiced “that it was too soon to hope for reconciliation, [while] some people wanted the process to move through an acknowledgement of harms first so that non-Native people could not rush to repair a

⁶⁷ See for example the statements on the barriers to reconciliation offered by the Truth and Reconciliation Commission of Canada in: Truth and Reconciliation Commission of Canada, *What We Have Learned: Principles of Truth and Reconciliation* (Winnipeg, Manitoba: Truth and Reconciliation Commission of Canada, 2015): 113-126.

⁶⁸ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Report of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission*, (Hermon, ME: Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, 2015): 14.

problem and so dismiss Native experiences” [*sic*].⁶⁹ These comments, as well as those echoed by the Truth and Reconciliation Commission of Canada⁷⁰ gesture to what is perceived as an underlying tendency for some to “rush” towards reconciliation before a full or complete truth, acknowledgement and redress occur. These sentiments have also been echoed by Indigenous scholars such as Sarah Hunt and Patricia Barkaskas.⁷¹

Rooted with both Commissions’ understandings of reconciliation is the emphasis that addressing reconciliation should privilege Indigenous visions and needs. For example, the Truth and Reconciliation Commission of Canada emphasized that “reconciliation must support Aboriginal peoples as they heal from the destructive legacies of colonization,”⁷² and viewed the revitalization of Indigenous spirituality, culture, languages, laws and governance systems as an important component to establishing and maintaining respectful relationships.⁷³ The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission expressed similar sentiments noting that “Moving toward systemic reconciliation, people often told us, would have to happen in terms that made cultural and emotional sense first of all to Wabanaki people.”⁷⁴

Throughout the pages that follow, it will become clear that competing definitions and understandings of reconciliation, such as those outlined above, continue to occur in

⁶⁹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 17.

⁷⁰ See for example the statements on the barriers to reconciliation offered by the Truth and Reconciliation Commission of Canada in: Truth and Reconciliation Commission of Canada, *What We Have Learned: Principles of Truth and Reconciliation* (Winnipeg, Manitoba: Truth and Reconciliation Commission of Canada, 2015): 113-126.

⁷¹ Patricia Barkaskas and Sarah Hunt, *Truth Before Reconciliation: Reframing/ Resisting/ Refusing Reconciliation*. SFU Institute for the Humanities, (March 10, 2017): https://www.youtube.com/watch?v=mB_7odACIpI

⁷² Truth and Reconciliation Commission of Canada, *What We Have Learned*, 114.

⁷³ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 121.

⁷⁴ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 17.

the spaces where reconciliation is discussed and practiced in settler colonial contexts. I understand these as various narratives of reconciliation that have emerged which advance particular objectives depending on the actors involved. These various narratives of reconciliation have also intersected with Indigenous stories and conceptions of justice in particular instances which will be explored throughout this project. Throughout the pages that follow, I will utilize the understanding of reconciliation outlined by the Truth and Reconciliation Commission of Canada, and gestured to by the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission—as an ongoing process of establishing and maintaining respectful relationships—to discuss reconciliation moving forward. Where competing understandings of reconciliation collide with this particular vision, I will draw attention to their differences. I recognize the confusing nature of navigating terrain with competing and contested understandings of a broad practice of reconciliation, this is further complicated by the fact that although both commissions strived to offer definitions of reconciliation that more closely aligned with Indigenous conceptions, they are not an exact approximation. Because of these tensions, the most dominant focus of this project is instead on Indigenous visions and understandings of justice. In other words, the emphasis remains on Indigenous conceptions of justice, and taking Indigenous stories seriously when considering projects of reconciliation. Although both the Truth and Reconciliation Commission of Canada and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission have sought to emphasize that reconciliation should proceed along a trajectory that is informed by principles important to Indigenous peoples, this project examines the sub-question of how and if this is the case in practice. It does so by grounding its approach in Indigenous storytelling, and

seeks to understand how Indigenous stories provide lenses through which we can understand the work of truth and reconciliation commissions, and develop a better understanding of justice for Indigenous nations.

Although there is complexity and tension in the definitions of reconciliation, one aspect that becomes clear is the connection between reconciliation and justice. By justice I do not mean what is exercised through the legal and criminal justice system but instead am gesturing to broader notions of justice which have similarly emphasized the importance of balanced and respectful relationships. While neither the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission nor the Truth and Reconciliation Commission of Canada can be said to have been mandated toward “justice” explicitly, justice can be understood as an implicit goal as both commissions emphasize truth and redress for past violence. This connection is also emphasized in much of the transitional justice literature which notes for example that: “truth has also been seen as a form of ‘justice as recognition,’ acknowledgement or admission. It can also be seen as a form of compensatory justice, in that it restores a sense of justice that had broken down.”⁷⁵ Or as Jonathan Allen wrote, “morally justifiable reconciliation requires the disclosure of truth and some concern to see justice served.”⁷⁶ Ultimately justice and reconciliation can be understood as interrelated projects that demand our reflection as we consider what it means to live within just, balanced relationships. As the Truth and Reconciliation Commission of Canada claimed in *What We Have Learned*:

⁷⁵ De Brito, González-Enríquez and Aguilar, 25; Jonathan Allen, “Balancing Justice and Social Unity: Political Theory and the Idea of a Truth and Reconciliation Commission,” *University of Toronto Law Journal* 49(1999): 315 – 353.

⁷⁶ Jonathan Allen, “Balancing Justice and Social Unity: Political Theory and the Idea of a Truth and Reconciliation Commission,” *University of Toronto Law Journal* 49(1999): 317

Without truth, justice, and healing, there can be no genuine reconciliation. Reconciliation is not about “closing a sad chapter of Canada’s past,” but about opening new healing pathways of reconciliation that are forged in truth and justice. We are mindful that knowing the truth about what happened in residential schools in and of itself does not necessarily lead to reconciliation. Yet, the importance of truth telling in its own right should not be underestimated; it restores the human dignity of victims of violence and calls governments and citizens to account. Without truth, justice is not served, healing cannot happen and there can be no genuine reconciliation between Aboriginal and non-Aboriginal peoples.⁷⁷

Exploring Storytelling and Justice

Storytelling continues to serve a vital aspect of our lives as Indigenous peoples. As Q’um Q’um Xiiem, Jenny Bol Jun Lee-Morgan and Jason De Santolo point out in their edited collection *Decolonizing Research: Indigenous Storywork as Methodology*, “our stories were part of articulating our world, understanding our knowledge systems, naming our experiences, guiding our relationships, and most importantly, identifying ourselves.”⁷⁸ These stories inform how we relate to and understand the world. As a nuučaanuł woman, my understanding of Indigenous conceptions of justice have been deeply informed by my family teachings, which will be discussed below, and the commonalities witnessed as I worked with Wabanaki peoples as the Research Coordinator for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. A core piece of understanding justice flows from righting wrongs,⁷⁹ but it also emerges in how we live our lives and engage and maintain our relationships. The

⁷⁷ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 117.

⁷⁸ Q’um Q’um Xiiem (Jo-ann Archibald), Jenny Bol Jun Lee-Morgan, and Jason De Santolo, “Decolonizing Research: Indigenous Storywork as Methodology,” in *Decolonizing Research: Indigenous Storywork as Methodology*, edited by Q’um Q’um Xiiem (Jo-ann Archibald), Jenny Bol Jun Lee-Morgan and Jason De Santolo, (London: Zed Books, 2019): 5.

⁷⁹ Echo-Hawk, 250.

depth and range of my understanding of Indigenous conceptions of justice have emerged through Indigenous storytelling, either focused on experiential stories (stories of Indigenous life experiences), or traditional stories which are shared to communicate values and teachings. Indigenous nations have frequently spoken of the vitality and centrality of storytelling to who we are as *quuʔas-sa*.⁸⁰ Story is a gift; a gift which helps shape how we interact with the world. As Qwul'sih'yah'maht has articulated, “stories are cultural, traditional, educational, spiritual and political.”⁸¹ Our historical and mythological stories illuminate moral guidelines for how we hold, maintain, and respect our relationships in their various forms; stories shape the edges and form a core of who we are. As Dakota scholar Waziyatawin describes: “they teach the young and remind the old what appropriate and inappropriate behaviour is in our cultures; they provide a sense of identity and belonging, situating community members within their lineage and establishing their relationship to the rest of the natural world.”⁸²

From a nuučaañuł perspective, my work has been guided through an intimate understanding of *hišukʔišćawaak*—everything is one. This teaching has been reiterated to me through various nuučaañuł experiential stories, as well as some of our traditional stories. It is with an understanding of *hišukʔišćawaak*—together with its interconnected teachings—that I have grown my understanding of justice. When we understand this core nuučaañuł teaching, we actively reflect on our interconnectivity with all of creation in the

⁸⁰ nuučaañuł term that originally meant human. It is now used to reference who we are as Indigenous peoples.

⁸¹ Qwul'sih'yah'maht (Robina Anne Thomas), “Honouring the Oral Traditions of the Ta't Mustimuxw (Ancestors) Through Storytelling,” in *Research as Resistance: Revisiting Critical, Indigenous, and Anti-Oppressive Approaches*, 2nd edition, edited by Susan Strega and Leslie Brown (Toronto: Canadian Scholars Press, 2015): 182.

⁸² Angela Cavender Wilson, “American Indian History or Non-Indian Perceptions of American Indian History,” *American Indian Quarterly* 20.1 (Winter 1996): 4.

physical and spiritual worlds, and the responsibilities we maintain within webs of kinship. As Umeek—a prominent nuučaanuł leader and scholar—has stressed, “the interdependence and interrelationships of the natural world reflect the interdependence and interrelationships of all life forms.”⁸³ The intimacy of this interconnection is how I understand relationality—the webs of kinship we maintain and renew, and the responsibilities we hold to these relationships as guided by our commitment to the balance and wholeness of all of creation. *ʔiisaak*—respect—is a fundamental component of our relationality as it calls on us to maintain our commitment to the Creator’s original design of the wholeness of creation. Put differently, “another purpose of creation is to foster wholeness or community, for that is the natural order of existence.”⁸⁴ These relationships are so integral to the existence of life that we are taught that “it is unnatural, and equivalent to death and destruction, for any person to be isolated from family or community.”⁸⁵

hišukʔiščawaak calls on us to understand that we not only maintain relationships with humans, but all of creation. Our responsibilities to these relationships, and the balance that is integral for the existence of life is how we understand justice. In sitting with elders and other community members, the centrality of our teachings as *quuʔas* was continually emphasized.⁸⁶ Remembrance and (re)connection to these teachings is vital to

⁸³ Umeek, E. Richard Atleo, *Tsawalk: A Nuu-chah-nulth World View* (Vancouver: UBC Press, 2004), 15.

⁸⁴ Umeek, 20.

⁸⁵ Umeek, 27.

⁸⁶ Barney Williams Jr, interview with author, June 14 2019; *kekinusuqs*. Interview with author. *čišaaʔath haahuułi*. May 9, 2019; Nuu-Chah-Nulth Reconciliation Forum, *čišaaʔath haahuułi*. May 9-10, 2019; Nuu-Chah-Nulth Tribal Council Annual General Meeting – Reconciliation Forum Report, September 24, 2019.

our conceptions of justice, and to the restoration of balance when injustice has occurred.⁸⁷ These are the teachings that guide how we understand who we are, where we have come from and our role within creation. When injustice has occurred, emphasis on the interconnectivity of these relational teachings, on the importance of hišukʔiščawaak to life, becomes “this whole thing that fill(s) you up.”⁸⁸ As such, hišukʔiščawaak is not only a core teaching for nuučaañuł people, it is a theory and ethic of personal and political engagement. Considering justice from our worldview means that we must work towards balance and healing in all of our relationships, not just the interpersonal.

Although these particular teachings are specific to nuučaañuł peoples, conceptions of relationality extend across the territories that are now understood as part of Canada, as well as the state of Maine. A similar teaching is centered in Wabanaki communities, which emphasizes the core principle of relationships. As Penobscot activist and lawyer Sherri Mitchell notes: “Our story begins with an understanding that we are related to all beings within creation. The two legged, the four legged, the winged, the beings that crawl and slide along the ground, the plants, the trees, and the living Earth are all our relations. Everything is interconnected and interdependent; the well-being of the whole determines the well-being of any individual in part.”⁸⁹ For Penobscot people, Mitchell notes that this is embodied in *N’dilnabamuk*—“all my relations”⁹⁰—which she notes is a foundation of Indigenous life.

⁸⁷ Barney Williams Jr, interview with author, June 14 2019; Nuu-Chah-Nulth Reconciliation Forum, čišaaʔath haahuułi. May 9-10, 2019; Nuu-Chah-Nulth Tribal Council Annual General Meeting – Reconciliation Forum Report, September 24, 2019.

⁸⁸ Barney Williams Jr, interview with author, June 14 2019.

⁸⁹ Sherri Mitchell (Weh’na Ha’mu’ Kwasset), *Sacred Instructions: Indigenous Wisdom for Living Spirit-Based Change* (Berkley, CA: North Atlantic Books, 2018): 188.

⁹⁰ Mitchell, 188.

Conceptions of relationality have remained a prominent component of Indigenous scholarship and literature. As Gina Starblanket and Heidi Kiiwetinepinesiik Stark note, scholars like Vine Deloria, Kiera Ladner, John Borrows and Leanne Simpson—among many others—have “emphasized the need to re-conceptualize Indigenous visions of law and governance in ways that account for our position within reciprocal relations with all of creation, and with past, present, and future generations.”⁹¹ While there is transformative potential in (re)embodying and adhering to our teachings around relationality—in particular in the ways that “the proliferation of relationships of care and nurturance, in which we see ourselves as having concrete roles and responsibilities”⁹² can shift dynamics of engagement—Starblanket and Stark offer important considerations of the ways relationality can advance or constrain our political movements. While being committed to (re)generating relationality may appear straightforward at the theoretical level, they argue that “enacting this commitment in our day-to-day lives gives rise to many complex questions and contradictions,”⁹³ that we must remain attentive to as we move forward.

Our teachings, in the languages gifted to us by the creator, carry immense complexity. As sii-yaa-ilth-supt notes: “I often hear [nuučaañuł] language speakers say it is difficult to translate from [nuučaañuł] to English simply because English words are so limiting and do not capture the essence of [nuučaañuł] language.”⁹⁴ Like my cousin, I too

⁹¹ Gina Starblanket and Heidi Kiiwetinepinesiik Stark, “Towards a Relational Paradigm —Four Points for Consideration: Knowledge, Gender, Land and Modernity,” in *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings*, edited by Michael Asch, John Borrows and James Tully (Toronto: University of Toronto Press, 2018), 176.

⁹² Starblanket and Stark, 177.

⁹³ Starblanket and Stark, 200.

⁹⁴ Dawn (sii-yaa-ilth-supt) Smith, “hiil kʷiiʔi sił (bringing something good from way back): A Journey to Humanize Post-Secondary Education.” PhD Dissertation. University of British Columbia, 2018, 4.

use English throughout this dissertation with attention to details, words and intentions,⁹⁵ I also take responsibility for any errors contained within these pages which may have resulted from an incorrect choice in language. It is because of the failings of the English language to fully describe our meaning that to say this work has been explored through the broader lens of *relationality* doesn't fully grasp the depth and breadth of our relationships. As described from my understandings of hišukʔišćawaak, relationality is used to convey the relationships we maintain and renew with all of creation across space and time. Our relationality not only calls on the intimacy of these relationships, but also asks us to consider how we engage in these relationships, what responsibilities we hold, and how we enact respect and reciprocity in order to maintain the wholeness of creation. When we understand relationality and these core teachings together, we can also begin to reflect on the broad concept of justice. If justice is found in the balance of all of our relationships then it is through this lens that we can examine the work of truth and reconciliation commissions which have been implemented to redress the violence of removing Indigenous children from their families and nations.

Given that we maintain relationships with all of creation not just other humans, we can understand that justice must not be held strictly within our interpersonal relationships but also within our relationships with the lands, waters and more-than-humans in the physical places we call home. As such, justice can be understood as intimately connected to our self-determination. As Jeff Corntassel and Cheryl Bryce note, self-determination entails the “unconditional freedom to live one’s relational, place-based existence and to practice healthy relationships.”⁹⁶ Sarah Hunt has also explored this

⁹⁵ D. Smith, 4.

⁹⁶ Jeff Corntassel and Cheryl Bryce, “Practicing Sustainable Self-Determination: Indigenous

intimate connection at a public talk at the University of Victoria in 2018 where she noted that we must conceptualize self-determination as “rooted in an understanding that there is no separation between the ability to be free of bodily violence, and the ability to be free of dispossession from our homelands. There is no separation between the ability to be free of state control over our everyday lives, and the ability to be free of state-imposed controls over our lands and waters.”⁹⁷

Storywork and Relational Accountability

This project has been drawn together with a deep understanding of my responsibilities to the relationships I hold as informed by my family teachings. Although living on opposite coasts, nuučaanuł and Wabanaki communities have found commonalities in some of our experiences, including our experiences with the violence of settler colonialism, and the process of engaging with a truth and reconciliation commission. As ʕaahuusaqsuups,⁹⁸ I have a responsibility to remain accountable to my kin in the relationships that have grown over the years of my life as a part of living a commitment to nuučaanuł relational teachings. I have profound love and respect for my relations, and deep gratitude for their love and support which has brought me to where I am today. I also maintain deep responsibilities to the relationships I have built with Wabanaki peoples when I was privileged to work as the Research Coordinator for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission between

Approaches to Cultural Revitalization,” *Brown Journal of World Affairs* XVIII.II (Spring/Summer 2012): 152.

⁹⁷ Sarah Hunt, “Justice at the Shoreline: Redefining Spaces of Sovereignty Through Coastal Wisdom,” *Landsdowne Lecture*, Victoria BC, March 8, 2018.

⁹⁸ An Ahousaht woman.

2013 and 2015. As stories have remained a focal point of this work there has remained a deep obligation to listen and learn deeply. To borrow from Stó:lō scholar Q'um Q'um Xiiem (Jo-ann Archibald): “my challenge was to hear and remember what they said and to share or represent their teachings respectfully, responsibly and accurately.”⁹⁹ My accountability to these relationships has guided the manner in which this project has unfolded, and can be understood most eloquently through the intersection of storywork principles outlined by Q'um Q'um Xiiem and the conception of relational accountability¹⁰⁰ which has guided my methodology.

Many Indigenous scholars have noted the fundamental and transformative potential of Indigenous stories¹⁰¹ including nuučaanuł scholar Johnny Mack who has sought to understand how taking our stories seriously may alter our engagement in divisive and tense processes such as at treaty negotiation tables.¹⁰² Given the vital importance of Indigenous storytelling, this project has been most concerned with how

⁹⁹ Q'um Q'um Xiiem (Jo-ann Archibald), *Indigenous Storywork: Educating the Heart, Mind, Body and Spirit* (Vancouver: University of British Columbia Press, 2008): 13.

¹⁰⁰ Shawn Wilson, *Research is Ceremony: Indigenous Research Methods* (Halifax: Fernwood Press, 2009).

¹⁰¹ See for example: Thomas King, *The Truth About Stories* (Minnesota: University of Minnesota Press, 2005); Lee Maracle, *Memory Serves* (Edmonton, AB: NeWest Press, 2015); Julie Cruikshank, *The Social Life of Stories: Narrative and Knowledge in the Yukon* (Nebraska: University of Nebraska Press, 2000); Kelly, Aguirre, “Telling Stories: Idle No More, Indigenous Resurgence and Political Theory,” in *More Will Sing Their Way To Freedom*, edited by Elaine Coburn (Halifax: Fernwood Publishing, 2015): 184-207; Gloria Bird, “Breaking the Silence: Writing As ‘Witness,’” *Speaking for Generations: Native Writes on Writing*, edited by Simon Ortiz, (Tucson: University of Arizona Press, 1998): 27-48; Simon Ortiz, “Native Heritage: A Tradition of Participation,” *A Poetic Legacy of Indigenous Continuance*, edited by Susan Berry Brill de Ramírez and Evelina Zuni Lucero. (New Mexico: University of New Mexico Press, 2009); Heidi Kiiwetinepinsiik Stark, “Transforming the Trickster: Federal Indian Law Encounters Anishinaabe Diplomacy,” *Centering Anishinaabeg Studies: Understanding the World Through Stories*, edited by Jill Doerfler, Niigaanwewidam James Sinclair, and Heidi Kiiwetinepinesiik Stark (Michigan: Michigan State University Press, 2013): 259-278.

¹⁰² Johnny Mack, “*Hoquotist*: Reorienting through Storied Practice,” in *Storied Communities: Narratives of Contact and Arrival in Constituting Political Community*, edited by Hester Lessard, Rebecca Johnson and Jeremy Webber (Vancouver: UBC Press, 2011): 287-307.

Indigenous stories can provide lenses through which we can understanding the work of truth and reconciliation commissions. This is explored through Indigenous experiential stories—or life stories as Q’um Q’um Xiiem has referred to them¹⁰³—and traditional stories such as our mythological and creation stories. Stories have shaped our worlds, and it is from this vital understanding of story as a gift that I have sought to explore the central question of this project noted earlier: *How do Indigenous stories provide lenses through which we can understand the work of truth and reconciliation commissions in Canada and the United States, and develop a better understanding of justice for Indigenous nations?*

In order to answer this question, my obligation was to listen to the stories shared with me by those community members who have engaged with the Truth and Reconciliation Commission of Canada (TRC), and the Maine Wabanaki-State Child Welfare Truth and Reconciliation (MWTRC). As Qwul’sih’yah’maht has stressed, “all stories have something to teach us. What is important is to learn to listen, not simply hear the words that storytellers have to share.”¹⁰⁴ Over the course of this project, I spoke with 18 individuals, revisited statements provided to the MWTRC and the TRC, and participated in nuučaañuł gatherings—as a member of the academic advisory group—that drew together our communities to discuss what reconciliation looks like from a nuučaañuł perspective. The overarching focus of justice emerged through ongoing conversations around the emergence and work of truth and reconciliation commissions with Indigenous communities. Conversations which centered the conceptualization of

¹⁰³ Q’um Q’um Xiiem, *Indigenous Storywork*.

¹⁰⁴ Qwul’sih’yah’maht, “Honouring the Oral Traditions of the Ta’t Mustimuxw (Ancestors) through Storytelling,” 183.

justice described in the previous section emerged with Wabanaki communities throughout the time I worked with the MWTRC, and continued in the years after the commission completed its work. In these spaces, it was predominantly Indigenous experiential stories that were shared with me. Conversations centered around broad conceptions of justice also occurred within nuučaanuł communities over many years as we considered first how to engage with the TRC, and how we wanted our relationship with Canada to look in a moment of reconciliation. Justice remained a focal point of all of these conversations, particularly in how we orient ourselves and envision more balanced relationships. As will be explored in the chapters that follow, the stories shared illuminate the ways that some of the work of truth and reconciliation commissions has diverged from Indigenous conceptions of justice.

Since the process of colonization has “involved loss of control and ownership of knowledge systems, beliefs, and behaviours, and subjection to overt racism,”¹⁰⁵ in an effort to decolonize the research process, and by utilizing methodologies which continue to honour and strengthen Indigenous nations,¹⁰⁶ my work has been guided by community members and leaders whose voices continue to illustrate the resiliency and resurgence in our communities. Their involvement throughout this process has been and remains critical in reclaiming our history in a way that furthers decolonization¹⁰⁷ and honours our stories, teachings, and ways of being that are integral to the healing, resurgence and self-determination of our communities.

¹⁰⁵ Bagele Chilisa, *Indigenous Research Methodologies* (Los Angeles: Sage Publications, 2011): 9.

¹⁰⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies* 2nd Ed. (London: Zed Books, 2012).

¹⁰⁷ L. Smith, 31.

As Q'um Q'um Xiiem (Jo-ann Archibald) has noted, there is transformative power in stories, and storywork should be guided by the principles of “respect, responsibility, reciprocity, reverence, holism, interrelatedness, and synergy.”¹⁰⁸ Our ancestors “resisted by simply surviving and being alive. They resisted by holding onto their stories.”¹⁰⁹ These stories bring life to our communities, provide valuable teachings, and help form the basis of our legal orders.¹¹⁰ In an effort to further the resurgence of our communities, this project highlights Indigenous understandings of justice from the premise that: “building diverse, nation-culture-based resurgence means significantly re-investing in our own ways of being.”¹¹¹ Our strength as Indigenous peoples comes from the vibrancy of our cultures—ways of being that our ancestors fought to protect. Understanding this, and in an effort to continue working from that place of strength, a large portion of this work has consisted of listening and learning from elders and community members through story. I sought to listen to these stories guided by storywork principles which ask us to reflect on respect, responsibility, reciprocity, reverence, holism, interrelatedness and synergy¹¹² and to understand storytelling as an active relationship. In this particular research methodology, “storytellers hold the power,”¹¹³ wherein storytellers “have the opportunity to include that which they wish, that which they perceive as important, and that which they want documented.”¹¹⁴ There is deep

¹⁰⁸ Q'um Q'um Xiiem, *Indigenous Storywork*, 33.

¹⁰⁹ Leanne Simpson, *Dancing on Our Turtle's Back* (Winnipeg: Arbeiter Ring Publishing, 2011), 15.

¹¹⁰ Corntassel, Chaw-win-is, and T'lakwadzi, 137; Val Napoleon and Hadley Friedland, “An Inside Job: Engaging with Indigenous Legal Traditions through Stories” *McGill Law Journal* 61.4 (2016): 725-754.

¹¹¹ L. Simpson, 17.

¹¹² Q'um Q'um Xiiem, *Indigenous Storywork*, 33

¹¹³ Qwul'sih'yah'maht, “Honouring the Oral Traditions of the Ta't Mustimuxw,” 186.

¹¹⁴ Qwul'sih'yah'maht, “Honouring the Oral Traditions of the Ta't Mustimuxw,” 186.

intentionality in upholding and reflecting on these stories in ways that are guided by the principles above. Just as Qwul'sih'yah'maht noted that her work emerged from “a need to honour the women in our communities for the leadership roles they play and to pass along their knowledge and wisdom of leadership,”¹¹⁵ I have also sought to move this forward with intentionality, honouring the strength of our teachings in guiding the futurity of our nations.

The majority of the stories shared focused on justice and Indigenous experiences of engagement with reconciliation and resurgence projects. Throughout my time sitting, listening and learning from community members, Indigenous experiential stories were most commonly shared and are also reflected in the testimony provided to the MWTRC and the TRC which I revisited as this project unfolded. My understanding of the teachings shared in these stories was deepened by my own understandings of the teachings offered in our nuučaanúł traditional stories, and by the traditional stories shared with me by Wabanaki community members. Conversations evolved to cover topics that community members believed are the most important to conceptualizing justice often emphasizing our relationships with the places we call home. The health of our relationships in all forms remained a focal point of these conversations, and it is clear this health is vital to how we understand justice.

The power of Indigenous storywork lays in how it “teaches us to pray again, to meditate, to sit with the land, to commune with each other and our lived spaces.”¹¹⁶ It is a relational ethic that I have strived to uphold throughout this project. In having

¹¹⁵ Qwul'sih'yah'mah (Robina A. Thomas), *Protecting the Sacred Cycle: Indigenous Women and Leadership*, (Vernon BC: J. Charlton Publishing, 2018), 14.

¹¹⁶ Q'um Q'um Xiiem, Lee-Morgan, and De Santolo, “Decolonizing Research: Indigenous Storywork as Methodology,” 12.

conversations with nuučaañuł and Wabanaki community members, I have sought to deeply honour my responsibilities to my relations and the storytelling process by actively practicing respect. From a research standpoint, part of this commitment can be understood through my efforts to ensure that participant confidentiality (where requested) and intellectual and cultural rights are respected. This has included the creation of a space for ongoing input and guidance into the project or the opportunity to withdraw at any time. The stories gathered were audio recorded and later transcribed. Content was only used with permission and will not be made available to others without prior and informed consent. In an effort to further honour the storywork principles of respect, responsibility, reverence and holism, I personally have not edited content, and gave space for the teachings to emerge on their own. The stories shared emerged through circles, public events, and individual “kitchen-table” conversations. Most of these conversations occurred through 2018 and 2019 across many visits in nuučaañuł and Wabanaki territories. It has been my deep honour and privilege to listen to these stories, and I extend my deep gratitude to those who took the time to share with me. In the chapters that follow, I have attempted to weave together “insider” knowledge¹¹⁷ with vibrant Indigenous stories and existing Indigenous and non-Indigenous scholarship in the field. I do so in a way that is committed to the storywork principles which are also echoed in some of my community teachings as I actively seek to guide my life with the nuučaañuł principles of love and respect.

¹¹⁷ See for example: Robert Innes, “‘Wait a Second. Who Are You Anyways?’ The Insider/ Outsider Debate and American Indian Studies,” *American Indian Quarterly* 33.4 (Fall 2009): 440-461.

What Follows

The emergence of truth and reconciliation commissions to redress the settler colonial practice of removing Indigenous children from their families and nations has led to an explosion of scholarship in the field of Indigenous studies—and to a lesser extent transitional justice—as Indigenous and non-Indigenous scholars attempt to understand this new trajectory. This is an area of study that continues to grow as new edited collections, articles and manuscripts continue to be released that study reconciliation.¹¹⁸ While this particular area of the field is expanding, there is a perplexing gap in the literature that considers how Indigenous stories might inform how we understand the work of truth and reconciliation commissions. This has left important questions around Indigenous conceptions of justice unanswered including what happens when competing stories collide.

Grounded in an intimate understanding of hišukʔišcawaak, this project attempts to close the existing gap in the literature by exploring how Indigenous stories provide lenses through which we can understand the work of truth and reconciliation commissions and Canada and the United States, and develop a better understanding of justice for Indigenous nations. It does so by beginning first from the emphasis of the vital importance of Indigenous storytelling within Indigenous nations. In order to understand how Indigenous stories can inform our understandings of the work of truth and

¹¹⁸ The most recent addition to this growing scholarship is *Pathways of Reconciliation: Indigenous and Settler Approaches to Implementing the TRC Calls to Action*, edited by Aimée Craft and Paulette Regan (Winnipeg: University of Manitoba Press, 2020); *Reconciliation in Practice: A Cross-Cultural Perspective*, edited by Ranjan Datta (Winnipeg: Fernwood Publishing, 2019); *Research and Reconciliation: Unsettling Ways of Knowing Through Indigenous Relationships*, edited by Shawn Wilson, Andrea V Breen and Lindsay DuPré (Toronto: Canadian Scholars Press, 2019); *Reconciliation and Resurgence*, edited by Michael Asch, John Borrows and James Tully (Toronto: University of Toronto Press, 2018); *In This Together: Fifteen Stories of Truth and Reconciliation*, edited by Danielle Metcalfe-Chenail (Victoria, BC: Brindle & Glass, 2016).

reconciliation commissions, this project considers Indigenous experiential stories of engagement with the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission and the Truth and Reconciliation Commission of Canada, as well as the writing of various Indigenous scholars on these two commissions. While emphasis is placed most strongly on the voices of Indigenous peoples in this respect, I also consult the writing of some non-Indigenous scholars who have considered the topic of reconciliation in settler colonial contexts.

As outlined previously, the essence of justice can be understood as flowing from the end of harm, and the righting of wrongs.¹¹⁹ Indigenous conceptions of justice have also emphasized the importance of health and balance in our relationships with all of creation, not just the interpersonal. I hold this conception of justice at the core of this project, and explore how Indigenous stories have illuminated this concept which can subsequently inform how we understand the work of truth and reconciliation commissions in Canada and the United States. The stories shared through this project, as will be demonstrated in the pages that follow, have illuminated the spaces where the work of reconciliation has diverted from Indigenous conceptions of justice. As such, I argue that listening deeply to Indigenous stories, and allowing them to guide us and inform our lives, will move us back to the path of our community teachings and understandings of justice.

Indigenous demands for justice within public spheres have often centered the health and wellbeing of our children and our right to self-determination. Following years of Indigenous activism that culminated in the signing of the Indian Child Welfare Act

¹¹⁹ Echo-Hawk, 250.

(ICWA) of 1978, new ground was established for the recognition and respect of Indigenous self-determination in what is now the United States. Despite this legislation, not all states found compliance with the ICWA, or the respect of Indigenous self-determination, to be easy. Indigenous children continued to be removed from communities at alarming rates. The labour and love of Indigenous women led to the birth of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission in 2013. Following years of dedicated activism, an official forum was established that provided space for Wabanaki voices to be heard on their experiences in the state child welfare system. In Chapter One I offer a comprehensive exploration of the emergence and work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. This chapter marks the first in depth exploration of this commission's work throughout its entirety. Drawing together personal experience as the Research Coordinator for the Commission, statements provided to the commission, Indigenous experiential stories of engagement with the MWTRC shared during the research phase of this dissertation, and the stories shared in the *Dawnland* documentary, this chapter illuminates Indigenous conceptions of justice embedded within the principles of the Commission, traces the responsiveness of the Commission to these understandings of justice throughout the process and offers an overview of the response to the MWTRC's Recommendations in the first five years following the release of the MWTRC's Final Report. As such, in this chapter I argue that deeply listening to Indigenous stories and allowing them to guide the work creates a more balanced approach to justice that is rooted in Indigenous conceptions of what this should look like for our own communities.

Unlike the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, the work of the Truth and Reconciliation Commission of Canada (TRC) has received vastly more scholarly attention. There is now a wealth of literature, including those noted earlier, that trace the inner workings of the Truth and Reconciliation Commission of Canada, including how this commission may or may not be situated within the field of transitional justice. In Chapter Two I situate the emergence of the Truth and Reconciliation Commission of Canada within the history of calls for justice and protection of Indigenous children in Canada, offer a brief overview of the Truth and Reconciliation Commission's work and reflect on the possibilities of justice that emerge through the TRC's work, as well as the potential limitations which may impede this work. Given the increasing literature published on the inner workings of the TRC, I direct my attention to the Principles of Reconciliation which were laid out by the Commission, and further explore the ways the TRC's Calls to Action have been taken up by the federal government in the first five years following the completion of its work in 2015. The Calls to Action are particularly poignant due to the path they have attempted to create for more balanced relationships between Indigenous and non-Indigenous peoples. To formulate an analysis, I consider the scholarship of several Indigenous and non-Indigenous scholars who have written on reconciliation in Canada focused on the Truth and Reconciliation Commission of Canada, as well as *nuučaanuł* teachings and experiential stories. Throughout this chapter, I situate the federal government's general response to the TRC's Calls to Action within an operationalization of multiculturalism and argue that we can identify a trajectory for reconciliation which moves away from Indigenous conceptions of justice in that it emphasizes balance only in certain types of relationships, and results in

the creation of what I refer to as *palatable Indigeneity*. This can be understood as a vision of Indigeneity that is conducive to the maintenance of settler colonial territorial sovereignty by seeking to draw Indigenous peoples into the settler colonial body politic through multiculturalism thus becoming further disconnected from Indigenous conceptions of justice.

In Chapter Three I explore the intersection of truth and reconciliation commissions with Indigenous stories in more detail. Historically (and in some cases presently), settler colonial states have become adept at mythmaking as a way of maintaining settler colonial power and creating illusions of legitimacy. As Jo-Anne Episkenew argued, “the colonial myth is a story of imagined White superiority.”¹²⁰ In order to maintain settler colonial power, there have been various versions of stories told about Indigenous peoples. As noted in the opening of this introduction, settler colonial stories of moral progress have been revised to include a redress for the violent practices of removing Indigenous children from their families and nations. While this redress is vital, conflicting stories of reconciliation have collided with Indigenous stories obscuring the connection between the removal of Indigenous children from their families, and the removal from our homelands as a part of wider projects of settler colonial control and erasure. In Chapter Three I trace the impacts of the stories that settler colonial states tell about Indigenous peoples. I argue that these stories not only impact how we understand ourselves as Indigenous peoples, but they also create paths of action and inaction for settlers in their engagement with our nations. Although truth and reconciliation commissions have carved out vital space for the sharing of Indigenous experiential

¹²⁰ Jo-Anne Episkenew, *Taking Back Our Spirits: Indigenous Literature, Public Policy, and Healing* (Winnipeg: University of Manitoba Press, 2009), 3.

stories—once on the margins of settler society—I argue that there is potential danger in the format for listening to Indigenous stories which can create what I refer to as a *spectacle of victimhood* which reshapes the complexity of Indigenous experiences into an overarching narrative of victimhood. The *spectacle of victimhood*, I argue, reproduces settler colonial power through the validation of ongoing intervention into Indigenous lives and on Indigenous lands and waters. Reflecting on the potential damage of the *spectacle of victimhood* to our political movements and assertions of self-determination, I strive to answer how listening deeply to our stories and allowing them to guide our actions resists settler colonial understandings of justice and instead embodies more informed understandings of justice for Indigenous nations. This is grounded in understanding of the power of Indigenous stories in guiding us in our relationships and responsibilities, and providing avenues for the assertion and embodiment of our relational teachings.

When we reflect upon our stories, teachings emerge that guide who we are, how we carry ourselves, and how we understand our relations. These stories have also illuminated the critical importance of the maintenance, health and wellbeing of all of our relationships. Grounded in an intimate understanding of *hišukʔišćawaak*, we develop an understanding of justice that is premised on an end to harm, the interconnectivity of all of creation, and the responsibilities that we maintain to all of our relations. If justice is found in the balance of our relationships then we must also consider how the work of truth and reconciliation commissions have considered justice in our relationships in all their forms, not just interpersonal healing. In Chapter Four, I consider how reconciliation is taken up after the completion of the MWTRC and the TRC specifically as it relates to

justice in our relationships with the physical places we call home. I offer an analysis of the Site C Dam case in British Columbia—the first substantial clashing of Indigenous place-based relationships with a provincial governmental understanding of reconciliation after the completion of the Truth and Reconciliation Commission of Canada—and the Penobscot River Case in Maine—the first substantial jurisdictional dispute over water that reached a verdict after the completion of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. I argue that settler colonial goals of unrestricted access to Indigenous lands and waters, coupled with extractive industry's drive for resources and capital, has forced a redefinition of justice that is compatible with continued settler colonial power and authority. More specifically, I note how this practice of reconciliation diverges from Indigenous conceptions of justice by emphasizing the recognition of Indigenous cultural rights, while sidelining Indigenous self-determination and perpetuating violence to Indigenous lands and waters.

At a moment when reconciliation and justice remain at the forefront of peoples' minds, an exploration of their intersection with Indigenous stories is critical. Our kin have called for justice, and advocated for truth and reconciliation commissions as a step in this process. Yet through an exploration of the ways Indigenous stories provide lenses through which we can understand the work of these truth and reconciliation commissions, it becomes evident that there are points where the practice of reconciliation diverges from Indigenous conceptions of justice. It is vital to reflect on this point due to the role truth and reconciliation commissions have played in our calls for justice to redress the violence experienced by our communities. Given this, we must hold space both for the struggle that gave birth to these mechanisms, alongside the need to continue pushing for justice

that honours the breadth of our relationality as Indigenous peoples. Deeply listening to Indigenous stories and allowing these teachings to guide our actions illuminates a path that is more intimately connected to our conceptions of justice which emphasize an end to harm and the creation and maintenance of balanced relationships with all of creation. As Q'um Q'um Xiiem, Jenny Bol Jun Lee-Morgan and Jason De Santolo note: “it is about freedom of existence through story.”¹²¹

¹²¹ Q'um Q'um Xiiem, Lee-Morgan, De Santolo, “Decolonizing Research: Indigenous Storywork as Methodology,” 12.

Chapter One

Envisioning Justice for Wabanaki Families in Dawnland

Located among Indigenous calls for justice and the end to harms perpetuated against Indigenous lives, lands and waters, are calls that are specifically centred around the health, wellbeing and protection of Indigenous children. The signing of the 1978 Indian Child Welfare Act (ICWA) in the United States marked a critical moment in the recognition of Indigenous self-determination particularly around the protection of Indigenous children and families. However, compliance proved a difficult task for many states and Indigenous children continued to be removed from their communities at alarming rates.¹²² Indigenous women have remained at the forefront of justice movements for our children and standing as defenders of the lands and waters. The labour of these women has pushed forward Indigenous self-determination and redress for settler colonial violence. Out of this labour and the continued Indigenous calls for truth, justice and an end to harm, emerged the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission.

¹²² Overall, the passage of the ICWA is seen as a vital success and is considered to be the “gold standard” of child welfare policy both within and beyond Indian Country. The National Indian Child Welfare Association notes that “although progress has been made as a result of ICWA, out of home placement still occurs more frequently for Native children than it does for the general population.” In other words, despite the strides that the ICWA has made, there is still a need for improvement and recent research indicates that “Native families are four times more likely to have their children removed and placed in foster care than their White counterparts.” See: National Indian Child Welfare Association, “About ICWA,” *National Indian Child Welfare Association*, accessed June 25, 2021: <https://www.nicwa.org/about-icwa/>

This chapter offers a genealogical tracing of the emergence and work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission—the first truth and reconciliation commission implemented in the United States in response to Indigenous calls for truth and justice for the violent removal of Indigenous children. I begin by contextualizing the importance of the ICWA and situating the emergence of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC) within the landscape of ongoing struggle between Wabanaki peoples and Maine around self-determination. Through this account, I also emphasize Wabanaki conceptions of justice embedded in the groundwork of truth, healing and change—the guiding principles of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. Given the depth of Indigenous conceptions of justice, I examine the ability of a transitory body to provide justice for the harms generated by generations of settler colonial violence. Through the insight and analysis offered in this chapter—the first comprehensive tracing of the work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission through its entirety—I illuminate Wabanaki conceptions of justice expressed within the work of the MWTRC, examine how the Commission responded to these understandings of justice and offer an overview of the response to the MWTRC’s Recommendations in the first five years following the release of the Final Report. In doing so, I argue that deeply listening to Indigenous stories—both those shared in the formal spaces of the Commission, and those shared outside of those spaces—and allowing those stories to guide the work creates a more balanced approach to justice that is rooted within Indigenous conceptions of what this should look like for our own communities.

Tracing A Historical Emergence

Wabanaki peoples have been resisting erasure for generations. The onslaught of settler colonial violence has resulted in “at least a 90-percent population depletion since first contact with Europeans.”¹²³ Of a vibrant confederacy of 20 tribes, only four tribes remain within what is now known as the state of Maine—*Peskotomuhkati* (the Passamaquoddy with two locations: Motahkomikuk and Sipayik), *Penawahpkek* (Penobscot), *Wolastoqiyak* (Maliseet) and *Mi'kmaq'i* (Micmac/Mi'kmaq). The survivance¹²⁴ of these nations is a testament to their strength, resistance, and deep love for future generations. The relationships between Wabanaki peoples and Maine has often remained adversarial, with the state considering Wabanaki peoples as its wards who were not permitted to vote until 1954 in national elections, or in state elections until 1967.¹²⁵ The nature of this relationship—consistent with the often violent relationships between Indigenous nations and settler colonial states across what is now known as North, Central and South America—continues to impact relations between Wabanaki communities and the state as their self-determination and corresponding jurisdiction are not fully recognized. Situated against this generations’ long settler colonial violence and its multiplicity of impacts are questions of justice and its pathways for Wabanaki peoples.

Indigenous calls for justice and an end to harm in various capacities, have often emphasized the protection of Indigenous children. Settler colonial states throughout the

¹²³ Esther Attean and Jill Williams, “Homemade Justice,” *Cultural Survival Quarterly Magazine* 35.1 (April 2011).

¹²⁴ Gerald Vizenor describes survivance as the “active sense of presence over absence, deracination and oblivion; survivance is the continuance of stories, not a mere reaction, however pertinent” (Vizenor, 1). These are stories that draw together our survival and our resistance to colonial violence and imposition. According to Vizenor, survivance is “an active resistance and repudiation of dominant, obtrusive themes of tragedy, nihilism, and victimry.” (Vizenor, 11).

¹²⁵ Attean and Williams, “Homemade Justice.”

late nineteenth and twentieth centuries were implementing aggressive policies which saw the forced removal of Indigenous children from their families and nations. In Canada and the United States, this formal policy began initially through Residential Schools, Industrial and Boarding Schools.¹²⁶ Testimony has revealed that these schools were rampant with abuse of all kinds. Children faced corporal punishment if they were caught speaking their language, became victims of sexual and other forms of violence, were subjected to unauthorized nutrition experiments,¹²⁷ endured the devaluing and debasement of Indigenous ways of being and knowing, and in many cases, never returned home.¹²⁸ As Residential Schools and Industrial/ Boarding Schools began to fall out of favour in the post-World War II period, settler colonial policy in Canada and the United States shifted to emphasize Indigenous child removal through the child welfare system.

¹²⁶ See for example (but not limited to): Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The History, Part 1, Origins to 1939* (Montreal: McGill-Queens University Press, 2015); Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The History, Part 2, 1939-2000* (Montreal: McGill-Queens University Press, 2015); JR Miller, *Shingwauk's Vision: A History of Native Residential Schools*, (Toronto: University of Toronto Press, 1997); John S. Milloy, *A National Crime* (Winnipeg: University of Manitoba Press, 1999); Theodore Fontaine, *Broken Circle: The Dark Legacy of Indian Residential Schools* (Surrey, BC: Heritage House, 2010); Celia Haig-Brown, *Resistance and Renewal: Surviving the Indian Residential School* (Vancouver, BC: Arsenal Pulp Press, 1988); Suzanne Fournier and Ernie Crey, *Stolen from Our Embrace: the Abduction of First Nations Children and the Restoration of Aboriginal Communities*, (Vancouver BC: Douglas & McIntyre, 1997); David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience 1875-1928* (Kansas: University Press of Kansas, 1995); Jacqueline Fear-Segal and Susan D. Rose editors, *Carlisle Indian Industrial School: Indigenous Histories, Memories and Reclamations* (Lincoln: Nebraska University Press, 2016).

¹²⁷ See Ian Mosby, "Administering Colonial Science: Nutrition Research and Human Biomedical Experimentation in Aboriginal Communities and Residential Schools, 1942-1952," *Histoire Social/ Social History* 46.91(2013): 145-172.

¹²⁸ The Truth and Reconciliation Commission of Canada confirmed the deaths of 3,200 children based on available records at the time the TRC released their final report. They estimated that the true number was much higher given the destruction of documents, and a failure to properly record the deaths of children within the schools. In 2021, children began to be recovered from mass graves at several former residential schools. I expect this number will continue to grow as more former residential and boarding school sites are investigated. See: Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: Missing Children and Unmarked Burials*, volume 4 (Montreal: McGill-Queens University Press, 2015).

These particular policies were viewed as fiscally attractive¹²⁹ while also appealing to humanitarian ideals that suggested Indigenous children were best raised away from their communities.¹³⁰ As Margaret Jacobs asserts: “If fostering Indian children proved cheaper than institutionalization, adoption provided the ultimate fiscal solution for states and the federal government.”¹³¹ Practices were quickly implemented that gauged family fitness against white middle class standards, and subsequently removed Indigenous children from their families, erasing their identities and adopting them out to predominantly white families. This has become known as the Sixties Scoop in Canada, and the Indian Adoption Project in the United States.¹³² At the same time that the Indian Adoption Project—a joint project between the Child Welfare League of America and the Bureau of Indian Affairs—was placing Indigenous children into non-Indigenous out-of-state homes, they simultaneously “worked to increase the numbers of Indian children that state agencies placed with non-Indian families within their states,” and moved to decrease tribal jurisdiction over child welfare to speed up adoption processes.¹³³

The implementation of Indigenous child removal policies can be identified as a larger strategy of elimination,¹³⁴ located within settler colonialism’s logic of elimination

¹²⁹ Margaret Jacobs, “The Habit of Elimination: Indigenous Child Removal in Settler Colonial Nations in the Twentieth Century,” in *Colonial Genocide in Indigenous North America*, edited by Andrew Woolford, Jeff Benvenuto, and Alexander Laban Hinton, (North Carolina, USA: Duke University Press, 2014): 189-207

¹³⁰ Esther Anne Altvater, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

¹³¹ Jacobs, 197.

¹³² Esther Altvater Attean, Penthea Burns, Martha Proulx, Jamie Bissonette-Lewey, Jill Williams and Kathy Deserly. “Truth, Healing and Systems Change: The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Process.” *Child Welfare* 91.3 (2012): 19.

¹³³ Jacobs, 198.

¹³⁴ Jacobs, 189-207.

which has been discussed by the late Patrick Wolfe.¹³⁵ Intrinsic to these policies are latent desires to control and domesticate the other which have been evident in previous policies such as the criminalization of Indigenous women and men discussed by Heidi Kiiwetinepinesiik Stark.¹³⁶ In her article “Criminal Empire,” Stark notes that the criminalization process, which included the application of western heteronormative ideals around domesticity applied specifically to women, are indicative of colonial attempts to bring Indigenous bodies and lands under colonial control by reducing Indigenous political authority and domesticating Indigenous nations within the settler state.¹³⁷ As such, calls for the protection of Indigenous children can be viewed as intimately connected to the continued protection of Indigenous ways of being and knowing, including protection and stewardship within our homelands. As Alyosha Goldstein notes about the more recent 2013 Baby Veronica case,¹³⁸ the continued jurisdictional disputes that are raised by the case through the application of ICWA “has much to do with the

¹³⁵ In his article, Wolfe notes that this logic of elimination is motivated by the desire to appropriate and control Indigenous lands. The removal of Indigenous children can be located as one aspect of a larger strategy of elimination since, as Margaret Jacobs points out, the removal of Indigenous children was a means of erasing Indigenous identities and, by extension, claims to land.

Wolfe, “Settler Colonialism and the Elimination of the Native.”

Jacobs, “The Habit of Elimination,” 191.

¹³⁶ Heidi Kiiwetinepinesiik Stark, “Criminal Empire: The Making of the Savage in a Lawless Land,” *Theory & Event* 19.4 (2016).

¹³⁷ Stark, “Criminal Empire.”

¹³⁸ *Adoptive Couple v. Baby Girl* (the “Baby Veronica” case) reached a decision at the United States Supreme Court on June 25, 2013. This particularly controversial case brought to light perceived challenges to the Indian Child Welfare Act. The case surrounded the custody of Veronica which had been given to white adoptive parents despite objections from the child’s biological Cherokee birth father, and the Cherokee Nation. The child’s biological mother had given Veronica up for adoption to the Capobiancos of South Carolina. Dusten Brown, Veronica’s biological father was able to regain custody of his daughter through the Indian Child Welfare Act. However, in June 2013, the United States Supreme Court returned custody of the child to the Capobiancos claiming that since the biological father never had custody of Baby Veronica prior to litigation of the case, ICWA did not apply. For more information on this case, see for example: Margaret Jacobs, *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Postwar World* (Lincoln: University of Nebraska Press, 2014); Alyosha Goldstein, “Possessive Investment: Indian Removals and the Affective Entitlements of Whiteness,” *American Quarterly* 66.4 (December 2014): 1077-1084.

reassertion of white heteronormative rights to possess.”¹³⁹ More specifically, this particular case echoes and emphasizes “the salience of familial intimacy and private life as arenas for colonial domestication and racialized dispossession today,”¹⁴⁰ that is also evident in the application of western heteronormative ideals onto Indigenous peoples as a means of control.

Responding to Indigenous community demands that were increasingly mobilized during the American Indian Movement and grassroots movements led by Indigenous women, the United States Congress passed the Indian Child Welfare Act (ICWA) in 1978. The passage of this Act is a celebration of resistance and survival, as well as a signal from the federal government of a move to respect tribal sovereignty. At its core, the ICWA was intended to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families.”¹⁴¹ In recognizing the ties between communities and their children, the Act affirmed a tribe’s jurisdiction over their children, and created federally recognized priority placement preferences to ensure the continued survival of Indigenous nations by emphasizing placement within Indigenous families, and nations as the top priority.

The Indian Child Welfare Act and its implementation are a strong assertion of Indigenous self-determination. However, despite the achievement of passing the ICWA, not all states successfully implemented the Act or improved relationships with Indigenous nations. Maine in particular continued to remain out of compliance with the

¹³⁹ Goldstein, 1077.

¹⁴⁰ Goldstein, 1081.

¹⁴¹ National Indian Child Welfare Association, quoted in Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation*, (Hermon, Maine: Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, 2015): 15.

ICWA years after its inclusion in state law. A 1984 report noted that Maine was one of the top ten states in the country for placing Indigenous children into foster care,¹⁴² and the rates for Wabanaki child removal remained more or less unchanged following the passage of the ICWA. In 1999, a Federal Pilot Review found the state to be out of compliance with the ICWA and, in particular, that there was a need to focus primarily on “outreach to the tribes and improved implementation of ICWA,”¹⁴³ as some caseworkers found it too “challenging to have the tribe involved.”¹⁴⁴ This relentless removal of Wabanaki children continued for decades despite the provisions of ICWA designed to affirm tribal jurisdiction over Indigenous children, and it was found that Wabanaki children were 5.1 times more likely than non-Indigenous children to enter state care between 2000 and 2013.¹⁴⁵

The Indian Child Welfare Act Workgroup—a coalition between tribal child welfare workers, Maine’s child welfare workers and the Muskie School of Public Service—formed to address the issues of ICWA non-compliance following the 1999 Federal Pilot Review. The group worked together to create a statewide training for case workers on the importance and the implementation of the ICWA, and produced *Belonging*, a short documentary which upheld Wabanaki voices and their experiences in Maine’s foster care system prior to the ICWA.¹⁴⁶ Despite the strides made by the ICWA

¹⁴² Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 25.

¹⁴³ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 31.

¹⁴⁴ Bobbi Johnson, "Statement by Bobbi Johnson collected by Meredith Eaton on June 27, 2014" (2014). Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission: Statements. 42. <https://digitalcommons.bowdoin.edu/maine-wabanaki-trc-statements/42>

¹⁴⁵ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 25.

¹⁴⁶ Attean et al, 21.

Workgroup to improve compliance over a decade of work, a 2009 case review conducted by the Maine Office of Child and Family Services (OCFS) in collaboration with the Wabanaki tribes found that state caseworkers still needed to improve their engagement with tribal caseworkers.¹⁴⁷ The situation remained volatile when in 2010 the Maine Human Rights Commission found “reasonable grounds to believe that Maine OCFS, and one of its caseworkers, discriminated against a Penobscot member because of her ‘race, ancestry and national origin.’”¹⁴⁸

The ICWA workgroup’s early efforts at creating lasting change in child welfare practices were tempered by the culture of silence around Wabanaki history in Maine, particularly surrounding Wabanaki experiences within the state child welfare system. The group began to believe that in order to uphold the spirit, letter, and intent of the ICWA, “Wabanaki peoples’ experiences with state child welfare needed to be unearthed,” in ways that would promote healing.¹⁴⁹ In a moment that saw increased focus on justice for children,¹⁵⁰ members of the ICWA workgroup looked to initiatives that were being implemented around the world to seek truth, and provide redress and justice. Discussions of a truth and reconciliation commission in Maine as an avenue to create “recognition and

¹⁴⁷ Attean et al, 21.

¹⁴⁸ Attean et al, 21.

¹⁴⁹ Attean et al, 22.

¹⁵⁰ Increasing attention began to be focused on justice for children both at the national and international levels. On global scale, this is marked by the passing of the UN Convention on the Rights of the Child in 1989, and later as it related specifically to Indigenous peoples with the passing of the United Nations Declaration on the Rights of Indigenous Peoples. At a more national level, this is marked by the implementation of the Indian Child Welfare Act of 1978 following the labour of Indigenous women. In seeking redress for the generations long practice of removing native children from their homes and nations Kevin Gover, Assistant Secretary of Indian Affairs in the Department of the Interior delivered an apology for the wrongs committed by the Bureau of Indian Affairs, referencing boarding schools among such wrongs in 2000. One year later, Shay Bilchik, then director of the Child Welfare League of America, offered an apology for the organization’s role in the Indian Adoption Project and committed to move forward in partnership with tribes to fully comply with the ICWA.

acknowledgement of the past”¹⁵¹ grew out of the work of community members, tribal child welfare workers and state child welfare workers—those individuals who were working on the front lines of child welfare. Of central importance in these discussions of pathways forward was the necessity of truth in creating accountability and mobilizing systemic change, and the opportunities that would be created by giving people a space to share their stories in ways that brought together the core values and goals of truth, healing and change.¹⁵² In moving to form the Truth and Reconciliation Commission Convening Group, the members of the ICWA Workgroup agreed on the critical importance of having tribal communities take the lead.

On May 24, 2011, the Governor of the State of Maine, Chiefs and representatives of the five Wabanaki communities, and the Maine Indian Tribal-State Commission (MITSC) gathered as signatories of the Declaration of Intent,¹⁵³ marking the formal commitment to undertake a truth and reconciliation process. The hard work of the TRC Convening Group¹⁵⁴ made the signing of the Declaration of Intent (DOI) and the Mandate possible. Their collaboration leading up to the signing of the Mandate “created the environment for comprehensive and levelled dialogue between the State of Maine and the five Wabanaki communities so that neither party would have a unilateral say over the planning process.”¹⁵⁵ While there was certainly no unilateral say over the work of the

¹⁵¹ Attean et al, 22.

¹⁵² Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Declaration of Intent to Create a Maine/Wabanaki Truth and Reconciliation Process*, 2011.

¹⁵³ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, June 29, 2012.

¹⁵⁴ The TRC convening group included Tribal child welfare and social services workers from each of the five Wabanaki tribes, staff from the Muskie School of Public Service, Wabanaki Mental Health Associates, members of the American Friends Service Committee and the State of Maine Department of Health and Human Services Office of Child and Family Services. See: Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, June 29, 2012.

¹⁵⁵ Bennett Collins, Siobhan McEvoy-Levy and Alison Watson, “The Maine Wabanaki-State

commission, the MWTRC was intentional in creating space for the process to be responsive to Wabanaki needs and conceptions of justice which is evidenced by the unique relationship the MWTRC maintained with Maine Wabanaki REACH—the organization that emerged from the TRC Convening Group—throughout the process and which will be discussed in greater detail below. In short, close collaboration with Maine Wabanaki REACH throughout the work of the Commission allowed for Wabanaki community members to continually have a voice in shaping what the process looked like, thus allowing it to more closely align with Wabanaki needs and conceptions of justice.

Structuring Truth and Reconciliation

As discussed above, the pathway to the Maine Wabanaki-State Child Welfare Truth and Reconciliation was led by Wabanaki community members in collaboration with allied state child welfare workers. Given the importance of the vision of this commission to Wabanaki needs and conceptions of justice rooted in truth, healing and change,¹⁵⁶ in this section and those that follow I explore aspects of the structure and work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. I note these aspects within the context of some of the existing transitional justice literature focused on truth commissions, and emphasize the ways that this particular commission balanced these structural aspects with Wabanaki conceptions of justice.

Child Welfare Truth and Reconciliation Commission: Perceptions and Understandings,” *Indigenous Peoples’ Access to Justice, Including Truth and Reconciliation Processes*, edited by Wilton Littlechild and Elsa Stamatopoulou (New York: Institute for the Study of Human Rights, 2014): 148.

¹⁵⁶ These three components were emphasized by the TRC Convening group, who later became Maine Wabanaki REACH, as core to the work of the work of the commission which is also noted in the Declaration of Intent. These core guiding concepts emerged through the structuring of the Declaration of Intent which was initially led by Wabanaki Community members.

On June 29, 2012—one year after the signing of the Declaration of Intent—the signatories gathered again to sign the Mandate of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC), marking the formal creation of the Commission and their support for the “exploration of what has happened, what is happening and what needs to happen in relation to state child welfare practices with Wabanaki children and families.”¹⁵⁷ Truth and reconciliation commission mandates must often balance the demands and limitations of the establishment of powers and terms of reference. In establishing the parameters of a commission’s investigative reach, timeframe, geographic scope, and subject matter, the mandate “define[s] the truth that will be documented.”¹⁵⁸ While Priscilla Hayner, human rights activist and author of an expansive examination of truth and reconciliation commissions globally, argues that those commissions with more flexible and open mandates can allow for a “fuller picture of truth” to emerge,¹⁵⁹ nonetheless, there is also risk for commissions whose mandates are too broad and flexible—without the timeframe and resources necessary to fulfill these objectives—to ultimately disappoint those who they are designed to serve because of a failure to fully investigate the expanse of their mandate.

Decisions around the periodization of violence within a mandate can either enable or constrain the work of a truth commission given the laudable goals of these transitory bodies to create complete historical records and transition communities to peace. Political scientist Onur Bakiner specifically notes that often periodization serves to bracket violence on both ends: the left-handed bracket separates “the pre-violence community

¹⁵⁷ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*.

¹⁵⁸ Priscilla B. Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, 2nd Edition, (New York: Routledge, 2011):75.

¹⁵⁹ Hayner, 76.

from one that is torn apart by the multiple effects of violence, failure of state institutions, and the loss of shared cultural and political meanings. The right-hand bracket marks the beginning of a presumed return to post-violence normalcy in which the promise of national reconstruction lies ahead.”¹⁶⁰ A number of potential constraints are inherent when this periodization is used to address colonial violence, not the least of which is the way periodization serves to puncture linear temporal progression by suggesting that violence occurred within specific timeframes and was not carried out over multiple generations utilizing a multitude of tactics.

The TRC Convening Group attempted to avoid some of the potential controversies around periodization when drafting the mandate that would guide the MWTRC. While, as Jamie Rowen argues, it is important to understand “*who* is promoting and appropriating transitional justice, *who* is mobilizing around truth commissions, and *why* they do so,”¹⁶¹ the coming together of leaders within the Wabanaki tribes and the state to bring this commission into being seemed to signal a wider belief that “genuine healing can begin with an honest recognition of events that have occurred. By honestly examining the truth and recognizing what has been done, the State of Maine, in collaboration with the Tribes, can implement changes in child welfare practice to prevent recurrence and identify how truth and reconciliation may benefit other areas of Maine tribal state relations.”¹⁶² This particular affirmation is vital in its assertion of tangible change within child welfare practices, but also in its desire for this work to ripple

¹⁶⁰ Onur Bakiner, *Truth Commissions: Memory, Power and Legitimacy*, (Philadelphia: University of Pennsylvania Press, 2016): 50.

¹⁶¹ Jamie Rowen, *Searching for Truth in the Transitional Justice Movement*, (New York: Cambridge University Press, 2017), 5.

¹⁶² Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*.

out into other areas of Maine tribal state relations. In its assertion, this aspect of the mandate upholds Wabanaki conceptions of justice that move beyond one aspect of life (child welfare) and reverberates through and calls for justice and change in all aspects of their relationships. In essence, this aspect of the mandate called on the Maine Wabanaki-State Child Welfare Commission to not only see child welfare practices as imbedded within the larger settler colonial project, but to create pathways of truth, healing and change beyond child welfare practices to envision justice on a multiscale.

To move towards these goals and to “uncover and acknowledge the truth, create opportunities to heal and learn from that truth, and collaborate to operate the best child welfare system possible for Wabanaki children,”¹⁶³ the Commission’s investigation established in the Mandate was focused on “the period from the passage of the 1978 Indian Child Welfare Act (ICWA) to the authorization of the Mandate,” and would “include information that contributed to the passage of the ICWA in order to put understanding of the truth in a proper context.”¹⁶⁴ In order to prevent the puncturing of linear temporal progression that led to the violent and continued removal of Wabanaki children, the Mandate attempted to create flexibility for the commission to examine interconnected factors and tactics of colonial violence that ultimately led to the signing of the ICWA in 1978.

The Commission was designed to be an autonomous body from the tribal and state leaders which authorized and supported its creation. The TRC Convening Group—which would become Maine Wabanaki REACH after the official seating of the commission in February 2013—would continue to support and help guide the MWTRC

¹⁶³ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*.

¹⁶⁴ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 1.

throughout its duration regarding “activities and engagement of the communities, including participating in up to six statewide events that may be hosted in each community.”¹⁶⁵ An initial meeting would be held within 30 days of being sworn in, and from its first meeting the Commission would carry out its work over 27-months. During this timeframe, the Commission moved to fulfill seven objectives laid out within the Mandate including: “Giv[ing] voice to Wabanaki people who have had experiences with Maine state child welfare; provid[ing] opportunities for healing and deeper understanding for Wabanaki people and state child welfare staff; and promot[ing] individual, relational, systemic, and cultural reconciliation.”¹⁶⁶

After the signing of the Mandate by tribal leaders and the State of Maine in June 2012, a 13-member selection committee interviewed the nominated potential commissioners. While the goal of the Commission was to help improve relationships between Wabanaki nations and the state more broadly, the commissioners were first tasked with building trust with the communities on a personal level. Five commissioners were selected from the pool of nominations: gkisedtanamoogk (Wampanoag, MWTRC Co-Chair), Sandy White Hawk (Sicangu Lakota), Matthew Dunlap, Gail Werrbach, and Carol Wishcamper (MWTRC Co-Chair). Bakiner suggests that the prominence of truth commissions in transitional politics speaks to the agency of commissioners and staff—specifically asking that we reflect on: “Who are they? What kind of ethical, and political function do they fulfill at the margins of state institutions? Do they represent the state? Why do societies bestow upon them critical post conflicts tasks?”¹⁶⁷ While we should

¹⁶⁵ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 3.

¹⁶⁶ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 2-3.

¹⁶⁷ Bakiner, 57.

certainly reflect on who these individuals are, it would be a failure to suggest that the importance of the Commission is solely attributable to the agency of the commissioners and staff over the hundreds of men, women, two-spirits, and children who came forward to share their stories with the Commission, or Maine Wabanaki REACH staff and volunteers that worked closely with community members, supporting them throughout the process. The Commission existed because of their collective strength and resistance.



Figure 1: The Commissioners¹⁶⁸

L to R: gkisedtanamoogk, Matt Dunlap, Carol Wishcamper, Sandy White Hawk, Gail Werrbach

Each commissioner brought their full heart to the work, committed to supporting Wabanaki and Maine communities and gave their time voluntarily. Although Maine and each of the Tribal Chiefs signed onto the Mandate—marking an agreement on the critical importance of this work for past, present and future generations—there was no endowment or funding that came from those parties to the Mandate. Both the MWTRC

¹⁶⁸ Photography Credit: Penthea Burns, *The Commissioners*, 2014. Shared with permission.

and Maine Wabanaki REACH put in a significant amount of work in applying for grants throughout the entirety of the Commission’s work. For Maine Wabanaki REACH—who continues to work closely with Wabanaki and Maine communities—this process continues. As *gkisedtanamoogk* noted: “right from the beginning, when there was some discussion about how each of the commissioners would be compensated for their work, and we were saying, ‘you know, we were having such an issue with funding, you know, that we don’t need to be compensated for this, that the money would be better spent in just doing the work.’”¹⁶⁹



Figure 2: MWTRC Staff in 2013¹⁷⁰

L to R: Maureen Harris - Project Support Specialist, Heather Martin - 1st Executive Director, Rachel George - Research Coordinator

¹⁶⁹ Capacity Building Center for Tribes. “Answer to Prayer: Creating a Truth Commission Process.” Featured Story: What Happened in Maine. Capacity Building Center for Tribes. Accessed February 13, 2019. <http://collaboration.tribalinformationexchange.org/truth/>

¹⁷⁰ Photography Credit: Rachel George, *MWTRC Staff in 2013*, 2013.

Once the Commissioners were selected, the Commission was formally initiated in February 2013 and the staff of the Commission were hired shortly thereafter. Heather Martin, the first Executive Director, and Maureen Harris, Project Support Specialist, were hired in early spring and I was hired as the Research Coordinator in June. Erika Bjorum was later brought on as a Research Assistant in August 2014. Just as members of the TRC Convening Group noted that “this work is not just a job—the survival of their community, tribe, and culture are all at stake,”¹⁷¹ so too did the commissioners and staff enter into the process with a deep and—for some—intimate knowledge of the urgency and critical importance of this work. The hard work of developing a new relationship between tribes and Maine had to be first grounded in healing which required “motivation, commitment, humility, patience, and above all, love.”¹⁷² These principles guided the work of the MWTRC, as we each remained committed to honouring the stories of Wabanaki peoples, working to create the best possible child welfare system for Wabanaki children and families, and seeing truth, healing, change and justice reverberate beyond the child welfare system for Wabanaki peoples.

Relational Research

In marked contrast to other truth commissions globally, including the Truth and Reconciliation Commission of Canada, the MWTRC moved to give ownership and control of the process back to each community¹⁷³ in an effort to respect Wabanaki self-

¹⁷¹ Attean et al, 24.

¹⁷² Attean et al, 24.

¹⁷³ This policy by the MWTRC can be seen as closely aligned with the principles of OCAP (ownership, control, access and possession) which are understood as fundamental to self-determination in research and emerged as a political response to previously violent colonial research practices. For further exploration of OCAP see: Brian Schnarch, “Ownership, Control, Access, and

determination and visions of justice. This was established from the outset as vital to completing the work of the Commission and was raised within initial research structuring discussions within the Commission itself, and at Research Committee meetings which brought together one of the TRC Commissioners (Dr. Gail Werrbach), the Research Coordinator (Rachel George), the Executive Director of the TRC (Heather Martin, and later Charlotte Bacon), Wabanaki members of Maine Wabanaki REACH, and a couple of Wabanaki community members. During these initial discussions, dialogue was motivated not by the size of the Commission and thus what was possible, but instead by what was necessary in order to respect Wabanaki self-determination and visions of justice in completing this work.

Grounded in relational and decolonizing Indigenous research methodologies, the Commission's research was guided by Wabanaki peoples through every step of the process. For example, the Commissioners and Research Coordinator structured an outline for statement gathering and sought input on the outline from each of the five Wabanaki communities. The result was a process that genuinely looked different within each community and made a conscious effort to be responsive to each community's desires and needs. While some might suggest that this can be attributable to the small scale of the Commission—working within the political (and imaginary) boundaries of a state instead of a country—I argue that this emerged from the Commission's agency in advancing a commitment to decolonization and honouring the sovereignty of each Wabanaki nation that participated in the MWTRC process. It was this commitment to decolonization and honouring sovereignty that informed my creation of the consent forms in order to give as

Possession (OCAP) or Self-Determination Applied to Research," *Journal of Aboriginal Health* (January 2004) 80 – 94.

much agency to each individual that participated in the MWTRC process. The conversation around this commitment was not a contentious debate, but instead a conversation that the Commissioners and staff all agreed on. It was critical to visit with each Wabanaki community, to listen to what would work for their people, and to structure and restructure the process in response to their needs as a part of remaining committed to their visions of justice. We could not come into this process or carry out the work of the Commission in ways that did not honour the needs of the communities with whom we worked. I recognize that this often flew in the face of what would be considered a detached or independent truth commission process; yet I also understand that those rigid structures would not work for Indigenous communities.

A further salient example that speaks to the Commission's relational commitment to the Wabanaki visions of justice emerges from a conversation at an early MWTRC work session. At this particular session the Commissioners and staff were establishing the workplan through the course of the mandate. During the discussion, one of the Commissioners noted that we might have to come to terms with the fact that we may only be able to visit each community once thus indicating what could be made possible given the size of the Commission and the small number of staff. Despite this, we nonetheless committed to return to each community more than once over the course of the mandate in an initial relationship building gathering, multiple visits to structuring statement gathering and for statement gathering and circles to occur, and another visit to present the initial findings and recommendations of the Final Report. Although this often-meant staff were spread thin, it was understood that these processes were vital to ensuring Wabanaki peoples had a clear and strong voice in guiding the process thus pushing back against

previously asymmetrical research relationships, and striving to end harm. Further, this commitment to return multiple times moved to honour the relationships built thus connecting with Wabanaki conceptions of justice which speak to the central importance of relationships to life as discussed in the introduction.

Throughout the entirety of the MWTRC's work, we remained in close partnership with Maine Wabanaki REACH. While each nation informed how visiting and statement gathering would look within their communities, Maine Wabanaki REACH continued to work with the Commission to provide guidance and support the process. Transitional justice literature, emphasizing the need for institutional independence, might see risk in the closeness of the Maine Wabanaki TRC to Maine Wabanaki REACH rooted in a fear that this closeness indicates that the work of the Commission could have been directed by outside leaders. However, as the Commissioners noted: "While we gratefully consulted Maine Wabanaki REACH and many other stakeholders in this work, none of them has had a direct hand in the writing of this report or exercised editorial control over our findings."¹⁷⁴ Instead, this relationship can be understood as an embodiment of the Commission's relational accountability which sought to ensure that the work consistently adapted to the needs of the community given that we understood ourselves to be accountable to the nations we were serving.

In the process of creating accountable methodologies, we sought guidance from those who walked the path of seeking justice for Indigenous communities with us. As such we must recognize the linkages between the MWTRC and the Truth and Reconciliation Commission in Canada. At various points, Commissioners, staff, and

¹⁷⁴ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation*, Hermon, Maine, (June 2015): 13

members of REACH spoke with those involved in the TRC of Canada to listen to their experiences in this work, and in holding the stories of Indigenous peoples while also being tasked with creating a final report that would be delivered back to the communities and community governments. Immediately following the seating of the Commission in February 2013, Esther Attean (Altvater), Co-Director of Maine Wabanaki REACH, and Denise Altvater—both of whom were pivotal in the creation of the MWTRC—attended the Expert Seminar on the Access to Justice for Indigenous Peoples Including Truth and Reconciliation Processes put on by the United Nations Office of the High Commissioner on Human Rights (OHCHR), the Columbia University Institute for the Study of Human Rights and the International Centre for Transitional Justice. They spoke about the emergence and work of the MWTRC, and also had an opportunity to connect with Marie Wilson and Chief Wilton Littlechild who attended on behalf of the Truth and Reconciliation Commission of Canada. A couple of months later, Esther Attean (Altvater), Sandy White Hawk, and Heather Martin—former Executive Director of the MWTRC—attended the Truth and Reconciliation Commission of Canada's National Event in Montréal.

These connections continued as the Commission recognized the importance of hearing the experiences of those who were doing similar work. After being hired, I connected with Ry Moran—former Director of Statement Gathering with the TRC of Canada, and then recently appointed head of the National Centre for Truth and Reconciliation—to discuss experiences of statement gathering, including how the TRC of Canada trained statement gatherers to sit with survivors as they shared their stories. While we moved to structure our statement gathering processes to be responsive to

Wabanaki communities, it was helpful to also understand the approaches that had been taken in similar circumstances. For example, Ry Moran was generous in sharing the TRC of Canada's Statement Gathering Training Guide which helped as the MWTRC considered how best to prepare people to sit with and honour the stories they would hear, as well as how we might think about data-coding and archival repository systems.

Holding Space and Witnessing Story

Shortly after being hired, I began to structure a general outline for statement gathering and drafted consent forms that could be used. These consent forms were extensive as the Commission strived to honour individual agency and control over the stories shared in statements. The vast majority of consent options pertained to the life of the story—both the audio or video recording, and the transcript—after the Commission had completed its work. Of vital importance to the continued learning necessary for reconciliation, one of the key components of the MWTRC's activities was the preservation and accessibility of “documents, materials, and transcripts or recordings of statements received.”¹⁷⁵ In order to continue respecting individual agency and safety, the Commission's work was driven by Article 6 of the MWTRC Mandate which specified that: “Within the parameters of state and tribal law, ensuring that ownership of information produced through the proceedings respects requests for confidentiality and assures privacy to protect individuals from experiencing further harm.”¹⁷⁶ Those who shared with the Commission were able to choose if they wanted their statement to remain

¹⁷⁵ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 4.

¹⁷⁶ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 4.

anonymous, or if they would like their names to remain connected to their story. Each individual was also able to choose if they wanted their stories to be archived, or if they only wanted what they shared to be considered by the Commission in determining Wabanaki experiences in state child welfare, and in the preparation of the final report. For those who wanted to have their statements archived, they were also given a choice of who would be able to access their statements: the wider public, their specific tribal community, or selected Wabanaki communities.

Outreach with Wabanaki communities began in the fall of 2013, and consisted first of meeting with community members and tribal leadership to discuss what the statement gathering process could look like. As previously mentioned, each nation informed and shaped the process to the most beneficial form for their community members resulting in a series of processes that were responsive to community desires and needs throughout its entirety. This reflexive process ensured that the Commission remained accountable and responsive to the needs of the nations and individuals we were working with. In these discussions, we listened to stories that centered justice and attempted to restructure our process to be responsive to these visions. Community Organizers were hired as a part of Maine Wabanaki REACH in each Wabanaki community; these organizers were members of the respective nation and worked with kin who had expressed an interest in sharing with the Commission. After these initial meetings, I worked closely with Maine Wabanaki REACH and community organizers to help answer questions about sharing with the Commission.

Understanding the centrality of Indigenous relationality, the Commission sought to respect the importance of building relationships and trust by holding a welcoming

event within each community. These events focused on getting to know one another through visiting and sharing a meal, instead of gathering statements. This particular aspect of the process—unique to the work of the MWTRC—was consistent with community practices but is not commonplace among other truth and reconciliation commissions. As a Commission, we understood that this relationship and trust building was critical to ensure that Wabanaki peoples felt comfortable with the Commission, especially given the long asymmetrical and extractive history of research within Indigenous communities. Guided by the community and Maine Wabanaki REACH, we opened these gatherings with a sunrise ceremony around the sacred fire which burned for the duration of the Commission’s visit. These spaces sought to care for people’s spirits and upheld the critical importance of relationality and survivance, continuance and celebration. We often gathered in circle to share where and when people felt comfortable, however these conversations were premised on building relationships and trust, and not on gathering information.

Embodying relational practices that would be continually responsive to community needs also necessitated restructuring the statement gathering process at the request of Wabanaki communities. For example, at the Commission’s first Listening Session with Sipayik, held in November 2013, we gathered with Passamaquoddy people to share a meal, and opened with a circle. In envisioning what the first Listening Session could look like, Esther Attean (Altvater)—Passamaquoddy from Sipayik, and Co-Director of Maine Wabanaki REACH—noted that some of the shape of the event “was really influenced by what we saw in Canada... cause I saw in those Canadian events, I saw that public display and sharing, and I saw how some people really needed that. Some

people really needed to do that. Some people really needed to hear that. But for other people—not all—it was like the opposite.”¹⁷⁷ During this first Listening Session, the Commission attempted a more public forum for statement gathering with the guidance of REACH. We gathered in a circle with the community, Maine Wabanaki REACH, MWTRC staff and volunteer statement gatherers. However, we quickly learned the dangers of this more public forum for the sharing of stories of Indigenous pain. I refer to this as the *spectacle of victimhood* which is explored further in Chapter Three. The lessons that the Commission learned at this first meeting shaped how to structure our processes moving forward, and while some communities, such as the gathering at Wabanaki Health and Wellness in the spring of 2014 still made space for sharing with the Commission in circle, much of the statement gathering took place outside of these circles where more individuals felt comfortable.

Although we offered opportunities to share with the Commission more formally during these visits in private spaces with the Research Coordinator and a Commissioner, the vast majority of statement gathering happened outside of these welcoming events. Statement gathering was organized in partnership with Maine Wabanaki REACH who worked to provide community organizing and support for communities throughout the work of the MWTRC, and helped to guide the MWTRC in ways that would be the most beneficial for Wabanaki communities. On several occasions over the course the MWTRC’s mandate, the Research Coordinator, a Commissioner, and occasionally a few statement gatherers, would travel back to communities to listen to Wabanaki stories—formally called statement gathering—at the request of Wabanaki peoples. These stories

¹⁷⁷ Esther Anne, interview with author, May 2018.

were shared privately in living rooms, at kitchen tables over coffee and tea, as well as at community centres. Individuals could bring family or friends as supports, but we did not attempt a more public forum for sharing stories unless specifically requested by the community. Ensuring that we were responsive to Wabanaki needs, statement gathering required a tremendous amount of flexibility. This meant a blended approach of scheduling days to visit with the nation with one or two Commissioners and the Research Coordinator where people could share their story with the Commission outside of the initial welcoming events, as well as days when it would be required for the Research Coordinator to more immediately travel to the community when someone was ready to share.

In her seminal study on truth commissions, Priscilla Hayner notes that truth commissions seem to satisfy a need among survivors to have their stories heard, and as such, “it is common for long lines to form outside of truth commission offices—lines of victims eager to report their stories.”¹⁷⁸ While it is true that truth commissions seem to be built from a principle that the truth of collective experiences will help societies come together, long lines outside of truth commission offices cannot be used as a tangible marker of a commission’s success. Relationships built on trust take time to cultivate, and the MWTRC understood that for some Wabanaki people who may have wanted to share their stories with the Commission, it may not have personally felt like the right time. Suzanne Methot, a Nehiyaw writer and educator, stresses that ‘memory management’ is integral to healing where a “survivor must recall, manage, restructure, and reframe the information they carry within themselves,”¹⁷⁹ about the trauma they experienced. While

¹⁷⁸ Hayner, 147.

¹⁷⁹ Suzanne Methot, *Legacy: Trauma, Story and Indigenous Healing* (Toronto: ECW Press,

this step in the healing journey may initially be satisfied by sharing one's story with an official body such as a truth and reconciliation commission, the decision to share experiences of trauma is by no means an easy one.

Within a short timeframe, with limited resources and a small staff, the MWTRC gathered 159 statements from individuals and people who spoke jointly. In addition, 78 people participated in 14 focus groups/sharing circles on a variety of topics.¹⁸⁰ These individuals shared a breadth of experiences: "They represent those who were in foster care and those who were adopted. They are tribal leaders and state officials. They are Wabanaki and non-Native foster and adoptive parents and Wabanaki elders. They are current and former [Department of Health and Human Services] and tribal child-welfare staff, ICWA workers and administrators. They are attorneys and judges, both tribal and state. They are service providers, guardians ad litem, grandparents, parents and incarcerated people."¹⁸¹ As a Commission, we most often visited and listened to Wabanaki people in the comfort of their homes, and occasionally gathered statements in community centres. We occasionally gathered statements over the phone from those who were unable to return to Maine but who wanted to share their experiences, as well as welcomed statements in alternative forms such as writing, reports, documents, photos and art.

When considering what a statement gathering process informed by decolonial, anti-oppressive, and Indigenous research methodologies could look like, the Commission

2019), 139.

¹⁸⁰ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 14.

¹⁸¹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 14.

sought to push back against practices that have been extractive and violent in Indigenous communities, and instead to structure something that would privilege Indigenous ways of knowing, and be respectful of Indigenous relationality in its many forms. This can be understood as vital to Indigenous conceptions of justice—specifically justice as an end of harm—in that it makes a conscious effort to refuse previously violent and extractive research processes and instead move towards a process that is wholly guided by the communities and individuals themselves. As a commission, we recognized the fundamental importance of creating space for individuals to share their stories given the long history of oppression that has silenced not only Indigenous experiences, but the ability to give voice to those experiences. As Maori scholar Linda Tuhiwai Smith stresses in *Decolonizing Methodologies*: “telling our stories from the past, reclaiming the past, giving testimony to the injustices of the past are all strategies which are commonly employed by Indigenous peoples struggling for justice.”¹⁸² Creating this space not only strived to honour Indigenous ontologies, but was also inextricably linked to pursuits of justice. Understanding the centrality of storytelling to Indigenous communities, the Commission opened spaces that welcomed individuals to share whatever they felt most comfortable sharing, and in a progression that honoured their experiences. In creating space for these stories, we also moved to honour acts of resistance; upholding that survival is resistance in the face of colonial violence. Grounded in Indigenous storytelling, we sought to create space that honoured a relationship-based approach to research—built foundationally on trust and accountability—and rooted in the reversal of asymmetrical relationships between an “interviewer” and “interviewee.”

¹⁸² L. Smith, *Decolonizing Methodologies*, 36.

As individuals, when we experience trauma, while we might experience that alone, it also affects those around us. The Commission understood the interconnectivity of Indigenous stories, as well as the ways that communities are able to support each other through the sharing of stories. Some individuals preferred to share with the Commission only with their support person present, others wanted to share with someone else in a “joint statement.” In honouring the interconnectivity of stories,¹⁸³ the Commission also offered opportunities for people to share in circle as a collectivity. We hoped that these instances would valorize “collective construction of knowledge,” and “love and respect for the connections and relationships that participants had with one another.”¹⁸⁴ Occasionally we called these circles, and in more formal capacities—such as with Maine Wabanaki REACH—we called these focus groups. We also recognized the complexity and fear that was associated with sharing with the Commission. The Commission sought to honour the many ways that individuals wanted to engage with the Commission, and in doing so also offered opportunities for people to share with Commissioners in a more informal capacity.

The Commission also offered opportunities for individuals to share in their respective languages, as a gesture of honouring the importance of reclaiming what colonizers had attempted to take away from us as Indigenous peoples, and offered a choice over whether the story would be translated, in recognition that the sharing of these stories might be for the community first and foremost. Although providers were given the option to share in their own language, “almost all chose English,”¹⁸⁵ many stressing the

¹⁸³ Also referred to as interrelatedness and holism within Q’um Q’um Xiiem’s storywork principles. Archibald, *Indigenous Storywork*.

¹⁸⁴ Chilisa, 206-7.

¹⁸⁵ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the*

importance of being heard and having people continue to learn from bearing witness. In line with this, of those who shared their stories with the MWTRC, the vast majority chose to have their names associated with their statement, with only 27 percent requesting to come forward anonymously.¹⁸⁶

Beginning in March 2014, Community Organizers working with the wider Maine community began to reach out to settlers in Northern and Southern Maine who had experiences connected to state child welfare. In the spring and fall of 2014, the Commission held statement gathering sessions in Augusta, Bangor, Caribou, Machias and Portland. The Commission found that “Given that most of these statement providers held or had held professional roles in DHHS or the legal system, it seemed useful to develop lists of questions that would allow the person to specifically address their field and concerns about ICWA, training and interactions with Wabanaki families.”¹⁸⁷ These sessions were more structured interviews than statement gathering with Wabanaki communities. Most of those who gave a statement to the MWTRC chose to make their statements public and non-anonymous, and to have them transferred to the archive. While this was most often the case, it is important to note that approximately 25% of those who shared a statement with the Commission from the Northern or Southern Maine communities requested to remain anonymous. This decision reflects the complexities of sharing their experiences and, in some cases, the fear of repercussions for speaking out against others within the system.

Mandate, 15.

¹⁸⁶ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 14.

¹⁸⁷ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 79.

Towards the end of 2014 and into 2015, I worked closely in my role as Research Coordinator with Maine Wabanaki REACH and the two Community Organizers who were hired to connect with and support their relations in corrections facilities. Maine Wabanaki REACH began to hold Peace and Healing Circles in correctional facilities with their community members, and supported them by providing access to ceremony and spirituality. While not the central focus of the MWTRC's mandate, the Commission recognized the importance of reaching out to those who had experiences with corrections and policing, as these individuals interact with the physical enforcers of colonial law and violence. Further, these violent interactions also heavily influence and have connections to past and present interactions with child welfare. The critical work Maine Wabanaki REACH does with community members in correctional facilities will be addressed in greater detail below and in the conclusion of this dissertation, but it is important to mention that the Commission did also engage with some community members in the Maine Correctional Centre where we held a circle focused on Justice and Reconciliation in April 2015. The Commission recognized that our small amount of engagement in this capacity was a gap when it came to the writing of the report, but believed it was important to take the lead from Maine Wabanaki REACH and the vital work they were doing in correction facilities in the state. Further, the Commission recognized that correctional facilities not only represented another space where Wabanaki peoples are removed from their community and their homelands, but also the connection between the child welfare system and the correctional system. Addressing these connections in greater detail is necessary in order to explore the full weight of state removal policies and practices, as well as Wabanaki paths to healing and freedom.

Naming Culpability

Among the debates surrounding “best practices” for the operation of truth commissions is the ongoing conversation around the finding of culpability and the naming of names. Priscilla Hayner notes that many human rights activists tend to side with one of two contradictory principles in the naming names debate. She notes that the first of these positions is that “due process requires that individuals accused of crimes be allowed to defend themselves before being pronounced guilty.”¹⁸⁸ As truth commissions do not tend to represent a court of law, Hayner suggests that due process could be violated by naming individuals as guilty of certain crimes.¹⁸⁹ On the other hand, she stresses that “telling the full truth requires the naming of persons responsible for human rights crimes when there is clear evidence of their culpability. Naming names is part of the truth telling process, and is especially important when the judicial system does not function well enough to expect trials.”¹⁹⁰ Some truth commission mandates have not laid out specific parameters around the naming of names in their processes, leaving the decision up to the commissioners and staff. As a result, commissions have navigated the challenges of the debate differently, with some choosing not to name any names, and others choosing to name individuals but to include the caveat that the commission’s findings do not represent a legal judgement and do not determine criminal liability.¹⁹¹ However, Hayner is quick to caution that regardless of this caveat, “those named in a truth commission report are popularly understood to be guilty, period; the distinction

¹⁸⁸ Hayner, 121.

¹⁸⁹ Hayner, 121.

¹⁹⁰ Hayner, 121.

¹⁹¹ Hayner, 122.

between criminal or legal guilt and a commission's finding of responsibility for a crime will be lost on most readers."¹⁹²

Under Article 6 of the Commission's Activities specified within the Mandate, the MWTRC would: "within the parameters of state and tribal law, ensur[e] that ownership of information produced through the proceedings respects requests for confidentiality and assures privacy to protect individuals from experiencing further harm."¹⁹³ While this particular stipulation created the space to deeply honour each individual's agency and choice surrounding their story—including who would be able to access this story after the MWTRC completed its work—it also raised important questions for the Commission to consider around due process, libel, slander and defamation. In the case of the Truth and Reconciliation Commission of Canada, survivors were restricted from sharing names of their abusers with the Commission in public forums as it would violate Article 2(h) of Schedule N of the Indian Residential Schools Settlement Agreement which specified that the commission "shall not name names in their events, activities, public statements, report, or recommendations, or make use of personal information or of statements made which identify a person, without the express consent of that individual, unless that information and/or the identity of the person so identified has already even established through legal proceedings, by admission, or by public disclosure by that individual."¹⁹⁴ These particular stipulations reified the post-judicial nature of the TRC of Canada and

¹⁹² Hayner, 122.

¹⁹³ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 4.

¹⁹⁴ Indian Residential School Settlement Agreement, *Schedule N: Mandate for the Truth and Reconciliation Commission*: http://www.trc.ca/assets/pdf/v-SCHEDULE_N_EN.pdf

specifically Article 2(b) which specified that the commission “shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process.”¹⁹⁵

The articles which bound the work of the TRC of Canada arguably restricted the ability of some to share their complete truths which may have included the names of their abusers; this was furthered by the constrictions of what is possible under Canadian law. Unlike the TRC of Canada, the MWTRC was not bound by such constrictions. While the Mandate was clear that the Commission would have “no authority to either pursue criminal or civil claims or to grant immunity from such claims,”¹⁹⁶ we also felt strongly that individuals should be able to share their full truths with the Commission. Article 6 of the Commission’s Activities gave the Commission the space to make a conscious decision about the ability of statement providers to name names in their testimony to the MWTRC. After consulting with a lawyer, the Commission determined that the state of Maine gives individuals a privilege against defamation suits by those who dispute testimony regardless of whether the testimony is determined to be true or false. The Commission understood that this would protect those who provided testimony to the MWTRC as long as the statement was relevant to the Commission’s tasks. Ultimately, the Commission determined that those who shared their story with the MWTRC should not be restricted from naming either those who harmed them or those who supported them. As noted in *Beyond the Mandate: Continuing the Conversation - Report of the Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission*, “Dr. Maria Yellow Horse Brave Heart, who first used the phrase historical trauma to describe the long-term

¹⁹⁵ Indian Residential School Settlement Agreement, *Schedule N: Mandate for the Truth and Reconciliation Commission*: http://www.trc.ca/assets/pdf/v-SCHEDULE_N_EN.pdf

¹⁹⁶ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 3.

social, psychic and physical impact of massive trauma on a people, suggests that it is confronting the experience that eventually allows people to heal from it.”¹⁹⁷ This was viewed as pivotal to creating space to honour the entirety of truths shared and necessary for community healing.

Within the Commission, the conversation around naming names arose again when it came time to write the final report. The Commission recognized that “to some extent, everyone we spoke with carries memories that have marked their lives, particularly Wabanaki people formerly in care... We tried to provide the support we could, and are in awe at the courage required to share these memories.”¹⁹⁸ Although the majority of individuals who shared their stories with the Commission did not wish to be anonymous, it was important for the Commission to—in the best way we could—ensure there would not be further retraumatization stemming from individuals reading quotations from their own stories within the final report. A conscious decision was made not to use people’s names within the final report when referring to material drawn from their stories, and instead to reference the date the statement was provided and to refer to individuals more broadly as, for example, a “Wabanaki Foster Parent,” or a “DHHS caseworker.” In doing so, the Commission attempted to protect delicate boundaries as individuals continued to explore what it meant to share their stories.

This decision also came with an uneasy compromise around specifying Wabanaki peoples’ specific tribal affiliations. In an attempt to protect individuals’ privacy—as the consent forms did not explicitly specify that we could name them, or their tribal

¹⁹⁷ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 15.

¹⁹⁸ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 15.

affiliation within the final report—we did not specify people’s nations when referencing their testimony within the final report. While the Commission did not want to conflate each nation’s experiences, or suggest that there are not distinct cultures, traditions and languages among Wabanaki nations, it was critical to find ways to protect the boundaries of those who shared their stories. This information remained within the statements themselves—in the transcripts and the audio and video recordings—and could be found by referring to the date the statement was collected as referenced in the final report. In noting how the Commission came to this decision, we also guided readers to the statements,¹⁹⁹ stressing that “we urge people to spend time reading statements once they are archived: to quote from them piecemeal is in some way to violate the totality of a person’s experience. Reading or listening to statements in their entirety brings alive the speakers’ voices and also the vivid, interconnected web of issues we have named.”²⁰⁰

Circles of Care

Truth commissions seem to be born of the notion that—as Priscilla Hayner notes—“following a period of massive political violence and enforced silence, simply giving victims and witnesses a chance to tell their stories to an official commission—especially one that is respectful, non-confrontational, and genuinely interested in their stories—can help them regain their dignity and begin to recover.”²⁰¹ While this certainly may be true for some individuals who choose to share with a truth and reconciliation

¹⁹⁹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. *Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Archive*. <https://digitalcommons.bowdoin.edu/maine-wabanaki-trc/>

²⁰⁰ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 15.

²⁰¹ Hayner, 146.

commission, we cannot use broad strokes to suggest that the process of sharing one's story is overwhelmingly healing for everyone who makes this decision, particularly as we ask individuals to share traumatic experiences that are rooted in generations of colonial violence.

To create as safe, positive and healing an environment as possible to honour each person's truth, the Commission sought to put in place radiating circles of care in partnership with Maine Wabanaki REACH. The MWTRC understood this as important for the process of healing called for by the mandate, but also strived to ensure that these spaces respected the cultural protocols of Wabanaki peoples. The MWTRC worked closely with Maine Wabanaki REACH through the entirety of the Commission's work, and understood the critical importance of a permanent organization to support Wabanaki peoples through the process. As a transitory body with a limited mandate of only two and a half years, the MWTRC was fundamentally unable to provide the long-term support that Wabanaki communities would need as they addressed trauma associated with their experiences with state child welfare.



Figure 3: Members of Maine Wabanaki REACH & the MWTRC²⁰²

As previously mentioned, after the MWTRC commissioners were seated the TRC Convening Group gathered together to re-form as the organization which would support the MWTRC as we worked with Wabanaki and Maine communities. Maine Wabanaki REACH (Reconciliation–Engagement–Advocacy–Change–Healing) “advances Wabanaki self-determination by strengthening the cultural, spiritual and physical well-being of Native people in Maine.”²⁰³ Community organizers were hired by REACH within each Wabanaki community, and two community organizers were hired to work with those in Southern and Northern Maine communities. Wabanaki community organizers worked closely within their communities doing outreach, holding community events, educating about the MWTRC and historical trauma, and helping to connect those who wanted to share with the Research Coordinator. Wabanaki community organizers also held peace

²⁰² Photography Credit: Penthea Burns, *Members of Maine Wabanaki REACH & the MWTRC*, 2014. Shared with permission.

²⁰³ Maine Wabanaki REACH, “About,” Maine Wabanaki REACH, Accessed September 15, 2018: <http://www.mainewabanakireach.org/about>

and healing circles throughout and beyond the work of the MWTRC, and held a number of discussion circles that could be used to address any of the concerns about the MWTRC process.

Peace and Healing Circles became a central place where community members could come together to share with their kin. These were spaces of support throughout and beyond the work of the MWTRC which emphasized healing as a core aspect of justice for Wabanaki peoples. As discussed in the introduction, justice can be understood as the end to harm but it is also found in restoring balance in all of our relationships with the natural and spiritual worlds. The emphasis of Peace and Healing circles—occurring outside the mandate specific work of the MWTRC—provided vital opportunities to Wabanaki peoples to heal, and envision just futures for themselves and their nations. Peace and Healing Circles were community focused and driven by Wabanaki peoples, not the work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. This draws attention to the notion that while the work of the MWTRC was important for Wabanaki communities—specifically as an answer to their calls for truth telling and justice—it was also crucially important for justice and healing work to carry on outside of the work of the MWTRC.

Some individuals who attended the Peace and Healing Circles later chose to share their stories with the MWTRC and others chose not to. Wabanaki community organizers were more often than not the first point of contact between the community and the MWTRC, and they supported their relatives throughout the MWTRC process. Many times, community organizers sat with their relatives as they shared their stories with the Commission, and would continue to support them after they had shared their experiences.

I understood this vital work as a circle of care that was deeply rooted in the responsibilities we carry to each other which is core to Indigenous conceptions of justice. While it was beyond the capacity of the Commission to provide long-term support for Wabanaki communities, the Commission recognized that Maine Wabanaki REACH was in the best possible position to support their communities throughout the process and beyond the life of the MWTRC. The work that the MWTRC did would not have been possible without the labour and love of members of Maine Wabanaki REACH for their nations.

During the community gathering with Motahkomikuk (Indian Township), Georgina, a Passamaquoddy community member, asked the commission: “Some of the wounds are so deep, how do you propose we’re supposed to be healing?”²⁰⁴ Her question—while not the first time any of us had considered it—was one that we continually reflected on as a commission. As Sandy White Hawk noted, “when we bring that out, and open that wound—and it is a wound—we have to put something back in at that very same time, and that’s our medicines. I see that you do use sage, I know that cedar is used out here. The most incredible thing though, for that healing is each other. Because when we went through that, we experienced that alone, we experienced it in isolation, and we kept it that way and then when we open it, if we open it and we’re with each other healing does come.”²⁰⁵ Spiritual healing is understood to be just as important in the process as it has been critical to Indigenous nations for generations, and honours specific worldviews, beliefs and teachings. As Suzanne Methot notes, “talk is limited in

²⁰⁴ Georgina Sappier, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

²⁰⁵ Sandy White Hawk, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

dealing with the physical and spiritual issues caused by trauma.”²⁰⁶ In order to heal as Indigenous peoples, we must honour and connect with our traditions, ceremonies and medicines that have cared for our people for generations. Through this practice we might hope to resolve the disconnect that has been created by trauma, and “rearrange [our] relationships with [our] physical body and renew [our] connection to the spirit world.”²⁰⁷

With the guidance of each of the communities, the Commission sought to bring in, and honour Indigenous medicines and ceremony where possible. *gkisedtanamoogk* cared for the sacred bundle that the Commission carried throughout our work. The Commission also sought to connect people, where relevant and possible, with spiritual and ceremonial supports within their own communities such as smudging and sweats. This was understood as being vital to the process of healing, as individuals were asked to share traumatic experiences with the Commission. When the Commission connected with Wabanaki peoples, we offered tobacco prior to beginning a statement as a sign of our respect and gratitude for their strength, time and the gift of their story. We also saw the sacredness of tears, and the ways that those tears honoured an individual’s experience as well as the ancestors who were unable to share their experiences with the Commission. The Commission recognized that when we gather together, and share among our relatives, that our ancestors are present with us at that time, and we must—as Sandy White Hawk stressed—“let that love and acceptance come into you.”²⁰⁸ To honour the strength of those who shared with the Commission, and the ancestors who did not have the opportunity, the Commission collected all of the tissues from the community

²⁰⁶ Methot, 233.

²⁰⁷ Methot, 234.

²⁰⁸ Sandy White Hawk, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

gathering, as well as individual and group statements, and circles and burned the tissues in the sacred fire at the closing of each community gathering. We also collected tissues that were used during statements given outside of these community gatherings, so that we could burn them in the next community gathering with their nations. As Esther Anne described: “those tears are sacred, and they wanted to burn [the tissues] in the sacred fire at the end of every day so we make sure those tears reach the ancestors, and so we honour them that way.”²⁰⁹

Preserving Memory—Archiving Story

As indicated earlier, one of the central components of the MWTRC’s work established in the Mandate was Article 11: “Archiving all such documents, materials and transcripts or recordings of statements received, in a manner that will ensure their preservation and accessibility to the public and in accordance with agreements with individuals, between the Maine State and Wabanaki governments and any other applicable legislation.”²¹⁰ This component of the Mandate was viewed as incredibly important in pushing back against colonial systems of domination by providing space for Wabanaki voices to counter violent colonial narratives. The Archiving Committee—which was comprised of members of the MWTRC, Maine Wabanaki REACH, academics and community leaders—sought to work through key questions around digitization, database/ records management systems, privacy, and the MWTRC archives post-TRC. In doing so, the Archiving Committee also reflected on key questions around data

²⁰⁹ Esther Anne Altvater, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

²¹⁰ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Mandate*, 4.

sovereignty.²¹¹ The manner in which we thought through questions of data sovereignty was particularly pressing because, as Anishnaabekwe scholar on digital sovereignty Jennifer Wemigwans, asserted, “there is a general feeling that, if Indigenous peoples do not stake out a claim on the internet, they will become colonized in that space too because of their absence.”²¹²

Stemming from the recommendations and work of the Archiving Committee, the MWTRC considered 11 museums, universities and other institutions predominant in Maine, as well as the National Centre for Truth & Reconciliation in Winnipeg, Manitoba, the Smithsonian Institute in Washington D.C., and Dartmouth College in Hanover, New Hampshire. Given the parameters laid out within Article 11, and the options for consent and accessibility that the Commission sought to provide to all those who participated in the process, the Commission had particular requests and needs for the permanent archives including: data security, online access, ability to restrict portions of the collection based on consent given, the relationship of the institution to Native peoples, accessibility, timeframe of release, and the ability to add new statements and material to the collection.

While each of these components was incredibly important in the selection of the permanent home of the MWTRC archive, I must stress the importance of the relationship of the institution to Native peoples generally, and Wabanaki peoples specifically. For generations, researchers came into Indigenous communities and took what they wanted. Indigenous people and our materials have been exploited and mistreated by researchers.

²¹¹ While it is beyond the capacity to delve into the detail, concerns and vital work of data sovereignty, it is important to note this as an area for future consideration particularly as it relates to care for Indigenous stories.

²¹² Jennifer Wemigwans, *A Digital Bundle: Protecting and Promoting Indigenous Knowledge Online*, (Regina: University of Regina Press, 2018): 29.

In these asymmetrical, oppressive, and often violent research relationships, research was done *on* our communities, framing our nations as depleted, while building and contributing to what Unangax scholar Eve Tuck refers to as “damage centered research.”²¹³ This research has been “inextricably linked to European imperialism and colonialism,” and the West’s desiring, extracting, and claiming ownership of our ways of knowing, our imagery, the things we create and produce, while simultaneously marking us as inferior and “deny[ing us] further opportunities to be creators of [our] own culture and own nations.”²¹⁴

Decolonial and ethical research paradigms demand that we push back against the history of the West desiring, extracting and claiming ownership of Indigenous ways of knowing, and develop processes that actively interrogate ownership, control, access and possession. Given the longstanding role of colonial institutions in oppression—universities as spaces of Indigenous exclusion, or museums as spaces of violent extraction of sacred items and our relatives—it was imperative that the MWTRC consider the implications and impact of the selected home of the MWTRC archives. Wabanaki peoples also expressed a desire to have the material stay within the state. Ultimately a consensus emerged that given their commitment to the requests the Commission had regarding the collection, Bowdoin College—a member of the Wabanaki-Bates-Bowdoin-Colby Collaborative²¹⁵—would be a respectful home for the MWTRC archives. As the MWTRC stressed, “we view this archive as open and active, and have developed a

²¹³ Tuck, “Suspending Damage,” 409.

²¹⁴ L. Smith, *Decolonizing Methodologies*, 1.

²¹⁵ An initiative that brings together three liberal arts colleges, and the four Wabanaki tribes to increase the number of Indigenous peoples attending colleges, while also expanding the knowledge about Wabanaki peoples in college communities.

process with Maine Wabanaki REACH and Bowdoin College for individuals to continue adding to their truths.”²¹⁶ This fluid process was integral to maintaining a living archive, respectful of individual agency with an openness that welcomed people to share whenever they felt most comfortable. Further, the Commission understood the need to create avenues that allowed people to continue sharing their truths given the transitory nature of the MWTRC but the permanence of Wabanaki life. As a Commission, we hoped these avenues would allow for continued relational accountability as an essential aspect to how Wabanaki peoples understand and envision justice.

The MWTRC sought to honour processes of ongoing consent, and all statement providers were given opportunities to redact or add to their statement. All of the statements were transcribed by myself and a team of professional and volunteer transcribers. Once the transcriptions were completed, the research team re-read and re-formatted the transcripts to ensure correct spelling and consistency in presentation. A professional video editor was brought on to ensure that respective video or audio recordings complied with anonymity requests made by individuals. The Commission went back to all participants to ask again if they would still like to have their statements archived once the MWTRC and REACH had selected the location of the permanent archive. All statement providers were given an opportunity to read through their transcripts, and to make any changes to ensure that the Commission had accurately represented the story they wanted to share. The Commission also provided all individuals a final copy of the story they shared with the Commission. By the time the expanded final report was published towards the end of 2015, “six people [had] rescinded their

²¹⁶ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 80.

statements and 11 people [had] revised their statements and added to them,”²¹⁷ demonstrating the importance of this flexible approach in prioritizing active consent.

Beyond the Mandate

Towards the end of the work of the MWTRC, the Commission returned to all Wabanaki communities to express our gratitude for their participation, and to share our initial findings and recommendations. We sent letters to each individual who shared with the Commission thanking them for their courage in coming forward. Over the course of the 27-month mandate, we had listened as people shared their experiences with state child welfare in Maine. When the final report, titled *Beyond the Mandate: Continuing the Conversation*, was tabled in June 2015, the Commission had concluded that “Wabanaki children in Maine have entered foster care on average at 5.1 times the rate of non-Native children during the past 13 years.”²¹⁸ In many instances the processes for following the Indian Child Welfare Act were not followed and—as reported in federal reviews in 2006 and 2009—sometimes up to half of all children coming into care did not have their heritage verified.²¹⁹ The Commission understood that work still needs to be done to ensure full compliance with ICWA. This is not a case that is specific to Maine and in fact extends across much of the United States as some states attempt to utilize the US judicial system to push back against the constitutionality of ICWA.²²⁰ And while the work of

²¹⁷ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 76.

²¹⁸ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 6.

²¹⁹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 6.

²²⁰ The most notable case being *Brackeen v Zinke* in the Northern District of Texas in 2018. The case, brought forward by Texas, Indiana, Louisiana and individual plaintiffs argued that the

ICWA compliance continues in Maine, the Commission also wanted to recognize that progress in ICWA implementation has been made, “strong relationships have developed across the system, and many people, both Wabanaki and non-Native, professionals and families, have dedicated an enormous amount of time, energy and care to cases involving Wabanaki children.”²²¹

As previously noted, the Commission recognized that the work of other task forces, academics and state officials had preceded our work, and while it was critical that we meet with people and hear their experiences, that it was equally important that the work did not abruptly halt when we completed our mandate and tabled our final report. We remained aware of the necessity of this work, as well as its urgency. In the final report, the Commission reflected:

It would be relatively straightforward to recommend some thoughtful, technical repairs to the systems; we do indeed have these suggestions to make. However, given the historic nature of this project and the fact that Native families and children form its focus, we have felt compelled to extend our argument and to press harder at what can and needs to be said.

To that end, we have chosen to present this narrative not only as the result of a completed process but as an invitation to all communities and stakeholders to embark on a longer, more thorough engagement that will certainly include child welfare and will, more importantly, invoke what we saw to be the underlying conditions that complicate so much of the relationship between the four tribes who

ICWA was unconstitutional. In October 2018 Judge Reed O’Connor struck down almost all of ICWA and the new 2016 regulations asserting that all but one of the plaintiff’s claims findings ICWA and the 2016 regulations to be unconstitutional. The National Indian Child Welfare Association noted in the case’ summary briefing that in order “to reach this decision, the court had to ignore decades of federal court precedent that affirmed inherent tribal sovereignty and the government-to-government relationship between tribal nations and the United States as enshrined in the U.S Constitution, countless federal laws, and treaties between tribal nations and the U.S government.” (NICWA, 2018). In November 2018 the United States Department of Justice, on behalf of the Departments of Interior and Health and Human Services, filed a notice of appeal challenging the decision by the US District Court for the Northern District of Texas.

²²¹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 7.

now comprise the Wabanaki and the state of Maine.²²²

The MWTRC held a closing ceremony on June 14, 2015 in Hermon, Maine where we gathered and presented our final report with 16 synthesized findings and 14 recommendations. In addition to the specific technical changes that could be made to improve child welfare, the Commission noted that “underlying racism still at work in state institutions and the public; ongoing impact[s] of historical trauma, also known as intergenerational trauma...; [and] differing interpretations of tribal sovereignty and jurisdiction”²²³ continued to impact Wabanaki interactions with state child welfare. The Commission found in the culmination of stories heard and documents examined that we could understand “that these conditions and the fact of disproportionate entry into care can be held with the context of continued cultural genocide, as defined by the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly in 1948.”²²⁴ In making this assessment, the Commission specifically drew on Article 2, sections b and e²²⁵—“causing serious bodily or mental harm to members of the group” and “forcibly transferring children of the group to another group”²²⁶—which apply to Wabanaki experiences in Maine.²²⁷

²²² Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 7-8

²²³ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 8.

²²⁴ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 8.

²²⁵ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 8.

²²⁶ UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide. Resolution 260 A (III), 9 December 1948: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf

²²⁷ It is important to note here that I recognize that this assertion is factually incorrect as the UN

Over the course of the mandate of the MWTRC, we were honoured and privileged to witness the strength of Wabanaki peoples. We recognized and sought to honour, the best we could, that this commission was an answer to prayers for many. As Sandy White Hawk stressed at the closing ceremony: “Of course it starts in Maine, the people of the Dawn, the people of the first light.”²²⁸ The Commission sought to create space for this vital work to continue beyond the life of the MWTRC, recognizing the critical importance of the continuance of this work to Wabanaki calls for and understandings of justice, and our limitations as a transitory body. We believe—as affirmed with our first recommendation—this must begin with “respect[ing] tribal sovereignty.”²²⁹ The Commission sought to open space for truth, and the continued sharing of story that would honour Wabanaki strength, resistance, and resilience. In completing the work of our mandate, the Commission sought to honour individual and community agency and decision making throughout the process. This work is vital not only to justice in the

Convention on the Prevention and Punishment of the Crime of Genocide does not describe “cultural genocide.” I am aware that cultural genocide was in fact removed as an aspect from the UN Convention on the Prevention and Punishment of the Crime of Genocide, despite its important foundations in Raphael Lemkin’s original conceptions of genocide. It is vital to note that the removal of this aspect of genocide was motivated settler colonial nations who could ultimately be found guilty of these crimes. I have written on the importance of understanding cultural genocide as it was broadly conceived by Lemkin in my Masters thesis (2013). David B Macdonald has also recently published on this and unpacks further what he refers to as legalist and pluralist perspectives of genocide in his book *The Sleeping Giant Awakens* (2019). I did raise these points with the Commission as we discussed this particular finding, however it was moved that “cultural genocide” was appropriate given the legal ramifications that come along with a finding of genocide.

The language of cultural genocide was utilized for political and legal reasons within the final report. However, this should not take away from the finding, and in particular the assertion of the applicability of the UN Convention on the Prevention and Punishment of the Crime of Genocide to Wabanaki experiences within the state of Maine. The testimony heard by the commission did, indeed, speak to conditions of violence that are described under the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

²²⁸ *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

²²⁹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 66.

capacity of an end to harm that had been perpetuated in previous asymmetrical relationships, but also in seeking to restore balance to the breadth of Indigenous relationships. The open approach to the mandate allowed for the Commission to draw connections between experiences in child welfare, and visions of justice beyond these specific policy decisions. The necessity of justice beyond child welfare—echoed in our first recommendation that this must begin respecting tribal sovereignty—is vital to Wabanaki conceptions of justice and was continually raised in the stories that we heard throughout the process. We understood the work of the Commission as a step along the path; a path where work must continue and where we reflect on what *reconciliation* means. As we consider this wider goal of *reconciliation*, as gkisedtanamoogk noted “that’s the long road—it’s something that we can’t predict—but what we do right now has to lead to the much longer, probably much more difficult work.”²³⁰

In the first five years since the release of the MWTRC’s final report and 14 recommendations, Maine Wabanaki REACH has continued to carry forward the essential work of justice for Wabanaki communities. Just two months after the release of the report, the ICWA Workgroup reconvened seeing the partial completion of the MWTRC’s Recommendation 8: “fund the renewal of the ICWA Workgroup and involve them in designing and implementing training so that all levels of leadership are involved.”²³¹ Since August 2015, the ICWA Workgroup has been focused on working toward implementation of 7 of the 14 recommendations;²³² more specifically, the ICWA

²³⁰ gkisedtanamoogk, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

²³¹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 66.

²³² Esther Anne, Maine Wabanaki REACH Group Discussion with Author, Bangor, Maine, May 15, 2018.

Workgroup has remained committed to ensuring implementation of the child welfare specific recommendations within the Commission’s report. This has included renewed case worker training on Wabanaki history and the importance of ICWA, and ICWA compliance (included as part of Recommendation 8); resolving issues with Title IV-E funds (Recommendation 7); and developing DHHS, legal and judicial trainings that go beyond checklists and toolkits (Recommendation 3).²³³ It would seem that the hard work of Maine Wabanaki REACH has begun to lead to change within the child welfare system specifically,²³⁴ however, the larger recommendations such as respecting tribal sovereignty (Recommendation 1), and reinstating the Maine Governor’s executive order which recognizes the “special relationship between the State of Maine and sovereign Native American Tribes located within the State of Maine”²³⁵ (Recommendation 12) continue to be a source of contention thus suggesting that the hardlines of the state’s perceived power are slow to be reconfigured.

Despite this, Maine Wabanaki REACH has continued vital work within Wabanaki communities focused on healing and justice often as its focal point.²³⁶ This has included

²³³ Denise Altwater, Esther Anne, Erika Bjorum, Penthea Burns, Luke Joseph and Barbara Kates, Maine Wabanaki REACH Group Discussion with Author, Bangor, Maine, May 15, 2018.

²³⁴ In a recent conversation with Esther Attean, she noted that the ICWA Workgroup continues to work on the child welfare specific recommendations from the MWTRC Final Report and noted that while there has been action on each of these, it is important not to view this as a check-box but rather an ongoing relationship that requires consistent work. To date, there has been action on the following recommendations that are child welfare specific: 3, 4, 5, 6, 7, 8, 9.

Esther Anne, interview with author, June 23, 2021.

²³⁵ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 67.

²³⁶ More specifically, this has included work which falls in line with the following MWTRC recommendations: 2, 6, 11, 13 and 14.

Esther Anne, interview with author, June 23, 2021.

work with youth,²³⁷ peace and healing circles with kin in Maine correctional centers,²³⁸ creating ways for people to continue to share their truths in tribal communities, among the general public and within agencies that work with Wabanaki people,²³⁹ food sovereignty and wellness workshops.²⁴⁰ In listening to REACH members, I heard that Wabanaki views of justice were respected through the acknowledgment of tribal sovereignty (Recommendation 1), and in the call to “Honour Wabanaki choices to support healing as the tribes see fit and celebrate the cultural resurgence of the tribes within the Wabanaki confederacy”²⁴¹ (Recommendation 2).²⁴² In emphasizing these points, Wabanaki conceptions of justice were integrated and upheld as vital to the pathway forward, and embodied within the self-determination of Wabanaki nations to guide their healing and resurgence. In these actions within Wabanaki nations, unique views of justice grounded in Wabanaki worldviews and teachings are centered.

²³⁷ Denise Altvater, Maine Wabanaki REACH Group Discussion with Author, Bangor Maine, May 15, 2018.

²³⁸ Sandra Basset, Penthea Burns, Andrea Francis, Jeffrey Hotchkis, Susan Howe, Carla Hunt and Katie Tomer, Maine Wabanaki REACH Group Discussion with Author, Portland Maine, May 16, 2018; Denise Altvater, Esther Anne, Erika Bjorum, Penthea Burns, Luke Joseph and Barbara Kates, Maine Wabanaki REACH Group Discussion with Author, Bangor, Maine, May 15, 2018.

²³⁹ The creation of pathways for continued truth-telling was a vital component of the MWTRC’s Recommendations and was embodied in Recommendation 13. Since the completion of the work of the Commission, REACH has helped to facilitate the recording of additional statements that were included as part of the MWTRC’s Archive at Bowdoin College. In addition, Maine Wabanaki REACH is pursuing a new truth-telling project focused on the Maine Indian Claims Settlement Act, particularly in response to the continued attempts by the State of Maine to alter the Settlement Act and specifically referencing the most recent attempt of LD 2094. It is important to note here that the format for this truth-telling will not look the same as the Truth and Reconciliation Commission, and REACH notes that: “this truth-telling project will draw on Wabanaki traditions and ways of knowing and being using oral history and storytelling – different from our prior rich experience with the truth commission.” See: Wabanaki REACH, *Truth and Peacemaking*, https://www.mainewabanakireach.org/truth_peacemaking

²⁴⁰ Denise Altvater, Esther Anne, Erika Bjorum, Penthea Burns, Luke Joseph and Barbara Kates, Maine Wabanaki REACH Group Discussion with Author, Bangor, Maine, May 15, 2018.

²⁴¹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 66.

²⁴² Denise Altvater, Esther Anne, Erika Bjorum, Penthea Burns, Luke Joseph and Barbara Kates, Maine Wabanaki REACH Group Discussion with Author, Bangor, Maine, May 15, 2018.

Chapter Two

Reconciliation and *Palatable Indigeneity*

Throughout the latter part of the twentieth and early twenty-first centuries, Indigenous activism and demands for justice have forced a reconfiguration of power within Canada. Indigenous peoples stood firmly through constitutional talks in the early 1980s, and continued to demand justice and respect for our self-determination as nations. These calls for justice over many decades have also centred the protection of Indigenous children and redress for violence perpetuated through residential schools which operated in Canada for over a century. It is out of this demand for justice and redress that the Truth and Reconciliation Commission of Canada (TRC) was brought into being. Given its roots in Indigenous calls for justice, there are vital possibilities that emerge through the TRC's work. In this chapter I situate the emergence of the TRC within the longer history of Indigenous demands for justice, offer a brief overview of the work of the Truth and Reconciliation Commission of Canada, and reflect on the possibilities of justice that are created through the TRC, as well as potential limitations. I then direct my attention to the Principles of Reconciliation emphasized by the TRC, and the ways the TRC Calls to Action have been taken up by the federal government in the first five years following the TRC's work. I locate this particular response within the discourse of multiculturalism which emphasizes the importance of cultural accommodation and argue that it is possible to identify a trajectory that moves away from Indigenous conceptions of justice in that it

frequently emphasizes balance only in certain types of relationships. Instead, I argue, this response advances what I refer to as *palatable Indigeneity* which can be understood as a method by which the settler colonial state reifies its own power and creates legitimacy for its assertions of sovereignty over Indigenous peoples and Indigenous lands and waters. Palatable Indigeneity becomes a move by which the state accommodates Indigenous cultural expression specifically when it is separated from our relationships to our lands, waters and other relations, thereby departing from Indigenous conceptions of justice and instead crafting Indigeneity as legible to the state, and perceived as unchallenging of the state's assertions of sovereignty. I lay this conceptual groundwork—which is picked up again in Chapter Four—to emphasize what occurs when competing understandings of reconciliation collide and the spaces where reconciliation has become disconnected from Indigenous understandings of justice.

The Long Road to Justice

The path to the establishment of the Truth and Reconciliation Commission of Canada was a long and hard battle for Indigenous peoples. Part of this trajectory can be traced back to the work of the Royal Commission on Aboriginal Peoples (RCAP) that was created by an Order in Council on August 26, 1991 following the Oka Crisis of 1990. Holding one of the largest mandates ever given to a royal commission, the RCAP was directed to study the relationship between Indigenous peoples, the Canadian government and Canadian society within sixteen areas including: the history of the relationship between Aboriginal peoples and Canadian governments, the Indian Act, education,

justice, social concerns, cultural matters and the situation of youth.²⁴³ Culminating in a multi-volume report of more than 3000 pages and 444 recommendations, it is commonly argued that the report was received by the federal government as “dead on arrival,” due to the federal government’s lacklustre response to the recommendations which did not move towards the radical transformation envisioned by RCAP.²⁴⁴ Although this report has largely been shelved by the federal government of Canada, it continues to stand as an important marker in the relationship between Indigenous peoples and the Canadian state, and a touchpoint for what structural changes need to occur to envision a new relationship.

While reconciliation was being conceptualized within the judiciary in terms of reconciling the existence of Aboriginal rights and title with the assertion of Crown sovereignty,²⁴⁵ the Royal Commission on Aboriginal Peoples set a trajectory of reconciliation in motion in the public sphere. As Dian Million notes, RCAP’s recommendations “reiterating an urgent Indigenous demand for an end to Canada’s paternalistic hold is also the first call for official reconciliation.”²⁴⁶ Reconciliation was envisioned between Indigenous peoples, the Canadian state and Canadian citizens as rooted in the treaty principles of mutual respect, reciprocity, and responsibility.²⁴⁷ These are important core principles that link back to Indigenous conceptions of justice which also emphasize balance and health in all of our relationships. As discussed in the

²⁴³ Jill Wherrett, “The Research Agenda of the Royal Commission on Aboriginal Peoples,” *Canadian Public Administration* 38.2 (Summer 1995): 273-74.

²⁴⁴ Kiera Ladner, “Negotiated Inferiority: The Royal Commission on Aboriginal People’s Vision of a Renewed Relationship,” *The American Review of Canadian Studies* 31.1/2 (Spring/Summer 2001): 241.

²⁴⁵ See for example: Joshua Ben Nichols, *A Reconciliation Without Recollection?: An Investigation of the Foundations of Aboriginal Law in Canada* (Toronto: University of Toronto Press, 2019).

²⁴⁶ Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (Tucson: University of Arizona Press, 2013), 5.

²⁴⁷ Canada, Royal Commission on Aboriginal Peoples, *Report 1*:675-697.

Introduction, for nuučaañuł peoples, core to this understanding of justice is hišukʔišćawaak: everything is one. This particular teaching includes the interrelated teachings of respect, reciprocity and responsibility that were initially emphasized as part of the vision of reconciliation by the RCAP. This is not to say that reconciliation and justice are the same, but to emphasize the ways that Indigenous conceptions of justice informed this understanding of reconciliation advanced by the RCAP.

Referring back to the RCAP is not only important for its imagining of reconciliation, but also for the vast recommendations made throughout the report that laid the pathway for the Truth and Reconciliation Commission of Canada. Among these, the RCAP found that “our research and hearings indicate that a full investigation into Canada’s residential school system, in the form of a public inquiry established under Part I of the *Public Inquiries Act*, is necessary to bring to light and begin to heal the grievous harms suffered by countless Aboriginal children, families and communities as a result of the residential school system.”²⁴⁸ To that end, the Commission recommended the following:

1.10.1 Under Part I of the *Public Inquiries Act*, the government of Canada establish a public inquiry instructed to

- (a) investigate and document the origins and effects of residential school policies and practices respecting all Aboriginal peoples, with particular attention to the nature and extent of effects on subsequent generations of individuals and families, and on communities and Aboriginal societies;
- (b) conduct public hearings across the country with sufficient funding to enable the testimony of affected persons to be heard;
- (c) commission research analysis of the breadth of effects of these policies and practices;

²⁴⁸ Canada, Royal Commission on Aboriginal Peoples, *Report 1*: 365.

(d) investigate the record of residential schools with a view to the identification of abuse and what action, if any, is considered appropriate; and

(e) recommend remedial action by governments and the responsible churches deemed necessary by the inquiry to relieve conditions created by the residential school experience, as included as appropriate'

- Apologies by those responsible
- Compensation of communities to design and administer programs that help the healing process and rebuild their community life; and
- Funding for treatment of affected individuals and their families.²⁴⁹

It was believed that this particular process would serve important social utility through engagement and action in which “this instrument, supposedly merely an extension of Parliament, may have a dimension which passes beyond the political process into the social sphere.”²⁵⁰ In other words, in making this recommendation, the Commissioners of the RCAP were also hopeful that the process would extend beyond an investigatory capacity and engender change within the social sphere thus shifting the relationship between Indigenous peoples and settlers.

Following the release of the RCAP final report, the delayed response of federal government under Jean Chrétien “signalled that it did not fully support the RCAP,” and that the RCAP’s recommendations would be too costly to implement.²⁵¹ Although the government later responded with *Gathering Strength: Canada’s Aboriginal Action Plan*, they ignored the vast majority of the RCAP’s 444 recommendations, including the establishment of the public inquiry into residential schools. In fact, the Government of

²⁴⁹ Canada, Royal Commission on Aboriginal Peoples, *Report 1*: 365-367.

²⁵⁰ Canada, Royal Commission on Aboriginal Peoples, *Report 1*: 365.

²⁵¹ Melissa Nobles, *The Politics of Official Apologies* (Cambridge: Cambridge University Press, 2008): 75.

Canada did not respond to the RCAP until after the first 200 residential school survivors' litigation claims had been filed.²⁵² In describing the failings of the Canadian state to respond to these recommendations, Jeff Corntassel and Cindy Holder note that the truth commission/ public inquiry strategy was rejected in favour of "a set of policy recommendations designed to facilitate an end point to their historic and legal liabilities regarding residential school survivors."²⁵³ Although specifically referencing the government's response in this particular instance, Corntassel and Holder gesture towards a tactic that can be identified as characteristic of the federal government's responses to recommendations made by future investigatory bodies that will be discussed later in this chapter. In response to growing litigation against the Canadian government and the failure of the 1998 *Statement of Reconciliation*,²⁵⁴ Paulette Regan notes that the government of Canada began to explore an Alternative Dispute Resolution (ADR) process to resolve these claims outside of the courtroom.²⁵⁵ While it is beyond the scope of this chapter to delve into the complexities of this process, it is necessary to establish that pursuing claims through civil litigation (hereafter Residential School Litigation) was incredibly challenging and problematic for survivors. While having a basis in a judicial

²⁵² Paulette Regan, *Unsettling the Settler Within* (Vancouver: UBC Press 2010): 120.

²⁵³ Corntassel Holder, 473

²⁵⁴ For a detailed exploration of the 1998 Statement of Reconciliation, see for example: Jeff Corntassel and Cindy Holder, "Who's Sorry Now? Government Apologies, Truth Commission, and Indigenous Self-Determination in Australia, Canada, Guatemala, and Peru," *Human Rights Review* 9 (2008): 465-489; Sheryl Lightfoot, "Settler-State Apologies to Indigenous Peoples: A Normative Framework" *Native American and Indigenous Studies* 2.1 (2015); Matt James, "'Wrestling with the Past: Apologies, Quasi-Apologies, and Non-Apologies in Canada,'" in *The Age of Apology: The West Faces its Own Past*, ed. Mark Gibney, Rhoda Howard-Hassmann, Jean-Marc Coicaud, and Niklaus Steiner. Philadelphia: University of Pennsylvania Press, 2007.; Melissa Nobles, *The Politics of Official Apologies* (Cambridge University Press, 2008).

²⁵⁵ Regan, 121.

system that was imposed upon Indigenous peoples, Carole Blackburn notes that this space also became a forum in which “indigeneity was contested and defined.”²⁵⁶

Although there were challenges associated with pursuing redress through this system, Courtney Jung notes that by October 2002, 11 000 cases had been filed against the government of Canada and the churches who had run the schools.²⁵⁷ Through this process of litigation, the defence attempted to revert injury through alcoholism, poverty, and domestic violence as integral to Indigenous peoples and not something the government of Canada and the churches could be held responsible for. Blackburn notes that in one of the most integral cases in Residential School Litigation, *Blackwater v Plint*, “the injury was returned to [the plaintiffs] as their essential difference and as a stigma and way of life for which they, rather than the state or the church, were responsible.”²⁵⁸ This particular narrative gestures towards long-standing settler colonial myths of Indigenous peoples as dysfunctional, deficient, and deviant—narratives that ultimately uphold and maintain Canadian state sovereignty and legitimacy. The impacts of these narratives are taken up in greater length in a consequent chapter, but it is worth noting their existence in the path to justice for Indigenous experiences in residential schools.

When the Supreme Court of Canada ruled on *Blackwater v Plint* in 2005, they ultimately found liability in both the Government of Canada and the church, at a rate of 75 percent liability to Canada, and 25 percent liability to the United Church.²⁵⁹ The government of Canada was then facing increasing pressure from the Assembly of First

²⁵⁶ Carole Blackburn, “Culture Loss and Crumbling Skulls: The Problematic of Injury in Residential School Litigation,” *Political and Legal Anthropology Review* 35.2 (November 2012): 290.

²⁵⁷ Jung, “Canada and the Legacy of the Indian Residential Schools: Transitional Justice for Indigenous Peoples in a Nontransitional Society,” 225.

²⁵⁸ Blackburn, “Culture Loss and Crumbling Skulls,” 297.

²⁵⁹ Blackburn, “Culture Loss and Crumbling Skulls,” 300.

Nations, on top of a bogged down legal system, and the joining of cases into the largest class action lawsuit in Canadian history. Responding to this increasing pressure, the Government of Canada finally sat down to negotiate a settlement agreement. The process began in 2005 following the signing of a political agreement promising to negotiate a settlement that would address redress payments, community based healing initiatives, commemoration and an appropriate measure similar to the ADR that would address serious claims of abuse.²⁶⁰ The culmination of these negotiations—the Indian Residential Schools Settlement Agreement (IRSSA)—came into effect in September 2007, and represented a multifaceted approach intended to provide a semblance of justice for Indigenous peoples for their experiences in residential schools. The agreement ended approximately 15,000 individual lawsuits and twenty-one class action lawsuits when it came into effect.²⁶¹ This layered agreement included Common Experience Payments,²⁶² an Independent Assessment Process,²⁶³ commemoration activities, and established the mandate for the Truth and Reconciliation Commission of Canada (TRC).

²⁶⁰ Jung, 226

²⁶¹ Paul Barnsley, “Residential School Agreement Received Approval from the Courts,” *Saskatchewan Sage* (January 2007): 1.

²⁶² The Common Experience Payment (CEP) was pivotal within the IRSSA for its recognition that loss of culture, language, and the removal from family and community constituted a harm – an acknowledgement that did not have legal precedent before this. According to the IRSSA, the CEP provided “\$10,000 to every eligible CEP recipient who resided at one or more Indian Residential Schools for one year or part thereof,” and “an additional three thousand to every eligible CEP recipient who resided at one or more Indian Residential Schools for each school year or part thereof, after the first school year” (IRSSA, 5.02, 44).

²⁶³ The Independent Assessment Process (IAP) provided a forum for redress for severe harms of physical and sexual abuse. This particular forum was similar to a judicial process in which survivors were asked to disclose their experiences to a judge who then determined the monetary value of their pain and trauma. For a critique of this process, see: Patricia M. Barkaskas and Sarah Hunt, “Truth Before Reconciliation: Reframing/ Resisting/ Refusing Reconciliation,” public lecture, *Simon Fraser Institute for the Humanities*, March 10, 2017: https://www.youtube.com/watch?v=mB_7odACIpI

The Structure of Truth and Reconciliation in Canada

The establishment of the Truth and Reconciliation Commission of Canada was an important component of the Indian Residential Schools Settlement Agreement. It is important to note that while a commission of this nature does broadly address the recommendation made by the RCAP discussed earlier, we cannot mistake its implementation as a move of good will by the federal government of Canada to respond to the RCAP's recommendation. Instead, we must understand its emergence as stemming from the strength and labour of Indigenous peoples in pressing for justice and a forum to share their experiences within the residential schools system. In an interview with Bob Watts—a member of the Assembly of First Nations' team of negotiators that worked on the Indian Residential Schools Settlement Agreement—during my masters thesis research, he noted that the inclusion of the TRC as part of the IRSSA was a struggle: “for some in the process, there was no understanding of why a truth commission should be included as part of the settlement; generally associated with a political process, many on the governmental side believed that the implementation of a truth commission should be done outside of a court monitored settlement to class action and individual lawsuits.”²⁶⁴ Despite the resistance from the federal government, a truth and reconciliation process was ultimately included as a part of the settlement agreement funded by survivors using a portion of the compensation awarded within the IRSSA.

²⁶⁴ Bob Watts, interview by author, 22 February 2013. Cited in Rachel George, “Not Just an Indigenous Problem: The Truth and Reconciliation Commission and Efforts of Reconciliation,” Masters Thesis, University of Amsterdam, 2013: 57.

Laying the parameters of the work of the Truth and Reconciliation Commission of Canada, Schedule N of the IRSSA prefaced its work with the principles that guided its establishment:

*There is an emerging and compelling desire to put the events of the past behind us so that we can work towards a stronger and healthier future... This is a profound commitment to establishing new relationships embedded in mutual recognition and respect that will forge a brighter future. The truth of our common experiences will help set our spirits free and pave the way to reconciliation.*²⁶⁵

This particular framework is rooted in an understanding that sharing our experiences will lead to healing, and that the truth of these experiences is inexplicably connected to reconciliation. While there is mixed evidence that establishes a truth and reconciliation commission's ability to facilitate healing,²⁶⁶ the connection between truth-telling and reconciliation is also rooted in a theory of change that may be overstated depending on the narrative of reconciliation that is advanced and how the pathway of reconciliation is framed. As Bakiner emphasized, "the idea that truth commissions produce consensus and reconciliation between victims, perpetrators, and bystanders draws no empirical support."²⁶⁷ This is of course also applicable to the work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. In order to align with Indigenous conceptions of justice discussed in the Introduction, the work of reconciliation must

²⁶⁵ Indian Residential Schools Settlement Agreement, Schedule N Mandate for the Truth and Reconciliation Commission.

²⁶⁶ This is a particularly complex aspect as truth and reconciliation commissions are transitory bodies that offer singular opportunities for sharing one's experiences. As such, it is often beyond the capacity of truth and reconciliation commissions to offer the longer term support that may be needed and necessary for individuals who are working through traumatic experiences. Of course, this varies from person to person, but suffice it to say the experience of sharing with a truth and reconciliation commission cannot be said to be unilaterally beneficial for each person who shares. See for example, Priscilla B Hayner, *Unspeakable Truths* for a more thorough unpacking of the role of truth and reconciliation commissions in healing.

²⁶⁷ Bakiner, 104.

extend beyond the life of a truth and reconciliation commission. Reconciliation, as grounded in Indigenous calls for justice, requires structural change in the systems of power which have asserted paternalistic holds over Indigenous nations, as well as in our daily lives outside of our interactions with government institutions which includes our self-determination and the ability to practice, maintain and renew relationships in the physical places we call home.

However, the necessity of society-wide action to create structural change is a pathway that is often under emphasized by the Government of Canada, instead opting to call on the individual social responsibility of awareness as the path to reconciliation. While some rhetoric from the RCAP—such as of the importance of respect, reciprocity and responsibility which is embedded in the language of “nation-to-nation”—is picked up in federal government speeches this individual social responsibility of awareness is more frequently emphasized as action for Canadians. For example, in the 2008 Apology to Former Students of Indian Residential Schools issued by then Prime Minister Stephen Harper, he noted: “The 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 ...*”²⁶⁸ (emphasis added). In this particular speech, education around residential schools is emphasized, but there is a missing connection between education and social change. Several years later in 2017 Justin Trudeau offered another apology to survivors of Indian Residential Schools in Happy Valley Goose Bay.

²⁶⁸ Canada, “Statement of Apology to former students of Indian Residential Schools,” June 11, 2008: https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-REC/STAGING/texte-text/rqpi_apo_pdf_1322167347706_eng.pdf

While attempting to correct the previous erasure of Innu, Inuit and NunatuKavut children's experiences in these schools, Trudeau echoed similar sentiments in crafting a pathway of reconciliation that non-Indigenous Canadians could follow. Specifically, he noted several abuses which occurred in the schools and stressed that "these are the hard truths we must confront as a society."²⁶⁹ While the Trudeau government has also consistently preached the importance of a "nation-to-nation relationship," Indigenous scholars, activists and leaders have frequently called out the lack of commitment and ongoing contradictions behind these words.²⁷⁰ The pathways of action and inaction for settlers that which emerge from competing narratives of reconciliation will be addressed in greater detail in Chapter Three.

²⁶⁹ Justin Trudeau, "Remarks by Prime Minister Justin Trudeau to apologize on behalf of the Government of Canada to former students of the Newfoundland and Labrador Residential Schools," November 24, 2017, <https://pm.gc.ca/eng/news/2017/11/24/remarks-prime-minister-justin-trudeau-apologize-behalf-government-canada-former>

Further discussion on this is addressed in Chapter Three.

²⁷⁰ See for example (but not limited to): Jeffrey Ansloos, "The Trickery Behind Justin Trudeau's Reconciliation Talk," *Macleans*, September 21, 2017: <https://www.macleans.ca/politics/ottawa/the-trickery-behind-justin-trudeaus-reconciliation-talk/>; APTN National News, "'Spirit of the White Paper' behind Trudeau fast-tracking legislative framework," *APTN National News*, May 3, 2018: https://www.youtube.com/watch?v=tDp_7Nlifo ; Kendall Latimer, "'1 Hour is Not Enough' Saskatchewan Chief says of tense Trudeau Meeting Caught on Video," *CBC News*, September 17, 2018: <https://www.cbc.ca/news/canada/saskatchewan/leaked-video-fsin-trudeau-time-management-1.4826442> ; Kanahus Manuel and Shiri Pasternak, "We Own It, So Let's Kill It: What to do About Kinder Morgan in an Era of 'Reconciliation,'" *Yellowhead Institute*, July 18, 2018: <https://yellowheadinstitute.org/2018/07/18/we-own-it-so-lets-kill-it-what-to-do-about-kinder-morgan-in-an-era-of-reconciliation/>; Veldon Coburn, "Splitting INAC: Coercive Fiscal Federalism in the Disguise of 'Reconciliation,'" *Yellowhead Institute*, June 28, 2018: <https://yellowheadinstitute.org/2018/06/28/splitting-inac-coercive-fiscal-federalism-in-the-disguise-of-reconciliation/>; Gina Starlanket and Joyce Green, "What is happening on Wet'suwet'en territory shows us that reconciliation is dead," *The Globe and Mail*, February 13, 2020: <https://www.theglobeandmail.com/opinion/article-what-is-happening-on-wetsuweten-territory-shows-us-that/>; Martin Lukacs, "Reconciliation: The False Promise of Trudeau's Sunny Ways," *The Walrus*, September 19, 2019: <https://thewalrus.ca/the-false-promise-of-trudeaus-sunny-ways/>; Leyland Cecco, "Canada Indigenous Leaders Divided over Trudeau's Pledge to Put Them First," *The Guardian*, February 18, 2018: <https://www.theguardian.com/world/2018/feb/18/canada-indigenous-first-nations-justin-trudeau-pledge-reaction>

After a false start in 2008²⁷¹ three commissioners were selected in 2009 who would steward the TRC process until its completion: Honourable Justice Murray Sinclair as Chair, Chief Wilton Littlechild and Marie Wilson. During the work of the Truth and Reconciliation Commission of Canada, the greatest emphasis was placed on truth-telling as it was believed that this truth-telling would “pave the way to reconciliation,”²⁷² as was emphasized within Schedule N of the IRSSA: the Mandate for the Truth and Reconciliation Commission of Canada. To that end, the Commission travelled the country holding National Events in Winnipeg, Inuvik, Halifax, Saskatoon, Montreal, Vancouver and Edmonton between June 2010 and March 2014.²⁷³ In addition to these National Events, the TRC augmented statement gathering by holding Regional Events in Victoria and Whitehorse, and “held 238 days of local hearings in seventy-seven communities across the country.”²⁷⁴ The public nature of these gatherings was motivated by the Commission’s objective to

reveal to Canadians the complex truth about the history and the ongoing legacy of the church-run residential schools, in a manner that fully documents the individual and collective harms perpetrated against Aboriginal Peoples, and honours the resilience and courage of former students, their families, and communities.²⁷⁵

Within these spaces, the public was invited to listen and learn from the experiences of survivors and their families. At the National Events, this occurred in large rooms and

²⁷¹ Three Commissioners were originally appointed in 2008, including the Honourable Justice Harry Laforme, Jane Brewin-Morley and Claudette Dumont Smith, but shortly resigned thereafter. (Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 23).

²⁷² Indian Residential Schools Settlement Agreement, “Goals” Schedule N Mandate for the Truth and Reconciliation Commission.

²⁷³ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 25.

²⁷⁴ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 25.

²⁷⁵ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 23.

halls with rows upon rows of chairs for the audience. Survivors and their families would share with the Commissioners on a stage, with their statements constricted to a 15-minute timeframe while being both web-broadcast on the TRC's website,²⁷⁶ and projected on large screens to the audience. The impact of this style of forum—constructing what I refer to as a *spectacle of victimhood*—is explored further in Chapter Three.

Although established through an out of court settlement agreement, the TRC was guided by a Survivors' Committee, and other Indigenous Elders and Knowledge Keepers. With their guidance, the Commission made a conscious effort to create space for Indigenous peoples, and to honour Indigenous traditions, ceremonies, ways of being and knowledges.²⁷⁷ This commitment by the TRC to privileging Indigenous ways of being and knowing is vital to aligning the work with Indigenous conceptions of justice since these processes ultimately grounded some authority within Indigenous peoples themselves, and offered opportunities for Indigenous peoples to heal, (re)build and maintain relationships with themselves and one another. In addition to the public experiences of sharing story noted above, the Commission also gathered private statements—where a team of statement gatherers sat with individuals—as well as created opportunities for Sharing Circles at National, Regional, and community hearings. In their final report, the Commission noted that they also gathered statements in correctional institutions and recognized the connection between high rates of incarceration and experiences in residential schools.²⁷⁸ Over the course of their Mandate, the Commission

²⁷⁶ Drawing over 93 350 views from at least sixty-two different countries over the course of the National Events (TRC, *Honouring the Truth*, 31.)

²⁷⁷ For more information on how the commission did this see for example: Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: Reconciliation*, vol. 6 (Montreal: McGill-Queens University Press, 2015), 162-165.

²⁷⁸ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 26.

gathered “over 6750 statements from Survivors of residential schools, members of their families, and other individuals who wished to share their knowledge of the residential school system and its legacy.”²⁷⁹

National and Regional events focused on opportunities to educate the public about residential schools and experiences within these spaces. Each of these National Events was guided by one of the Anishinaabe seven sacred teachings—Respect, Courage, Love, Truth, Humility, Honesty, and Wisdom.²⁸⁰ Ceremony occurred throughout these events and included a sacred fire that burned through the duration of the events. In addition to the sharing panels, sharing circles and private statement gathering that occurred throughout the day, there were a range of activities to participate in including film screenings, academic panels and exhibits. These events also sought to provide access to cultural and spiritual medicine for those who needed and wanted it. This included places to smudge, access to sweat lodges, and well as areas to speak with support staff. David B MacDonald notes that space at National Events was also established where survivors could receive a personal apology.²⁸¹ Honourary Witnesses participated throughout these events²⁸² and were chosen based on being accomplished and influential individuals, and included “two former governor generals, two former prime ministers, an auditor general, two genocide Survivors, and a range of other people from Indigenous and racialized

²⁷⁹ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 25.

²⁸⁰ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 30.

²⁸¹ David B MacDonald, *The Sleeping Giant Awakens: Genocide, Indian Residential Schools, and the Challenge of Conciliation* (Toronto: University of Toronto Press, 2011): 120.

²⁸² For a critique on this process of “Witnessing” as used within the TRC see David Gaertner, ““Aboriginal Principles of Witnessing” and the Truth and Reconciliation Commission of Canada,” in *Arts of Engagement: Taking Aesthetic Action in and Beyond Canada’s Truth and Reconciliation Commission*, edited by Dylan Robinson and Keavy Martin (Waterloo: Wilfred Laurier University Press, 2016).

communities.”²⁸³ Although there is some criticism that broad nature of “Aboriginal principles of witnessing” seemed to pan-Indigenize a particular coastal Indigenous practice of witnessing,²⁸⁴ it is also important to note that the commission did attempt to utilize this process through Honourary Witnesses as a way of instilling responsibility for maintaining the longevity and importance of these events and the experiences shared. This principle, when carried out in accordance with traditional protocols, can be understood as vital for continuing the work of reconciliation and justice. Further, the Commission extended their commitment to education as a part of their Mandate in the form of organized Education Days as a part of their National and Regional Events. These Education Days brought local students to the events to take part in a day of learning, drawing over 15 000 students over the course of these events.²⁸⁵

In addition to hearing the stories of survivors and their families, Schedule N mandated Canada and the churches to “provide all relevant documents in their possession or control to and for the use of the Truth and Reconciliation Commission.”²⁸⁶ Despite this legal obligation, the government of Canada made access to these documents near impossible. In their final report, the Commission noted that “Library and Archives Canada took the position that it was not required to organize and produce to the Commission up to five million documents in its possession that were directly relevant to residential schools.”²⁸⁷ The Truth and Reconciliation Commission returned to court

²⁸³ MacDonald, 122.

²⁸⁴ David Gaertner, ““Aboriginal Principles of Witnessing” and the Truth and Reconciliation Commission of Canada,” in *Arts of Engagement: Taking Aesthetic Action In and Beyond the Truth and Reconciliation Commission of Canada*, edited by Dylan Robinson and Keavy Martin (Waterloo, ON: Wilfred Laurier Press, 2016): 135-155.

²⁸⁵ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 30-31.

²⁸⁶ Indian Residential School Settlement Agreement, “Schedule N: Mandate for the Truth and Reconciliation Commission,” 2006.

²⁸⁷ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 27.

multiple times to gain access to files they were mandated to receive and to fight the destruction of IAP documents.²⁸⁸ The consistent barriers to truth put in place by the federal government—continuing years after the completion of the TRC’s work²⁸⁹—is indicative of an attempt to conceal evidence which can also be understood as an attempt to constrain and control the story that was emerging. Due to the limitations that these legal battles placed on the ability of the Commission to complete its mandate, the Commission was officially granted a one-year extension to their five-year mandate in 2014.

Six years of investigatory and witnessing work culminated in a closing ceremony held in Ottawa in June 2015. With the release of its summary report *Honouring the Truth, Reconciling for the Future*, the Truth and Reconciliation Commission found that the Indian Residential School system constituted cultural genocide.²⁹⁰ Providing an overview

²⁸⁸ For more information on this see: Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report for the Truth and Reconciliation Commission of Canada*, (Toronto: James Lorimer & Company, 2015), 27-29

²⁸⁹ See for example the recent court case in which the Government of Canada is attempting to control the records held by the Independent Residential Schools Adjudication Secretariat by blocking the creation of detailed statistical reports that would identify which residential schools were linked with abuse claims. (Jorge Barrera, “Ottawa’s Move to Block Statistical Reports on Residential Schools ‘Modern-day Colonialism’ Says Survivor,” *CBC*, May 27, 2020: <https://www.cbc.ca/news/indigenous/iap-residential-school-records-holocaust-scholar-1.5586008?fbclid=IwAR2xVBOLgZkkIPddtsVWzqZOLAM0RXGkpsA9IoF3-OWL0rNfkk79KiP3htU>)

²⁹⁰ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 1.

There is widespread debate within the field of Genocide studies about the parameters of genocide. Many scholars strictly refer to the definition laid out within the UN Convention on the Prevention and Punishment of the Crime of Genocide (UNGC) which enshrined aspects of Raphaël Lemkin’s understandings of the term. This particular adherence to the description within the UNGC fails to account for the relations of power which impacted what was omitted from the document, namely core aspects of genocide which some settler colonial states could have been found guilty of. Specifically, what was omitted from this document was Lemkin’s description of genocide as targeted at the cultural foundations of a nation – a process by which destruction of those foundations disallowed that nation to make further contributions to the world by way of its traditions, practices, and national psychology. It is evident that Lemkin believed the implications of this cultural destruction were just as grave as those of physical destruction.

In describing their understanding of cultural genocide, the Truth and Reconciliation Commission noted that “Cultural genocide is the destruction of those structures and practices that

of what they had heard over the course of their work, the Commission interspersed its 94 Calls to Action within the text, grounding each recommendation in context. In addition to their summary report and their 94 Calls to Action, the Commission also released a volume of Survivor testimonies (*The Survivors Speak*) and an outline of the principles of truth and reconciliation (*What We Have Learned*). The complete multi-volume Final Report was released on December 15, 2015.

Conditions of Possibility

The culmination of decades of Indigenous resistance and activism created a truth and reconciliation process to voice experiences within residential schools. Indigenous experiences with colonization have often shown us that settler colonial power frequently seeks to assert its power and control in all spaces of life. As Franz Fanon notes, it does so “by a kind of perverted logic, it turns to the past of the oppressed people, and distorts, disfigures, and destroys it.”²⁹¹ Although describing colonization in Africa, there are

allow the group to continue as a group. States that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted. Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly to the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next.”

While the Commission made a positive move in naming cultural genocide, the qualification of “cultural” undoubtedly lessens the severity of the term in the minds of many, particularly because it can obscure the physical loss of life that occurred within the schools. This is especially apparent when we consider the over 1000 children who have been found in unmarked graves at residential schools in 2021 alone. The focus on the cultural destruction that occurred within these spaces, while truly devastating, seems to shift focus and attention away from the reality that many lives were lost both with the walls of residential schools, and after children returned to their communities. It is also undeniable that the decision to frame residential schools as “cultural genocide” was a deliberate negotiation of the political realities in which we presently exist. To assert that residential schools constituted genocide without qualification, could bring further legal action against the Canadian Government, something that was prohibited as a part of Schedule N “The Mandate,” of the Indian Residential School Settlement Agreement.

²⁹¹ Franz Fanon, *Wretched of the Earth* (New York: Grove Press, 1963) 210.

distinct similarities to how power has operated in settler colonial contexts as well. Similar to experiences of colonization elsewhere, for generations this power has attempted to silence Indigenous histories and marginalize present Indigenous realities in public spaces in Canada. The silencing of our experiences, and the relegation of our histories to the margins of settler colonial society has allowed for settler colonial power to continue its paternalistic grip. Leanne Betasamosake Simpson notes that the oppressive extension of imperialism and the subjugation of Indigenous peoples have left many trapped individually and collectively in the victimry of the colonial assault.²⁹² In moving out of this cycle, Maori scholar Linda Tuhiwai Smith notes that “decolonization must offer a language of possibility, a way out of colonialism,”²⁹³ and in the final report of the South African Truth and Reconciliation Commission, Desmond Tutu eloquently stated: “There can be no healing without truth.”²⁹⁴

Truth commissions have been looked to as an important vehicle for illuminating dark chapters of history and long-denied experiences. They operate on a principle, as established in the mandate of the Truth and Reconciliation Commission of Canada, that “*The truth of our common experiences will help set our spirits free and pave the way to reconciliation.*”²⁹⁵ In doing so, giving voice to our experiences or recentring the stories of our lives combats what Yael Danieli refers to as the conspiracy of silence.²⁹⁶ In this context, through its victim-centred focus, truth can become a form of social

²⁹² Leanne Simpson, *Dancing on Our Turtle’s Back* (Winnipeg: Arbeiter Ring Publishing, 2011), 15.

²⁹³ L. Smith, *Decolonizing Methodologies*, 204.

²⁹⁴ Desmond Tutu, “Foreword by Chairperson,” *South African Truth and Reconciliation Commission Final Report*, vol.1, 1-23 (South Africa: Truth and Reconciliation Commission, 1998), 4.

²⁹⁵ Indian Residential Schools Settlement Agreement, “Goals” Schedule N Mandate for the Truth and Reconciliation Commission.

²⁹⁶ Yael Danieli ed, *International Handbook of Multigenerational Legacies of Trauma* (New York: Plenum Press, 1998): 4-6.

empowerment in which survivors of violence are given space to reclaim their lives and move to understand the nature of their subjugation.²⁹⁷ Or as Jonathan Allen noted, truth can become understood as a form of justice through recognition.²⁹⁸ As givers of testimony, individuals rupture silences about colonial policies of assimilation and oppression, giving voice to long-denied or stifled experiences.²⁹⁹ In situating our experiences within the language of trauma, there is, as Dian Million notes, a direct “connect[ion] to a promise for justice, since it locates blame for historical acts of colonization to present conditions in Indigenous lives.”³⁰⁰ The promise of justice and the creation of opportunities for Indigenous peoples and communities to truly represent themselves and their histories in the face of ongoing colonial violence is a powerful experience, particularly because the movement to deny Indigenous self-representation has sought to remove us from discourse while the settler colonial state simultaneously pursues our physical erasure from our homelands and waters.

In privileging and centering Indigenous epistemology and ontology, the Canadian TRC placed emphasis most strongly on hearing the truths of the Indigenous peoples. The centering of Indigenous voices has undeniably created new space for the celebration of survival through the sharing of story which Linda Tuhiwai Smith notes is an important component of decolonial practices.³⁰¹ Further, this celebration of survival can honour the holism of storytelling while creating opportunities for (re)generating balance and wellbeing in our relationships. Testimony shared in these forums offers a moment to

²⁹⁷ De Brito, Aguilar and González-Enríquez, 25.

²⁹⁸ Allen, 315 – 353.

²⁹⁹ Naomi Angel, “Before Truth: The Labours of Testimony and the Canadian Truth and Reconciliation Commission,” *Culture, Theory and Critique* 53.2 (2012), 200.

³⁰⁰ Million, *Therapeutic Nations*, 93.

³⁰¹ L. Smith, 146.

celebrate strength, courage, and survival, in which “pain is acknowledged by an official body that is not, [in theory,] constrained or controlled by the official state.”³⁰² For some, the opportunity to engage with a truth commission, to be heard and validated, can be positive and provides a significant avenue for healing. The giving of testimony also creates an opportunity for Indigenous peoples to reclaim our history, which Smith also notes is a critical step in the decolonial process.³⁰³ In her words, the power of reclaiming our history is “not simply about giving an oral account or a genealogical naming of the land and the events which raged over it, but a very powerful need to give testimony to and restore a spirit, to bring back into existence a world fragmented and dying.”³⁰⁴ These moments of reclaiming stand as powerful markers of our continued resistance, resurgence and creates opportunities for restoring balance in our relationships which is fundamental to our conceptions of justice.

Contending with Structural Limitations

Despite the strengths described above, there are a number of structural limitations that can emerge for truth commissions utilized in settler colonial contexts which should be accounted for when considering the work of truth and reconciliation commissions in Canada and Maine. As discussed in the Introduction, the work of truth commissions generally become spaces of “national myth making that may bind a community,”³⁰⁵ while seeking to build national unity. Often truth commissions, broadly speaking due to their

³⁰² Teresa Godwin Phelps, *Shattered Voices: Language, Violence and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004), 55.

³⁰³ L. Smith, 31.

³⁰⁴ L. Smith, 29-30.

³⁰⁵ De Brito, González-Enríquez and Aguilar, 26.

connection to transitional justice as a whole, become a tool by which states signal a break from the past, create legitimacy for institutions tainted by the legacy of authoritarian rule, and emphasize the ways that the new government is committed to protecting and respecting the rights of its citizens.³⁰⁶ As Richard Wilson argues, this is done through the emphasis on discontinuity with the past which allows for a claim to re-establish the basis of citizenship, and deter violence in the future.³⁰⁷ Given that truth commissions are committed to establishing and upholding the rights of citizens, one might assume that their utilization in settler colonial contexts would also necessitate an embrace of Indigenous rights of self-determination. However, through its interconnection to reconciliation, truth and reconciliation commissions are often tied to seeking national unity and connection between different societal groups as a priority.³⁰⁸ In the utilization of these mechanisms, settler colonial governments can avert public scrutiny by emphasizing their own difference from previous governments that may have appeared more genocidal. Further, there is a danger that seeking national unity silences Indigenous voices who do not subscribe to state-citizenship because they understand themselves to be self-determining nations whose existence extends far before and beyond that of the authority of the Canadian or American state.

Emerging out of a settlement agreement which brought an end to thousands of lawsuits against the federal government and the churches, the TRC of Canada was faced with particular limitations in its ability to construct a complete historical record as a result

³⁰⁶ Richard Wilson, "Justice and Legitimacy in the South African Transition," in *The Politics of Memory: Transitional Justice in Democratizing Societies*, eds. Carmen González Enríques, Alexandra Barahona de Brito, Paloma Aguilar Fernández (Oxford: Oxford University Press, 2001), 200.

³⁰⁷ Wilson, 200.

³⁰⁸ Llewellyn and Philpot, 17.

of the process of negotiating the terms of the mandate. In creating the TRC as a post-judicial body, the IRSSA included parameters that would prevent the commission from replicating a legal process. Specifically, Section 2 (b) of Schedule N expressly stated that the Commissioners “shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process,” and pursuant to this, the commission “shall not possess subpoena powers, and do not have powers to compel attendance or participation in any of its activities or events.”³⁰⁹ Although this was agreed to by the parties of the IRSSA, it is also true that these provisions constricted the ability of the Truth and Reconciliation Commission to find and make declarations of culpability. As Political Scientist Matt James has noted, the ramifications of this have resulted in an emphasis on broad collective responsibility alongside the invisibilization of individual culpability.³¹⁰ Further, the repercussions of these restrictions are also palpable in the discussion of genocide. For many, the finding of cultural genocide³¹¹ fell short in describing their experiences especially given the ways that their experiences spoke specifically to the processes laid out in the United Nations Convention on the Prevention and Punishment of Genocide.³¹² In tracing the Truth and Reconciliation Commission of Canada’s engagement with the concept of genocide, MacDonald notes that it was these particular restrictions that

³⁰⁹ Indian Residential Schools Settlement Agreement, Schedule N Mandate for the Truth and Reconciliation Commission.

³¹⁰ Matt James, “The Historical Justice Dilemma and Assigning Responsibility in the TRC Report,” *University of Victoria Department of Political Science Speakers Series*, January 26, 2021.

³¹¹ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 1.

³¹² For a more thorough unpacking of this see: David B MacDonald, *The Sleeping Giant Awakens* (Toronto: University of Toronto Press, 2019); Rachel George, “Not Just An Indigenous Problem: The Canadian Truth and Reconciliation Commission and Efforts of Reconciliation,” MA Thesis, University of Amsterdam, 2013.; Tamara Starblanket, *Suffer the Little Children: Genocide, Indigenous Nations and the Canadian State* (Atlanta: Clarity Press, 2018); Roland Chrisjohn, Sherri Young, and Michael Maraun, *The Circle Game: Shadows and Substance In the Indian Residential School Experience in Canada* (BC: Theytus Books, 1997).

prevented the Commission from releasing a finding of genocide, and that the TRC “did not pull back from a conclusion of genocide because there was insufficient evidence or an unwillingness to advance this argument.”³¹³

Restrictions to the dissemination of truth were furthered by the assertion within Section 2(h) of Schedule N that the Commission “shall not name names in their events, activities, public statements, report or recommendations, or make use of personal information or of statements made which identify a person, without the express consent of that individual.”³¹⁴ As mentioned in Chapter One, Priscilla Hayner notes that there are two distinct arguments around naming names within a truth and reconciliation commission process: one focussing on due process, and the other on complete truths. The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission ultimately found that while the Commission could not pursue criminal or civil claims, or grant immunity from such claims, that should not restrict individuals from sharing their complete truths, including names. The Truth and Reconciliation Commission of Canada was strictly prohibited from doing this, resulting in a more constricted process that prevented some from voicing their full story including the names of those who harmed them.³¹⁵

As a post-judicial body some of the scope of the work of Truth and Reconciliation Commission of Canada was constrained by the negotiated terms of Schedule N of the IRSSA. Although these terms were ultimately agreed to by the parties of the IRSSA, it is

³¹³ MacDonald, 107.

³¹⁴ Indian Residential Schools Settlement Agreement, Schedule N Mandate for the Truth and Reconciliation Commission.

³¹⁵ It is important to note that while the Mandate prohibited the naming of names, some survivors chose to name the perpetrators of violence as an act of resistance.

also true that these terms put boundaries on what could and could not be examined through their investigation. I note this in contrast to the mandate of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission—also developed by representatives of Indigenous nations, and the state—which included lines that allowed the Commission to examine the more interconnected nature of Indigenous child removal within settler colonial policy. Specifically in the case of the Truth and Reconciliation Commission of Canada, the Commission was called to focus explicitly on “Residential School experiences, impacts and consequences.”³¹⁶ While it is certainly important to provide a commission with a manageable and achievable mandate, the phrasing within Schedule N could be seen to have strangled the ability of the Commission to fully examine and situate the residential school policy within the breadth of settler colonial policies of elimination.

Despite this, the TRC of Canada did attempt to push the boundaries of their mandate by opening their final report with an acknowledgment that “for over a century, the central goals of Canada’s Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious and racial entities in Canada.”³¹⁷ However, it is important to note that this brief summary can hardly be thought to constitute a fulsome examination of the settler colonial violence of which residential schools are a part. Further, there still remains a particular danger in the periodization within the mandate of the TRC since, as Onur Bakiner argues

³¹⁶ Indian Residential Schools Settlement Agreement, Schedule N Mandate for the Truth and Reconciliation Commission, 1.

³¹⁷ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 1.

about truth commissions more generally, periodization “affects not only which crimes are covered by the commission’s mandate, but also the kind of historical narrative that can be produced.”³¹⁸ In other words, a line is drawn between a past violent society, and the supposed creation of a new just present characterized by reconciliation.³¹⁹ This break between a violent past and a more just present could further reinforce the myth of a current, tolerant state³²⁰ and generate false complacency for settlers by creating an assumption that violence has ended due to the fact that residential schools are no longer in operation within Canada. This is furthered by the fact that the opening of the TRC’s Final Report could be read as indicating these policies are located specifically within the past thus potentially failing to establishing a connection to ongoing colonial violence.

While there is power in giving voice to our experiences, truth commissions addressing settler colonial violence can engage with truth in problematic ways. Alfred and Corntassel note that there is danger in allowing colonialism to become the only narrative of Indigenous lives.³²¹ The sole focus of truth and reconciliation commissions on injustice casts Indigenous peoples as victims whose experiences are strictly held in relation to colonialism. Not only does this constructed narrative erase the resiliency and resurgence of our communities, it holds settler power as the fundamental reference and assumption³²² thereby dissolving our agency. Harm is reduced to a singular past policy—whose foundations in historical and ongoing genocidal settler colonial logic can often

³¹⁸ Bakiner, 51.

³¹⁹ Naomi Angel, “Before Truth: The Labors of Testimony and the Canadian Truth and Reconciliation Commission,” *Culture, Theory and Critique* 53.2 (2012): 199-214.

³²⁰ Angel, 204.

³²¹ Taiaiake Alfred and Jeff Corntassel, “Being Indigenous: Resurgences Against Contemporary Colonialism,” *Government and Opposition* 40.4 (2005): 601.

³²² Alfred and Corntassel, 601.

escape many who engage with a truth and reconciliation commission. In these spaces, truth becomes constructed as within the past, devoid of connection to ongoing colonial territorial theft and violence. These instances of reconciliation can become strangled by state mandates and restrictions that seem to advance the notion of *truth as justice*, where the ability to speak to specific violence can be viewed as justice,³²³ without necessarily resulting in change to the colonial structures that continue to facilitate violence. The emphasis on closure constructs truth as an entity of the past and has the potential to allow settlers to distance themselves thereby occupying a space of absolution.³²⁴ Put differently, as Roger Simon stressed “hearing the stories of former residential school students as narratives of victimhood also increases the likelihood of a dissociative splitting off in which listening accords no need to take on a sense of responsibility for a social future that would include those whose stories one is listening to.”³²⁵ While the danger of listening to

³²³ As discussed in the introduction, de Brito, González-Enríquez and Aguilar, note this in their discussion of the role of truth in truth commissions. More specifically they note that truth can be understood as a form of “justice as recognition, acknowledgement or admission,” (de Brito, González-Enríquez and Aguilar, 25. This is also noted by Jonathan Allen, “Balancing Justice and Social Unity: Political Theory and the Idea of a Truth and Reconciliation Commission,” *University of Toronto Law Journal* 49(1999): 315 – 353.

³²⁴ See for example: Jeff Corntassel, Chaw-win-is and T’lakwadzi, “Indigenous Storytelling, Truth-telling and Community Approaches to Reconciliation,” *ESC: English Studies in Canada* 35.1 (March 2009: 137-159.; Paulette Regan, *Unsettling the Settler Within* (Vancouver: University of British Columbia Press, 2010).

In this particular piece, Jeff Corntassel, Chaw-win-is and T’lakwadzi note in their examination of the Truth and Reconciliation Commission of Canada that “state applications of reconciliation tend to relegate all committed injustices to the past while attempted to legitimate the status quo” (145).

Paulette Regan also discusses this as a criticism that has been raised about the Truth and Reconciliation Commission of Canada, noting that some view it as a “mass public exercise in either inducing or alleviating settler guilt” (10). She also notes that “to [her] mind, Canadians are still on a misguided, obsessive and mythical question to assuage colonizer guilt by solving the Indian problem,” (11) and in doing so, attention is directed away from considering how one might need to decolonize oneself as a settler. Finally, in drawing on Roger Simon and Ravi De Costa’s work, Regan notes that it critical to consider how the TRC might avoid appropriating Indigenous pain in “ways that enable non-Indigenous people to feel good about feeling bad but engender no critical awareness of themselves of colonial beneficiaries who bear a responsibility to address the inequities and injustices from which they have profited,” (47).

³²⁵ Roger I. Simon, “Towards a Hopeful Practice of Worrying: The Problematics of Listening and Educative Responsibilities of Canada’s Truth and Reconciliation Commission,” *Reconciling*

Indigenous stories in this capacity is discussed in greater length in Chapter Three as it relates to both the Truth and Reconciliation Commission of Canada, and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, it is important to note here that this disassociation shifts culpability and has the potential to craft truth and reconciliation commissions as a “‘politics of distraction,’ yet another exercise of ‘affirmative repair’ or ‘settler magic’ aimed at staving off demands for the restitution of stolen lands.”³²⁶ This runs the risk of performative morality wherein the existence of a truth and reconciliation commission can be seen as action enough without substantial change to the paternalistic relationship that gave rise to the violence in the first place.

If we understand that the Truth and Reconciliation Commission of Canada exists because of Indigenous demands for justice and an end to harmful practices, then it is vital that our principles of justice are reflected in the work and afterlife of the Truth and Reconciliation Commission. While the Commission made many strides to reflect back Indigenous conceptions of justice throughout their process, such as including spiritual practices were possible and relevant, it is also important to note where outside factors impacted the work of reconciliation during and after Commission’s work and release of their final report. The parameters that were implemented as a result of the Indian Residential Schools Settlement Agreement certainly impacted the truth that could emerge through the work of the Truth and Reconciliation Commission and perhaps concealed for some the ongoing realities of the settler colonial relationship in Canada. In considering

Canada: Critical Perspectives on the Culture of Redress, edited by Jennifer Henderson and Pauline Wakeham (Toronto: University of Toronto Press, 2013): 132

³²⁶ James, “A Carnival of Truth?” Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission,” 189.; See also: Andrew Woolford, “The Limits of Justice: Certainty, Affirmative Repair and Aboriginality,” *Human Rights Review* 3.4 (2004): 429-444.

some of the guiding principles of truth and reconciliation in their volume *What Have We Learned*, the Commissioners' noted that "reconciliation must support Aboriginal peoples as they heal from the destructive legacies of colonization."³²⁷ While it is vital that this healing occurs, it is also essential to understand, as Indigenous peoples have continued to stress, that these are not merely destructive legacies, but present and ongoing realities of a continued paternalistic relationship. With an understanding that justice flows from an end to harm and an ability to practice and maintain healthy relationships in all of their capacities, we can conclude from an Indigenous conception of justice that it is vitally important for reconciliation to embody justice in its supporting Indigenous peoples in our healing—as noted by the TRC Commissioners—but it must also result in an end to harmful paternalistic relationships between Indigenous nations and the state which have given rise to violence in the first place.

Palatable Indigeneity and Drawing in the 'Other'

Along with their multi-volume report tracing the history of residential schools and their legacy, the Truth and Reconciliation Commission of Canada released 94 Calls to Action. These recommendations were viewed as concrete actions that could be taken for societal change. The Calls to Action were split into two overarching categories—the Legacy and Reconciliation—and were directed at various subsections of society thus attempting to advance the notion that all of society has a role to play in reconciliation. In an effort to address the legacy of residential schools, recommendations focused on child

³²⁷ Truth and Reconciliation Commission of Canada, *What We Have Learned*, 114.

welfare, education, language and culture, health, and justice. The recommendations made under Reconciliation were aimed at making long-term improvements to the relationship between Canadians and Indigenous peoples. In order to contextualize these recommendations, the TRC released ten Principles of Reconciliation as the foundational work upon which to implement the Calls to Action. Among these, the Commission asserted that 1) “the *United Nations Declaration on the Rights of Indigenous Peoples* is the framework for reconciliation at all levels and across all sectors of Canadian society,” and 2) “First Nations, Inuit, and Métis peoples, as the original peoples of this country and as *self-determining peoples*, have Treaty, constitutional, and human rights that must be respected,”³²⁸ (my emphasis).

Although the Commission’s guiding principles of reconciliation emphasized the self-determination of Indigenous peoples and the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation, federal governmental action on the TRC’s Calls to Action seems to suggest that these principles have largely been pushed aside for a version of reconciliation that more easily fits within the Canadian state’s operationalization of multiculturalism. It is possible that this is driven by competing narratives of reconciliation which have influenced the large-scale enactment of reconciliation in Canada to proceed along a trajectory that is not deeply informed by guiding principles that honour Indigenous self-determination as vital to Indigenous conceptions of justice, and instead moves to recuperate settler colonial power to manage difference. Further, many of the Calls to Action can largely be categorized as policy changes aimed at “closing the gap” between Indigenous peoples and Canadians which

³²⁸ Truth and Reconciliation Commission of Canada, *What We Have Learned: Principles of Truth and Reconciliation*, (Winnipeg: Truth and Reconciliation Commission of Canada, 2015): 3.

may advance their utilization within the diversity recognition of multiculturalism. This is not to say that measures to “close the gap” are not important, but to draw attention to the possible benefit they serve in multiculturalism while Indigenous self-determination continues to be sidelined which I will discuss below. The risk therein lays in that through a connection to a policy of multiculturalism, improvement is not sought for the benefit of Indigenous justice and self-determination but instead for an improved global image while simultaneously silencing the place-based rights of Indigenous peoples thereby advancing *palatable Indigeneity*. Our relationality—with each other, with our territories, and with other beings over time—remains fundamental to our self-determination and vital to our understandings of justice.

Many scholars have traced the structural importance of multiculturalism in Canadian identity formation.³²⁹ Canadians have long positioned themselves as the antithesis of Americans, priding themselves as tolerant, benevolent,³³⁰ defenders of human rights. This tolerance is embodied in multiculturalism and the embrace of the other within the “cultural mosaic.” Eva Mackey argues that this myth of tolerance offers a “narrative of nationhood”³³¹ that marks Canadian society as innately different than their southern neighbours who have embraced the cultural “melting pot.” This narrative of nationhood also provides legitimacy wherein Indigenous peoples play an important role in the nationalist myth as “the recipients of benevolence, the necessary ‘others’ who

³²⁹ See for example: Will Kymlicka, “Being Canadian,” *Government and Opposition* 38.3 (Summer 2003): 357-385; Richard Day, *Multiculturalism and the History of Canadian Diversity* (Toronto: University of Toronto Press, 2000); Eva Mackey, *The House of Difference* (Toronto: University of Toronto Press, 2002); Rita Dhamoon, *Identity/Difference Politics: How Difference is Produced and Why it Matters* (Vancouver: UBC Press, 2009).

³³⁰ See for example: Regan, *Unsettling the Settler Within*.

³³¹ Eva Mackey, *House of Difference: Cultural Politics and National Identity in Canada* (Toronto: University of Toronto Press, 2002): 2.

reflect back white Canada's self-image of tolerance."³³² While this particular narrative is rooted in falsehood—and despite the growing body of evidence that speaks to the ways the nation “was founded on a practice of psychological terrorism and theft”³³³—the myth of tolerance persists for its maintenance of settler colonial power.

This myth of tolerance, embodied in Canadian policies of multiculturalism, is central not only because it offers a creation story that marks national difference and the cultural core of Canada. It is central for the ways it reifies settler-colonial power as the regulating body that determines the parameters of inclusion and exclusion, and advances the market liberalism. As Rita Dhamoon has argued in her exploration of liberal multiculturalism's preoccupation with culture, cultural diversity in this context can “mask the desire to use and exploit the intellectual, linguistic, and material capacities of Othered subjects in order to maximize the benefits of a market-driven economy.”³³⁴ As such, the consumption of diversity and the other is advanced as a benefit to the stability and profitability of the nation-state. As Sara Ahmed has argued, “this model of cultural diversity reifies difference as something that exists ‘in’ the bodies or culture of others such that difference becomes a national property: if difference is something ‘they are,’ then it is something we ‘can have.’”³³⁵ Of course, the harm of this process is that it advances the consumption of the other while obscuring the relations of power that persist.

As the settler colonial state reconfigures its power in an age of truth as a result of Indigenous demands for justice—emerging from the disclosure of Indigenous

³³² Mackey, 2.

³³³ Episkenew, 5.

³³⁴ Rita Dhamoon, *Identity/Difference Politics: How Difference is Produced and Why it Matters* (Vancouver: UBC Press, 2009):38.

³³⁵ Sara Ahmed, “The Language of Diversity,” *Ethnic and Racial Studies* 30.2 (2007): 235.

experiences in residential school—the federal government’s response seems to indicate that their understanding of reconciliation has intersected with policies of multiculturalism. Following the release of these Calls to Action, the Liberal Party under Justin Trudeau vowed to implement all 94 Calls to Action, suggesting that meaningful reconciliation can only occur “when we live up to our past promises and ensure the equality of opportunity required to create a fair and prosperous shared future.”³³⁶ The Calls to Action remained at the forefront of public consciousness following their release, finding a prominent place in the campaign platforms of the Liberal party and the New Democratic Party. Reconciliation became a rally cry of Justin Trudeau as he rose in the polls, and was elected as Prime Minister in October 2015. Once elected, reconciliation was a guiding principle in all Ministerial letters and Trudeau once again promised to implement all 94 Calls to Action. Over the course of his leadership, Trudeau has claimed time and time again that “no relationship is more important to our government and to Canada than the one with Indigenous peoples.”³³⁷ The federal government’s centering of a continued commitment to reconciliation and implementing the TRC’s Calls to Action has positioned the TRC and its Calls to Action as an embodiment of justice and improved relations between Indigenous and non-Indigenous Canadians. As Dene scholar Glen Coulthard notes in *Red Skin, White Masks*, “reconciliation politics” have converged with a slightly older “politics of recognition,” advocating that institutions recognize and

³³⁶ Justin Trudeau, “Liberals Call for Full Implementation of Truth and Reconciliation Commission Recommendations,” *Liberal*, June 2, 2015: <https://www.liberal.ca/liberals-call-for-full-implementation-of-truth-and-reconciliation-commission-recommendations/>

³³⁷ Justin Trudeau, “Statement by the Prime Minister of Canada on National Aboriginal Day,” June 21, 2016, <https://pm.gc.ca/en/news/statements/2016/06/21/statement-prime-minister-canada-national-aboriginal-day>

accommodate Indigenous cultural difference as an important means of reconciling the colonial relationship between Indigenous peoples and the state.³³⁸

Despite the federal government’s near constant invocation of reconciliation, their engagement with the TRC’s Calls to Action and with reconciliation generally leaves much to be desired. In the fall of 2016, Ian Mosby—a settler scholar based at Ryerson University—began to trace the Calls to Action of the TRC and their stages of implementation.³³⁹ Emerging from a concern that “the Calls to Action would go the way of the 444 recommendations of the Royal Commission on Aboriginal peoples. That is to say, nowhere,”³⁴⁰ the update on the Calls to Action became an annual project with Eva Jewell partnering on the project in 2019 to offer a more robust analysis. Motivated by a desire to hold the Government of Canada accountable to the promises made, Mosby’s first analysis found that only five of the 94 recommendations had been completed,³⁴¹ “one by the federal government, two by the churches, one by a Crown Corporation and a final by a non-profit organization.”³⁴² The completion rate of the TRC Calls to Action has continued to be slow with only seven being completed by October 2017, eight completed by November 2018 and nine completed by December 2019.³⁴³ In 2018, the Canadian Broadcast Corporation also began to track progress on the Calls to Action, releasing their

³³⁸ Glen Coulthard, *Red Skin, White Masks* (Minnesota: University of Minnesota Press, 2014), 106.

³³⁹ Shari Narine, “TRC Calls to Action Update After 500-plus days since Trudeau’s promise,” *Windspeaker*, October 26, 2016: <https://www.windspeaker.com/news/windspeaker-news/trc-calls-to-action-update-after-500-plus-days-since-trudeaus-promise/>

³⁴⁰ Eva Jewell, and Ian Mosby “Calls to Action Accountability: A Status Update on Reconciliation,” *Yellowhead Institute*, December 17, 2019: <https://yellowheadinstitute.org/2019/12/17/calls-to-action-accountability-a-status-update-on-reconciliation/>

³⁴¹ Narine.

³⁴² Jewell and Mosby, “Calls to Action Accountability: A Status Update on Reconciliation,” 2

³⁴³ Jewell and Mosby, “Calls to Action Accountability: A Status Update on Reconciliation.”

interactive website *Beyond 94*. Crown-Indigenous Relations and Northern Affairs Canada also offers some tracking on their completion of the TRC Calls to Action, as does the Assembly of First Nations which utilizes a stop light system to track progress.³⁴⁴ While these other reporting sites exist, I draw from the annual reports released by Eva Jewell and Ian Mosby for a number of reasons. Firstly, their reports tend to be the most comprehensive offering an in-depth annual accounting of action and inaction on the TRC Calls to Action. Second, I find that tracking progress on the TRC Calls to Action, instead of marking them as complete and incomplete as Jewell and Mosby do, can be misleading since some Calls to Action have been stalled in progress such as the call for the creation of a National Council for Reconciliation which the TRC Commissioners identified as crucial to their findings and the TRC Calls to Action.³⁴⁵ Finally, I believe that 5 years is more than enough time to consider completion rates on the TRC Calls to Action rather than rates of progress if we are to believe the Trudeau government's claims that "no relationship is more important to our government and to Canada than the one with Indigenous peoples."³⁴⁶

In the most recent status update on the Calls to Action released by Eva Jewell and Ian Mosby in December 2020, they revised their previous report based on feedback which criticized their and CBC's *Beyond 94*'s marking of Call to Action 90 as

³⁴⁴ Assembly of First Nations, *Progress on Realizing the Truth and Reconciliation Commission's Calls to Action*, 2020: https://www.afn.ca/wp-content/uploads/2020/12/2020_TRC-Report-Card_ENG.pdf

³⁴⁵ Murray Sinclair quoted in "Truth and Reconciliation, Five Years Later, *APTN InFocus*, December 2020: https://www.aptnnews.ca/truth-and-reconciliation-five-years-later/?fbclid=IwAR0GKJ4FgduzntmZjI7_3GT7U2Si8dS9cj1Tyx56UEud_D8XJa0aDHwZFW8

³⁴⁶ Justin Trudeau, "Statement by the Prime Minister of Canada on National Aboriginal Day," June 21, 2016, <https://pm.gc.ca/en/news/statements/2016/06/21/statement-prime-minister-canada-national-aboriginal-day>

complete.³⁴⁷ As a result, Jewell and Mosby moved the completed Call to Action count back to eight, and emphasized that “in 2019, we noted that at the rate of 2.25 calls completed each year, we could only hope to see substantial change over nearly four decades (we projected the completion of Calls to Action to be in 2057). Unfortunately, with the regression of this year’s reconciliation update, it could take longer, at least another generation,” leading them to wonder if reconciliation would occur by 2074.³⁴⁸ In their analysis, Jewell and Mosby found that only Calls to Action 13, 41, 48, 49, 72, 83, 85 and 88 had been completed, with not a single Call to Action completed in 2020.³⁴⁹ Although 2020 brought new challenges as the country faced the global COVID-19 pandemic, Jewell and Mosby argue that this reality “actually presents a greater urgency to address the Calls to Action rather than an excuse for leaving them incomplete,” since addressing these Calls to Action could have mitigated some of the unique circumstances which faced Indigenous communities during the crisis.³⁵⁰

From this particular analysis of the completed Calls to Action, the federal government has only completed three Calls to Action (13, 41 and 72), with the remaining completed Calls to Action being addressed by other sectors of Canadian society including churches party to the IRSSA, religious denominations, APTN and the Canada Council for the Arts. Aside from this dismal movement on completing the TRC Calls to Action, it is worth noting that the completed Calls to Action are some that can be viewed as

³⁴⁷ Eva Jewell and Ian Mosby, “Calls to Action Accountability: A 2020 Status Update on Reconciliation,” *Yellowhead Institute*, December 2020: <https://yellowheadinstitute.org/wp-content/uploads/2020/12/yi-trc-calls-to-action-update-full-report-2020.pdf>

³⁴⁸ Jewell and Mosby, “Calls to Action Accountability: A 2020 Status Update on Reconciliation,” 20.

³⁴⁹ Jewell and Mosby, “Calls to Action Accountability: A 2020 Status Update on Reconciliation,” 5.

³⁵⁰ Jewell and Mosby, “Calls to Action Accountability: A 2020 Status Update on Reconciliation,” 6.

benefiting multicultural policies of diversity and inclusion including: federal acknowledgement of Indigenous language rights (#13), reconciliation agenda for the Canada Council for the Arts (#83), and long-term support from all levels of government for North American Indigenous Games (#88). The slow and relatively superficial engagement with these action items seems to suggest a larger trend in society to situate justice within the confines of multicultural accommodation.

Since the focus here is largely on the federal government's action on the TRC's Calls to Action, I will direct my attention to Call to Action 13 specifically. Call to Action 13 was marked as completed in 2019 with the passing of the *Indigenous Languages Act* wherein it is recognized that Indigenous peoples have a right to their respective languages. While this can be seen as an important step, the Act itself is not without criticism as some Indigenous scholars have noted that the Act does not match the same level of obligations and enforcement mechanisms found in the Official Languages Act or the Charter of Rights and Freedoms.³⁵¹ In theory, the passing of this Act also begins to lay the groundwork for the completion of Call to Action 14 provided sufficient funding is made available which accounts for the diversity of Indigenous languages. When disconnected from other TRC Calls to Action which foreground Indigenous self-determination and the UNDRIP as a fundamental framework for reconciliation—and by extension justice—action on this particular set of Calls to Action can be viewed as benefiting broader policies of multiculturalism which celebrate diversity and inclusion. For example, Call 14.1 notes that: “Aboriginal languages are a fundamental and valued

³⁵¹ See for example: Lorena Sekwan Fontaine, David Leith and Andrea Bear Nichols, “How Canada’s Proposed Indigenous Languages Act Fails to Deliver,” *Yellowhead Institute*, May 9, 2019: <https://yellowheadinstitute.org/2019/05/09/how-canadas-proposed-indigenous-languages-act-fails-to-deliver/>

element of *Canadian culture and society*”³⁵² (my emphasis). Through this affirmation and when disconnected from any action on the TRC Calls to Action on Indigenous self-determination, Indigeneity—as expressed through language—is disassociated from Indigenous nations and encapsulated within Canadian society and subsequently positioned to form a part of Canadian national identity. This is not to say that recommendations focused on language revitalization are not important, but to draw attention to the danger and harm of attempting to remove Indigenous languages as an integral part of our nationhood, and into a Canadian multicultural identity. In this context the creation of spaces to celebrate cultural expressions of Indigeneity can be understood as a mechanism by which Indigenous peoples, through multiculturalism, are brought into the fold of Canadian society.

In their analysis, Jewell and Mosby identify three main barriers to the completion of the Calls to Action. While the COVID-19 global pandemic may have slowed the progress on these Calls to Action, they note that the underlying barriers they identified in 2019 remain to this day.³⁵³ More specifically they note these challenges as:

1. a vision among policy makers of the “public interest” as generally excluding Indigenous peoples;
2. the deep rooted paternalistic attitudes of politicians, bureaucrats, and other policy makers, and;
3. the ongoing legacy and reality of structural anti-Indigenous racism.³⁵⁴

³⁵² Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: Reconciliation*, vol. 6 (Montreal: McGill-Queens University Press, 2015), 255.

³⁵³ Jewell and Mosby, “Calls to Action Accountability: A 2020 Status Update on Reconciliation,” 6.

³⁵⁴ Jewell and Mosby, “Calls to Action Accountability: A 2020 Status Update on Reconciliation,” 6.

These points are particularly poignant as they also indicate that slow progress on the completion of the TRC's Calls to Action seem to suggest that "public interest" continues to be viewed in opposition to the interests of Indigenous peoples.³⁵⁵ More specifically Jewell and Mosby argue that "the Public Interest, it seems, is always defined as being the interests of non-Indigenous public that benefits from the direct violation of treaty relationships and exploitation of Indigenous lands."³⁵⁶ The continuation of a paternalistic relationship, structural anti-Indigenous racism and the positioning of Indigenous interests at odds with the "Public Interests," as identified by Jewell and Mosby, are certainly strong contributing factors to inaction on the TRC Calls to Action. Yet, what I argue is that the action we have seen moves to indicate a trajectory for reconciliation that is disconnected from principles of self-determination outlined by the TRC, and Indigenous conceptions of justice—which emphasize an end to harms and the health, balance and maintenance of all of our relationships. Instead, action on the TRC Calls to Action seems to suggest the existence of a narrative of reconciliation which seeks to advance multicultural accommodation while sidelining the breadth of Indigenous self-determination.

This trajectory is further evident in the depth of the Government of Canada's dealings with the United Nations Declaration on the Rights of Indigenous Peoples which was a vital component of the TRC's Calls to Action. After first voting against the UNDRIP in 2007, and later offering qualified support for it as an "aspirational document" in 2010, the government of Canada has frequently changed its position on the rights of

³⁵⁵ Jewell and Mosby, "Calls to Action Accountability: A Status Update on Reconciliation," *Yellowhead Institute Policy Brief*, December 2019: 5.

³⁵⁶ Jewell and Mosby, "Calls to Action Accountability: A Status Update on Reconciliation," *Yellowhead Institute Policy Brief*, December 2019: 5.

Indigenous peoples. In May 2016, Carolyn Bennet announced Canada's unqualified support of UNDRIP, promising its full implementation at the United Nations Permanent Forum on Indigenous Issues.³⁵⁷ Not only was this called for in the Canadian TRC's Calls to Action, which the Trudeau government promised to fully implement, but the centrality of implementing UNDRIP has remained a cry from Indigenous communities since its adoption in 2007 and can be understood as important to our conceptions of justice since the document itself also emphasizes the importance of our self-determination and by extension the health and maintenance of all of our relationships. However, the promise to fully implement UNDRIP is immediately qualified by the suggestion that the upper limit of compliance is already in place within the Canadian system embodied in Section 35 of the Canadian Constitution, a notion which many Indigenous peoples in Canada would balk at. The Canadian government later reneged on its promise by asserting that UNDRIP could not be implemented into Canadian law as is³⁵⁸ and would require consultation.³⁵⁹

Further, Bill C-262, an Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples—first tabled by 2016 by MP Romeo Saganash—has been a drawn out process marked by controversy, including the admonishment of two Conservative MPs who high-fived each other after

³⁵⁷ Carolyn Bennett, "Statement," The Fifteenth Session of the United Nations Permanent Forum on Indigenous Issues, (speech, New York, NY, 10 May 2016).

³⁵⁸ APTN National News, "Justice Minister Jody Wilson-Raybould says adopting UNDRIP into Canadian law 'unworkable,'" *APTN National News*, 12 July, 2016, <http://aptn.ca/news/2016/07/12/justice-minister-jody-wilson-raybould-says-adopting-undrip-into-canadian-law-unworkable/>

³⁵⁹ This consultation is inherently problematic as it embodies the continuation of colonial power dynamics. Take for example the Canadian governments approach to "free, prior, and informed consent." The government as asserted that by holding a forum where Indigenous peoples express their concerns, they have "consulted" with Indigenous communities. However, this does not hold them to respond to these concerns, or to change policy based the rejection of Indigenous communities. The recent approval of the Kinder Morgan Trans Mountain pipeline, despite the rejection by numerous First Nations, is case and point.

voting against the bill in May 2018.³⁶⁰ Although the Bill passed the House and was sent to the Senate for review, it was essentially left to die after being stalled at the Senate Standing Committee on Aboriginal Peoples in 2019.³⁶¹ In December 2020, the Trudeau Government tabled Bill C-15, the United Nations *Declaration on the Rights of Indigenous Peoples* (UNDRIP) Act. In early June 2021, Bill C-15 moved to the Senate for review and was passed in a final tally of 61-10 with nine senators abstaining.³⁶² Bill C-15 received formal royal assent on June 21, 2021.

Although Bill C-15 receiving royal assent is a monumental achievement with the potential to foster change in the relationships between Indigenous peoples and the government of Canada, it is important to note that this Bill provides the framework for implementation,³⁶³ and there are many remaining steps including working with Indigenous peoples to ensure Canadian laws are consistent with the Declaration, and developing and implementing an action plan.³⁶⁴ Further there is also some cause for pause based on the rollout of Bill 41: Declaration on the Rights of Indigenous Peoples Act (DRIPA) in British Columbia. In particular, as Judith Sayers points out about the

³⁶⁰ Maham Abedi, “‘Immature’: Tory MPs Slammed for High-Five After Vote Against Indigenous Rights Bill,” *Global News*, June 5, 2018: <https://globalnews.ca/news/4253584/conservative-mps-high-five-indigenous-rights/>

³⁶¹ For detail see: Justin Brake, “‘Let Us Rise with More Energy’: Saganash Responds to Senate Death of C-262 as Liberals Promise, again, to legislate UNDRIP,” *APTN National News*, June 24, 2019: <https://www.aptnnews.ca/national-news/let-us-rise-with-more-energy-saganash-responds-to-senate-death-of-c-262-as-liberals-promise-again-to-legislate-undrip/>

³⁶² APTN National News, “Senate passes bill to implement United Nations Declaration on the Rights of Indigenous Peoples,” *APTN National News*, June 16, 2021: <https://www.aptnnews.ca/national-news/undrip-indigenous-peoples-canada-senate/>; Senate of Canada, “Votes: 43rd Parliament, 2nd Session (September 2020 – Present),” *Senate of Canada: Votes*, accessed July 3, 2021: <https://sencanada.ca/en/in-the-chamber/votes>

³⁶³ The Global Indigenous Rights Research Network, “Bill C-15 and the Implementation of Indigenous Peoples’ Human Rights in Canada,” report, accessed July 3, 2021: [https://static1.squarespace.com/static/5ac510114611a0bcce082fac/t/609e934f9a60393bf9485bc7/1621005143989/Bill+C-](https://static1.squarespace.com/static/5ac510114611a0bcce082fac/t/609e934f9a60393bf9485bc7/1621005143989/Bill+C-15+and+the+Implementation+of+Indigenous+Peoples%E2%80%99+Human+Rights+in+Canada.pdf)

[15+and+the+Implementation+of+Indigenous+Peoples%E2%80%99+Human+Rights+in+Canada.pdf](https://static1.squarespace.com/static/5ac510114611a0bcce082fac/t/609e934f9a60393bf9485bc7/1621005143989/Bill+C-15+and+the+Implementation+of+Indigenous+Peoples%E2%80%99+Human+Rights+in+Canada.pdf)

³⁶⁴ The Global Indigenous Rights Research Network, 4-5.

DRIPA process, being true to the principles of UNDRIP requires consultation and joint decision-making with each First Nation.³⁶⁵ While the provincial government noted that they worked with Indigenous organizations and modern treaty Nations, “most First Nations did not see a draft of the Action Plan nor had input into it, as they were promised,” and provincial government went on to table three bills to amend laws without informing First Nations nor seeking their input, thus indicating to BC First Nations that the province is not serious about DRIPA.³⁶⁶ This approach could cause potential concern for implementation of the Declaration on a national scale since the government of Canada frequently looks to consultation with large Indigenous organizations such as the Assembly of First Nations rather than working directly with each individual Indigenous nation. Finally, free, prior and informed consent (UNDRIP articles 11, 19, 28, 29, 32) remains a contentious issue as the Government of Canada has been clear in its assertion that free, prior and informed consent (FPIC) does not grant a veto right to Indigenous nations on natural resource extraction projects.³⁶⁷ In other words, although UNDRIP notes that Indigenous peoples have the right to free, prior and informed consent—the right to say yes, no, or yes with conditions—in practice the Government of Canada has often taken this to mean that Indigenous peoples do not have the right to say no if projects are deemed to be in the “public interest.” Instead, as noted in the Yellowhead Institute’s *Land Back* Red Paper, the Duty to Consult is frequently understood as meeting

³⁶⁵ Judith Sayers, “Opportunities and Barriers for the BC Declaration of Rights Act,” in *The UN Declaration on the Rights of Indigenous Peoples in Canada: Lessons from BC*, edited by Hayden King, (December 2020): <https://yellowheadinstitute.org/wp-content/uploads/2020/12/yellowhead-institute-bc-undrip-report-12.20-compressed.pdf>

³⁶⁶ Sayers, “Opportunities and Barriers,” 14.

³⁶⁷ *National Observer*, “Indigenous rights and Trans-Mountain: In-depth with Prime Minister Justin Trudeau,” *National Observer*, August 31, 2018: <https://www.nationalobserver.com/2018/08/31/news/indigenous-rights-and-trans-mountain-depth-prime-minister-justin-trudeau>

the requirements of free, prior and informed consent,³⁶⁸ thus potentially continuing to pit Indigenous self-determination against what is perceived as the “public interest” previously discussed above.

On December 15, 2020—the five-year anniversary of the release of the TRC’s Final Report—the Commissioners of the TRC issued a statement and participated in interviews reflecting on the work of the Commission, and the implementation of the TRC Calls to Action. In the *Aboriginal Peoples’ Television Network’s* (APTN) InFocus special “Truth and Reconciliation Five Years Later,” former Chief Commissioner, and now Senator, Murray Sinclair noted that when they delivered the final report and the 94 Calls to Action “we hoped [that] would change the fabric of Canada forever and bring forward important changes in Canada’s relationship with Indigenous peoples.”³⁶⁹ In their public statement, the Commissioners have noted some of the pockets of change within Canadian society such as implementing new curriculum in schools, but noted that the “essential foundations for reconciliation have yet to be implemented, despite government commitments. In some jurisdictions, there is danger of losing gains that have been made.”³⁷⁰ This is clearly evident for example in Alberta where Premier Jason Kenney and his Education Minister just severely rolled back the curriculum in the province in early 2021. It is the slow movement on the TRC’s 94 Calls to Action from the federal

³⁶⁸ Hayden King, Shiri Pasternak, and Riley Yesno, *Land Back: A Yellowhead Institute Red Paper*, October 2019: <https://redpaper.yellowheadinstitute.org/wp-content/uploads/2019/10/red-paper-report-final.pdf>

³⁶⁹ Murray Sinclair quoted in “Truth and Reconciliation, Five Years Later, *APTN InFocus*, December 2020: https://www.aptnnews.ca/truth-and-reconciliation-five-years-later/?fbclid=IwAR0GKJ4FgduzntmZjI7_3GT7U2Si8dS9cj1Tyx56UEud_D8XJa0aDHwZFW8

³⁷⁰ Senator Murray Sinclair, Chief Wilton Littlechild and Dr. Marie Wilson, “Public Statement on the Fifth Anniversary of the Final Report of the Truth and Reconciliation Commission of Canada,” *National Centre for Truth and Reconciliation*, December 15, 2020: <https://news.nctr.ca/articles/trc-commissioners-statement>

government and society as a whole that caused Sinclair to conclude: “I think the real question is: are we finished? The answer is no. So, until we are finished, we can rightfully say that justice has not yet been reached... there is still lots of work left to do.”³⁷¹ This failure to progress and implement the TRC Calls to Action, and especially those that honour Indigenous self-determination which is core to Indigenous conceptions of justice, suggests a trajectory of reconciliation that is disconnected from Indigenous conceptions of justice as whole, and the TRC’s principles of reconciliation specifically.

To further understand the Government of Canada’s action on the TRC’s Calls to Action, and reconciliation more generally, I turn back to the operationalization of multicultural policy. While Sheryl Lightfoot argues that multiculturalism has shaped reconciliation by exerting an “equalizing force, essentially moving to erase Indigeneity in Canada,”³⁷² I argue that multiculturalism has impacted reconciliation by attempting to create what I refer to as *palatable Indigeneity*. By this I mean that the practice of reconciliation after the work of the TRC has often advanced Indigeneity as disconnected from Indigenous self-determination to steward our lands and waters and maintain healthy relationships with all of creation which is vital to Indigenous conceptions of justice. This can be seen for example—but not limited to—in the numerous times nuučaanuł nations have returned to court against the federal government over fishing³⁷³—vital to our

³⁷¹ Senator Murray Sinclair, quoted in “Truth and Reconciliation, Five Years Later, *APTN InFocus*, December 2020: https://www.aptnnews.ca/truth-and-reconciliation-five-years-later/?fbclid=IwAR0GKJ4FgduzntmZjI7_3GT7U2Si8dS9cj1Tyx56UEud_D8XJa0aDHwZFW8

³⁷² Sheryl Lightfoot, *Global Indigenous Politics: A Subtle Revolution* (New York: Routledge, 2016): 180.

³⁷³ Eric Plummer, “Back in court for fishing rights: Leaders call on Trudeau to honour reconciliation,” Ha-Shilth-Sa, February 11, 2019: https://hashilthsa.com/news/2019-02-11/back-court-fishing-rights-leaders-call-trudeau-honour-reconciliation?fbclid=IwAR2VVhcUB-MC-I4MODG7Y1u-bKNUqc4_D5OrnUjJZUdY056NYnjsnqp9RC0; Uu-a-thluk: Taking Care Of, “The Case for Nuu-chah-nulth Fishing Rights,” *Uu-a-thluk*, <http://uuathluk.ca/litigation/fisheries-litigation-trial/>

existence as coastal nations—or in the more recent adoption of the UN Declaration on the Rights of Indigenous Peoples in BC as a ‘win’ for reconciliation alongside the violent removal of Indigenous land defenders from Wet’suwet’en territories.³⁷⁴ We can also see this in the implementation and completion of the TRC Calls to Action to date which often emphasize diversity and cultural accommodation over rights of self-determination. The entanglement and advancement of reconciliation and justice as disconnected from Indigenous stewardship over our lands, waters and other relations is explored through a recent and tangible example in Chapter Four.

The embrace and celebration of reconciliation in this context is embodied in the recognition and inclusion of Indigenous cultural difference into Canadian society thus creating a version of Indigeneity that is palatable, and legible to settler colonial power. In discussing the intersection of reconciliation and multiculturalism, Lightfoot argues that multiculturalism moves to create “a universal immigrant status”³⁷⁵ that suggests Indigenous peoples are not Indigenous to what is now Canada, and as such “are in no way entitled to treaty rights, land claims, or self-determination rights.”³⁷⁶ While this is certainly an identifiable tactic, I do not see the intersection of reconciliation and multiculturalism as a process that advances the erasure of Indigeneity in totality. Instead, the intersection of reconciliation and multiculturalism advances a version of Indigeneity that is conducive to settler state territorial sovereignty and authority, while simultaneously reifying national myths of tolerance through the inclusion and tolerance

³⁷⁴ Judith Sayers, “Horgan’s Pipeline Push Betrays His Reconciliation Promise,” *The Tyee*, January 15, 2020: <https://thetyee.ca/Opinion/2020/01/15/Horgans-Pipeline-Push-Betrays-Reconciliation-Promise-UNDRIP/>; Katie Hyslop, “Wet’suwet’en Crisis: Whose Rule of Law?,” *The Tyee*, February 14, 2020: <https://thetyee.ca/News/2020/02/14/Wetsuweten-Crisis-Whose-Rule-Law/>

³⁷⁵ Lightfoot, *Global Indigenous Politics*, 180.

³⁷⁶ Lightfoot, *Global Indigenous Politics*, 181.

of diversity. By disconnecting Indigeneity from complex and robust relationships to place, and instead envisioning Indigeneity as expressed solely through cultural expression—such as language recognition, songs, dance and art—multiculturalism and inclusion become a legitimizing force that separates Indigenous peoples as challenges to the assertions of Canadian sovereignty. In other words, the cherry picking of the TRC’s Calls to Action to complete seems to advance a particular narrative of reconciliation premised on embracing Indigenous cultural difference while ignoring Indigenous self-determination. As such, this becomes a tactic by which the Canadian state can legitimize its unilateral assertions of sovereignty over Indigenous peoples and their relationships to place while accommodating Indigenous cultural difference as an important component of a multicultural national identity. This particular version of Indigeneity becomes palatable to settler structures of domination, and positions Indigenous peoples as the “others” upon which white Canadian values of tolerance are reflected back to society thus affirming national myths. The advancement of palatable Indigeneity is evident in the framing of some of the Calls to Action when they are disconnected from Calls to Action which affirm Indigenous self-determination, as well as in the engagement with these Calls to Action. Further, palatable Indigeneity moves away from grounded Indigenous conceptions of justice which emphasize an end to harms, and the importance of health and balance in all of our relationships including those with the physical places we call home.

The assertion of cultural genocide that emerged out of the TRC can also have unintentional consequences for reconciliation when Calls to Action are cherry-picked for completion in the way they have been to date—that is to say, in ways that are

disconnected from the principles of reconciliation outlined by the TRC which upheld Indigenous self-determination. Specifically, the classification of residential schools as “cultural genocide” can lend directly to the continuation of liberal multiculturalism. By this I mean, the identifiable problem therein lies that Canadians were not welcoming to a diverse culture and sought its elimination. This, of course, is misrepresented as the issue was not that Indigenous peoples have different cultures than white liberal Canadians, but that we are self-determining nations whose existence calls into question the legitimacy of the nation. As the late Art Manuel argued: “we are a reminder to them of their land theft, their original sin, and they want us hidden away or absorbed through assimilation. This is not a hidden agenda, it was openly proclaimed as Canadian policy for most of the first hundred years of the country’s life. Then, when the racism of this statement became obvious, they stopped saying this out loud. But they continued with politics designed to carry it out.”³⁷⁷ If the problem, or harm, is identified as the attempted eradication of Indigenous culture and the failure of Canadians to be caring and accepting of difference, then the solution by that logic must be the welcomed inclusion of Indigenous culture into the Canadian cultural mosaic. This can be understood as a continuation of liberal multiculturalism that seeks to draw Indigenous peoples into the folds of Canadian society—thus continuing assimilation³⁷⁸—where we perpetually fulfill the role of the “other” that reflects back the good will, tolerance and benevolence of white Canadians.

³⁷⁷ Arthur Manuel, *The Reconciliation Manifesto: Recovering the Land and Rebuilding the Economy*. (Ontario: James Lorimer & Company Ltd, 2017), 202-203.

³⁷⁸ In discussions with nuučaanuļ peoples, concerns about the government’s approach to reconciliation as regenerating policies of assimilation were consistently raised. I see this process as occurring through the inclusion of our people within multicultural national identities that do not honour our self-determination. This was also echoed in the Nuu-chah-nulth Reconciliation Project report in October 2019.

The rhetoric of the inclusion discourse—core to multiculturalism and the embracing of diversity—in Canada is exceptionally prevalent in the municipal affirmations of reconciliation. Following the Canadian Truth and Reconciliation Commission’s National Events, cities across Canada began proclaiming a “Year of Reconciliation.” Among these are Vancouver,³⁷⁹ Toronto, Edmonton, Calgary, Winnipeg and in 2017, the city of Victoria. During the Alberta National Event in 2014, Edmonton Mayor Don Iverson committed to three projects, including “creating more opportunities for Aboriginal cultural events.”³⁸⁰ It is through these particular initiatives that our Indigeneity can be relegated to instances of cultural performance (soft rights) and disassociated from our self-determining authority over our territories (hard rights).³⁸¹ The reduction of Indigeneity to cultural performance benefits to the nation state because it does not seek to challenge the imposed authority of the Canadian state over Indigenous peoples, and our sovereignty and self-determination.

Initiatives like these do not create spaces that honour our self-determination. Instead, they create spaces where we are *afforded the opportunity* to live an Indigenous life through culture expression and accommodation, and little more, precisely because it is palatable, legible and does not challenge the assumed authority of the settler state. We can see this clearly in the accommodation of cultural difference, coupled with the use of force and physical violence when Indigenous peoples assert their self-determination in

³⁷⁹ City of Vancouver. *Year of Reconciliation: June 2013-June 2014*. <http://vancouver.ca/people-programs/year-of-reconciliation.aspx> (Accessed January 10, 2017).

³⁸⁰ Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: Reconciliation*, 211.

³⁸¹ See Lightfoot, *Global Indigenous Politics* for a more detailed understanding of soft and hard rights.

protection over their homelands.³⁸² When Indigenous peoples become strictly imagined through the advancement of our soft rights³⁸³—cultural rights such as those embodied in our languages, songs, prayers, and art—we are removed as a challenge to settler access to our relations, to our territories. Yet, what this particular advancement of rights fails to conceptualize is that our culture is deeply tied to our relationality with kin in the physical places we call home. The advancement of this narrative of reconciliation, with its apparent emphasis on cultural accommodation without the hard work of respecting Indigenous self-determination to govern our relationships with our homelands, directly clashes with Indigenous conceptions of justice. Put differently, reconciliation in Canada for the most part has been proceeding along a trajectory that is disconnected from Indigenous conceptions of justice which emphasize an end to harm, and balance in all of our relationships, including our homelands.

A nuučaáníł Vision

For nuučaáníł peoples, our stories, our ھاھuupaa, illuminate pathways forward that are deeply informed by our relational principles and values as quuʔas-sa. We have looked to and engaged with processes like the Truth and Reconciliation Commission of Canada as we seek to find justice that honours these relational values. Despite this, as Elder Barney Williams Jr explains, “Our Nuu-chah-nulth methodologies are missing

³⁸² I will explore this further in Chapter Four, but it is worth noting a few specific events such as the 2019 and 2020 raids on Wet’suwet’en territories, the arrests of Indigenous Youth for Wet’suwet’en in Victoria in 2020, 1492 Land Back Lane, railway blockades in support of Wet’suwet’en peoples, or the more recent protection of old growth in Fairy Creek in British Columbia. This, of course, is not an exhaustive list but draws attention to the instances where Indigenous peoples face physical violence when our self-determination conflicts with what is perceived as the “public interest.”

³⁸³ See Sheryl Lightfoot, *Global Indigenous Politics* (New York: Routledge, 2016).

from the TRC—our ways like many other Native peoples’ ways have sustained us for centuries and will continue to do so if we continue to use them in our families and our communities.”³⁸⁴ These teachings—that begin with the family and radiate out—hold the solutions for our nations and create paths for the creative envisioning of our continued existence as self-determining nations.

In 2019, the Nuu-chah-nulth Tribal Council (NTC) began holding community gatherings to broadly determine what reconciliation looks like for nuučaañuł nations, and more specifically what we need from the government for reconciliation. The resounding comments I heard in these discussions was the critical importance of our voice. As kekinusuqs—Hupačasath President of the NTC—described to me: “They really need to listen to us as to what we need... We need to be able to set the agenda—what do we want from each of those Calls to Action, and not the government telling us,” and when we look at these Calls to Action around “sports and the CBC, and it’s like, you know is this really important to us?”³⁸⁵ A commitment to listening to Indigenous nations about their specific wants and needs from reconciliation is a component that is consistently absent from the discussions as the government often rushes to implement policy without consultation with nations. In recounting a conversation with Minister of Indigenous Relations, kekinusuqs noted the governmental view of consultation with leadership as encompassed in discussions with bodies like the First Nations Summit, the Union of BC Indian Chiefs,

³⁸⁴ Barney Williams Jr, quoted in Jeff Corntassel, Chaw-win-is and T’lakwadzi, “Indigenous Storytelling, Truth-Telling, and Community Approaches to Reconciliation,” *English Studies in Canada* 35.1 (March 2009): 140-41.

³⁸⁵ kekinusuqs, interview with author, čišaaʔath haahuułi, May 9, 2019.

and the BC Assembly of First Nations. When pressed on this, the Minister responded: “Well how am I supposed to consult with 203 First Nations?”³⁸⁶

When considering the broad concept of reconciliation, I was reminded that there is no word for reconciliation in our language. Elder Barney Williams Jr emphasized to me that the closest approximation we have is *chaa-chim-hay-up* – “making it right,”³⁸⁷ yet this does not describe the process we see unfolding currently. For reconciliation to connect with our understandings of justice, the process must be nuučaañuł centered and community driven, beginning with the family and radiating out.³⁸⁸ Among our discussions, our teachings—encompassed in our stories—continued to emerge including the centrality of hišukʔišćawaak which centers our relationships to all of creation. The health of these relationships, and how we maintain relationships that are informed by our relational principles of yaaʔakmis and ʔiisaak were the focal points of our discussions.³⁸⁹ We actively center these teachings in our relationships with the physical places our nations call home, in the support for our ʔawiih, and our governance structures. These principles inform and guide how we understand what justice looks like for our communities and will be explored further in Chapter Three and Chapter Four as pathways forward for moving toward justice for our nations that is rooted in our conceptions, and emphasize an end to harm perpetuated and the health, maintenance and wellbeing of our robust relationships.

³⁸⁶ kekinusuqs, interview with author, May 9, 2019.

³⁸⁷ Barney Williams Jr, interview with author, Campbell River, June 14, 2019.

³⁸⁸ Shana Thomas, *Nuu-chah-nulth Reconciliation Project Report*, October 2019: 9.

³⁸⁹ Barney Williams Jr., interview with author, June 14, 2019.; Nuuchah-nulth Reconciliation Forum, May 2019, Port Alberni BC.; Nuuchah-Nulth Tribal Council Annual General Meeting, *Reconciliation Project Wrap Up Session*, September 24, 2019.

At the Expense of Justice

The Truth and Reconciliation Commission of Canada represented an important forum for Indigenous people to share their stories of their experiences in residential schools. Our truths were heard in TRC spaces and its existence marked a vital moment in our calls for justice, and an end the harm perpetuated by a paternalistic relationship specifically when it comes to our children. While the TRC faced particular limitations in their work which may impede the depth of truth that emerged, they also attempted to align their work with Indigenous conceptions of justice, and once again emphasized our existence as self-determining nations whose rights should be respected. In the following chapter I unpack the intersection of truth and reconciliation commissions with Indigenous experiential stories in more detail, and offer an analysis of how this intersection influences understandings of reconciliation and justice.

In the five years following the completion of the TRC's work, federal governmental response and action on the TRC Calls to Action suggests a trajectory of reconciliation that is not deeply informed by or connected to the breadth of the TRC *Final Report*, its vision for the future as one grounded in Indigenous self-determination let alone its vision for the futures of Indigenous children.³⁹⁰ In its intersection with policies of multiculturalism, this narrative of reconciliation—which upholds cultural accommodation over Indigenous self-determination—makes reconciliation's current manifestations potentially dangerous. The sidelining of Indigenous rights to self-determination alongside the emphasis on cultural accommodation has created palatable

³⁹⁰ This is particularly poignant as the Canadian government continues to fight Indigenous children in court over child welfare principles like equitable funding, and compensation. See for example the work of Cindy Blackstock and the First Nations Caring Society: <https://fncaringsociety.com/what-we-do>

Indigeneity which becomes a method by which the state can reify its power in a moment of reconfiguration. In the absence of bodies that enforce implementation of the recommendations including those that emphasize our right to self-determination, Indigenous peoples are left holding the promises of justice through structural change.

It has seemed, based on governmental and societal action on the Calls to Action, that the hard work of respecting Indigenous self-determination, and the rights enshrined in the United Nations Declaration on the Rights of Indigenous Peoples is far from the minds of Canadians. In fact, the government of Canada has more frequently moved to ignore and deny Indigenous self-determination than it has respected it—evident in the Trans Mountain Pipeline Expansion, the Site C Dam, and Coastal GasLink’s LNG Pipeline to name a few. While the state may be willing to embrace Indigenous cultural expressions, it is necessary to understand that our culture is intimately tied to the relationships we maintain with our homelands—our stories remind us that these are inseparable. As such, our self-determination is as much about relationships with place as it is about cultural expression and practice. To attempt to draw our culture away from our ability to practice and maintain relationships with all of our kin in the places we call home not only extends harm, but distinctly moves away from Indigenous conceptions of justice.

Chapter Three

yaʔakstalth:³⁹¹

Reclaiming and Envisioning Justice Through Storytelling

I tell stories not to play on your sympathies but to suggest how stories can control our lives, for there is a part of me that has never been able to move past these stories, a part of me that will be chained to these stories as long as I live

– Thomas King, *The Truth About Stories*³⁹²

The Power of Stories

It has taken many years for me to understand, on an intellectual level, what my body, heart, *limaḡsti*,³⁹³ have always known: stories are at the centre of who we are. When my brother and I were little, I remember lying in bed listening to my dad tell us stories. These were moments that gave me solace when other areas of my life felt chaotic. Stories grounded me, and reminded me of the love in my life. These were moments I knew I could count on. Sometimes my brother and I would pick the story, other times my dad would. Sometimes we would listen, intent, and other times we would be rife with questions. Sometimes we would lay in bed and ask for more stories, fighting sleep, deeply craving the possibility that was offered in story. Other times, my brother and I

³⁹¹ Care for one another.

³⁹² King, *The Truth About Stories*, 9.

³⁹³ Spirit, heart, soul.

would drift off between words, letting the story carry us. Relationality was deeply embedded in these moments; it is fundamental.

When I was younger, stories had a sort of magical quality; the ability to transport me to other worlds, just as they could connect me deeply with my own. As I grew older, I found I yearned for stories in different ways. I often craved the ones that connected me with something beyond myself—that gave me a sense of belonging. In moments where I felt lost and disconnected, story always brought me home and reminded me of who I am as *qu?as*. The ones I loved most were about my family, the relatives who have shaped who I am today, who are consistently determined and strong leaders, and whose love I never questioned. Even today, my heart fills to hear stories of my family; and something powerful happens when we gather together and share these stories. I have come to understand that my yearning for stories has always been deeply rooted in who I am as *qu?as*, and ties me in an unbroken line to my ancestors, just as it connects me to future generations. These stories emphasize our interconnectivity to one another, and to all of creation; they teach us, and emphasize our understandings of justice as embodied in this relationality, in balance in our relationships with all of creation, and in the end to harm.

Somewhere along the way, competing narratives began to violently crash into each other. I began to hear stories that didn't correlate with the ones I have held in my heart. I heard stories about "uncivilized Indians" that needed to be "saved" and stories about the superior ways of the *mama?ni*.³⁹⁴ I didn't see my family in those stories and I couldn't understand why the stories I was being taught in school were so different from the ones I had always known. When I think back to those moments one memory stands

³⁹⁴ Used to describe the first Europeans who came to our shores whose homes floated on the water. Now used to describe a non-Indigenous people/ white person.

out the most. I was in the tenth grade in a Social Studies classroom in the creakiest, darkest part of my school. We had spent the first few weeks of class learning the creation story of Canada: the willful and celebratory coming together of diverse places in the process now called Confederation, and the structure of liberal democracy that underpins the Canadian political system. As we discussed the early years of the twentieth century, we read a short section in our *Horizons* textbook on residential schools. I remember the section being no more than a few paragraphs, but the resounding message was clear: the white man came in to save those poor Indians by providing an education. The air of superiority was palpable, and I remember frustration bubbling up in me as I shot my hand up in class to say: “that’s not the right story.” There was a measure of silence around residential schools in my house, but from a young age I knew it was far from the good experience based on “positive intentions” to “save the Indians” that Canada liked to tell itself was true. This was the moment when I truly understood how story embodied *yaa?akmis*³⁹⁵—love and pain.

In Canadian and American societies, certain narratives have come to dominate the socio-political discourse. These are myths states tell as their creation stories, and ones that uphold their supposed values such as progress, justice, benevolence and multiculturalism. In doing so, these creation stories uphold settler colonial law³⁹⁶ while simultaneously obscuring the realities of settler colonialism as rooted in theft,³⁹⁷

³⁹⁵ The deeply connected nature of love and pain.

³⁹⁶ See Heidi Stark, “Stories as Law: A Method to Live By,” in *Sources and Methods in Indigenous Studies*, edited by Chris Andersen and Jean O’Brien (New York: Routledge, 2017): 249 – 256 for an unpacking of how settler colonial law can be understood as a set of stories.

³⁹⁷ Nicholas XEMFOLTW Claxton, and John Price, “Whose Land Is It? Rethinking Sovereignty in British Columbia,” *BC Studies* 204 (Winter 2019/2020): 115 – 138.

starvation,³⁹⁸ and continued violence against Indigenous lands and bodies.³⁹⁹ In recent years these stories have included an increased emphasis on reconciliation and improved relationships, although these stories are markedly different from our own stories of justice which center balance in all of our relationships. Prime Minister Harper’s 2008 Apology to Former Students of Indian Residential Schools made reconciliation a prominent story after it had seemed to fade from public discourse following inaction on the RCAP. This story of reconciliation has been affirmed again and again—including in November 2017 when Justin Trudeau stood before hundreds in Happy Valley–Goose Bay to apologize to residential school survivors in Newfoundland and Labrador. He spoke through teary eyes about the strength of Indigenous survivors in sharing their stories, while simultaneously upholding this truth-telling as the embodiment of national justice and solidifying the passive role of non-Indigenous Canadians to merely “confront the hard truths as a society.”⁴⁰⁰ These moments formalize national myths. Yet they also stand in stark contrast to our own understandings of justice and our pathways forward informed deeply by our teachings and ecologies of intimacy⁴⁰¹ at the heart of our nations since they uphold truth-telling and acknowledgement as the embodiment of justice without necessarily requiring an end to harm called for by our justice demands.

Holding the power of *humwića*⁴⁰² at its core, in this chapter I begin by tracing the impacts of the stories settler colonial states tell about Indigenous peoples. These stories

³⁹⁸ James Daschuk, *Clearing the Plains: Disease, Politics of Starvation, and the Loss of Indigenous Life*, (Regina: University of Regina Press, 2013).

³⁹⁹ Stark, “Criminal Empire.”

⁴⁰⁰ Trudeau, “Remarks by Prime Minister Justin Trudeau to apologize on behalf of the Government of Canada to former students of the Newfoundland and Labrador Residential Schools.”

⁴⁰¹ Nishnaabeg scholar Leanne Simpson describes “ecology of intimacy” as embodied in the webs of connections that exist between each of us, all of nature, the cosmos, and our neighbours. (Simpson, L. *As We Have Always Done*, 8).

⁴⁰² nuučaañuł word for story.

not only influence how we understand ourselves as *qu?as-sa*, but they create paths of action and inaction for settlers in their engagement with our nations. As the late Jo-ann Episkenew noted, settler colonial power has been maintained by the marginalization and, at times, the erasure of Indigenous stories.⁴⁰³ I then turn to the intersection of truth and reconciliation commissions with Indigenous experiential stories in particular, in other words, the stories of lived experience that were shared with the commissions. The creation of truth and reconciliation commissions in Canada and the United States has sought to draw Indigenous experiential stories—sometimes referred to as testimony in these formal capacities—from the margins of history. It is hoped that this inclusion of our stories will open opportunities for justice as settler colonial power reconfigures itself.⁴⁰⁴ At the same time, I problematize this inclusion and argue that there is potential danger in this format for listening to Indigenous stories which can create what I refer to as the *spectacle of victimhood* that reshapes the complexity and breadth of Indigenous lives into a narrative of victimhood. I further argue that the *spectacle of victimhood* reproduces settler colonial power through the validation of ongoing colonial intervention into Indigenous lives and on Indigenous lands and waters thereby restricting the self-determining authority of Indigenous nations. Reflecting on the potential damage of the *spectacle of victimhood* to Indigenous political movements and assertions of self-determination, I strive to answer how listening deeply to our stories—both experiential and traditional stories—and allowing them to guide our actions resists settler colonial understandings of justice and instead embodies more informed understandings of justice

⁴⁰³ Episkenew, *Taking Back Our Spirits*, 6.

⁴⁰⁴ For a discussion on the reconfiguration of settler colonial power in the moment of reconciliation see: Corey Snelgrove and Matthew Wildcat, “Political Action in the Time of Reconciliation” [*Reconciliation and Resurgence Book from Symposium*], forthcoming: 10-11.

for Indigenous nations. This is grounded in understanding of the power of Indigenous stories in guiding us in our relationships and responsibilities, and providing avenues for the assertion and embodiment of our relational teachings.

Fantasizing Settler Colonial Power

Many of the stories told by the settler colonial state are harmful to Indigenous peoples and work to create legitimacy for the settler colonial project. For generations, the story shared above about residential schools proliferated in Canadian society, and for some this narrative continues.⁴⁰⁵ It is one of many settler colonial stories that attempt to legitimize the state and detract from its own illegality.⁴⁰⁶ Daniel Heath Justice suggests that perhaps one of the most corrosive and toxic of the dominant stories told is that of

⁴⁰⁵ Consider for example the statement by former Canadian Senator Lynn Beyak who, less than two years after the release of the Final Report of the Truth and Reconciliation Commission of Canada and against copious amounts of research suggesting otherwise, defending the residential school system suggesting that the “positive aspects of residential school have not been acknowledged.” See: Tania Kohut, “Tory Senator Defends Residential School System, says Good Work ‘Unacknowledged,’” *Global News*, March 9, 2017: <https://globalnews.ca/news/3298332/senator-lynn-beyak-residential-schools/>

Almost one year later, *Global News* reports that Lynn Beyak had shared more than 100 “letters of support” of her remarks on her Senate website. See: Andrew Russel, “Sen. Lynn Beyak publishes ‘outright racist’ comments about Indigenous peoples on her Senate website,” *Global News*, January 8, 2018: <https://globalnews.ca/news/3943954/canadian-senator-lynn-beyak-indigenous-comments-senate-website/>

To make matters worse, in November 2020, Conservative Party leader Erin O’Toole told a group of students at Ryerson University that residential schools were created to “try and provide education” and “became horrible,” thus furthering the narrative of the white savior coming to save Indigenous children. See: Rachel Gilmore, “O’Toole Tells Students Residential Schools created to ‘provide education’ but became ‘horrible,’” *Global News*, December 15, 2020: <https://globalnews.ca/news/7524370/otoole-residential-schools-eduction-horrible/>

⁴⁰⁶ For example, in her article “Criminal Empire,” Heidi Kiiwetinepinesiiik Stark notes that narratives of criminal deviancy allowed the US and Canada to avert attention away from their own illegality which she describes as including “transforming treaties from relationships to land cessation contracts” in which “the two states sought to disguise the illegitimacy of their settlement, which was rendered unlawful the moment they violated treaty relationships and commitments that authorized their presence across Indigenous lands.” See: Heidi Kiiwetinepinesiiik Stark, “Criminal Empire: The Making of the Savage in a Lawless Land,” *Theory and Event* 19.4 (2016).

Indigenous deficiency: whereby Indigenous peoples “are in a constant state of lack: in morals, laws, culture, restraint, language, ambition, hygiene, desire, love,”⁴⁰⁷ and where “every stumble is seen as evidence of innate deficiency, while any success is read as proof of Indigenous diminishment.”⁴⁰⁸ These are stories told by others that seek to twist and disfigure our experiences, our existence, in which at every corner we are denied our humanity. These stories advance harmful narratives about Indigenous peoples which form the basis of the *spectacle of victimhood* which is taken up in a subsequent section.

For generations these stories have dominated the media, and are perpetuated by “damage-centered research” that connects deficit models to Indigenous peoples through the documentation of the pain or loss we experience at the individual, community or nation levels.⁴⁰⁹ One does not have to look far to see the evidence of these stories in contemporary spaces. Take, for example, the 2018 Aboriginal Peoples Television Network (APTN) mini-series *First Contact*, produced by Animiki See Digital Production Inc, Nüman Films, and Indios Productions Inc. While venturing to have “respectful conversations between Indigenous and non-Indigenous peoples,”⁴¹⁰ *First Contact* provides a platform for racist, derogatory stories about who we are as qu?as to be shared, while challenging these perspectives through engagement with Indigenous communities. The very premise of the show centres these narratives and reduces Indigenous people to a backdrop against which these views are supposedly challenged through the performance of our humanity. Here, the privileging of drama at the expense

⁴⁰⁷ Daniel Heath Justice, *Why Indigenous Literatures Matter* (Waterloo: Wilfred Laurier Press, 2018), 2.

⁴⁰⁸ Justice, 3.

⁴⁰⁹ Tuck, “Suspending Damage,” 413.

⁴¹⁰ *First Contact*, directed by Jeff Newman (Winnipeg: APTN, 2018), television Documentary Series.

of dialogues around the harm of these kinds of narratives negates the potential for structural or any other kind of meaningful change.

While some would argue that these narratives of deficiency were first constructed based on misinformation, faulty science, and destructive religion, they have continued for their utility in the progression of the colonial project. They have been told as a mechanism to control Indigenous lives and have evolved over time through their retelling. First focusing on our lack of civilization, early colonial narratives about Indigenous people highlighted a supposed primitiveness in our ways of being and knowing. As colonization progressed, these narratives shifted to focus on our supposed lack of morals, of laws, of restraint, of ambition, as settler colonial media pointed to instances of alcoholism, homelessness, or crime in order to validate colonial intervention. These narratives served the progression of settler colonial territorial control by moving to domesticate Indigenous nations within the settler colonial state. For example, in “Criminal Empire: The Making of the Savage in the Lawless Land,” Heidi Kiiwetinepinesiik Stark traces how Indigenous resistance was recast as criminality as a way of reducing Indigenous political authority while producing the settler colonial state, and legitimating its juridical narratives.⁴¹¹ As Stark notes, these narratives have distinct configurations of criminality along gender lines where Indigenous men’s criminality was configured within the public sphere, and the criminality of Indigenous women was imagined within the private sphere.⁴¹² While Stark explores these narratives and their utility in the nineteenth century, the existence of narratives of Indigenous criminality extends into the present and continues to radiate along gendered lines.

⁴¹¹ Stark, “Criminal Empire.”

⁴¹² Stark, “Criminal Empire.”

The continued presence of these narratives allows for the perpetuation of settler colonial violence against Indigenous peoples. We can see these narratives echoed in cases of missing and murdered Indigenous women, girls and two-spirits. The settler colonial marking of Indigenous women as lacking morals and as sexually promiscuous “became a mechanism for colonial officials in power to justify the imposition of settler law and policy that sought to reorder Indigenous life.”⁴¹³ At the same time, the sexualization of Indigenous women “was interpreted as illustrative of a ‘wildness’ that had to be ‘tamed’ while being simultaneously exploited by male newcomers.”⁴¹⁴ This particular narrative of deviance suggests that Indigenous women were/are somehow deserving of the violence that was and is inflicted upon them. For example, Caroline Fidan Tyler Doenmez traces how this narrative allowed for the original acquittal of white trucker Bradley Barton for the violent murder of Cindy Gladue—a thirty-six year old Cree woman and mother of three—in 2015.⁴¹⁵ In doing so, she argues that the settler colonial acceptance and continual retelling of the narrative of Indigenous deviance simultaneously marks Indigenous women as unmournable—a concept she argues can be extended beyond this case to the crisis of missing and murdered Indigenous women and girls in Canada.⁴¹⁶

The proliferation of the Indigenous deviance narrative also extends to Indigenous men, and underpins the incarceration and deaths of Indigenous men in police custody and

⁴¹³ Stark, “Criminal Empire.”

⁴¹⁴ Shelley Gavigan, *Hunger, Horses, and Government Men: Criminal Law on the Aboriginal Plains, 1870-1907* (Vancouver: UBC Press, 2012): 106. Quoted in Stark, “Criminal Empire.”

⁴¹⁵ Caroline Fidan Tyler Doenmez, “The Unmournable Body of Cindy Gladue: Or Corporeal Integrity and Grievability,” *Forever Loved: Exposing the Hidden Crisis of Missing and Murdered Indigenous Women and Girls in Canada*, edited by D. Memee Lavaell-Harvard and Jennifer Brant (Brantford ON: Demeter Press, 2016).

⁴¹⁶ Doenmez, 112.

at the hands of white settlers. These narratives not only appear in settler colonial news media, but also in the judiciary such as in the trial of white farmer Gerald Stanley in 2018 for the murder of Colten Boushie—a twenty-two-year-old Cree man.⁴¹⁷ These narratives have also infiltrated settler colonial initiated inquests and inquiries. Examining inquests and inquiries into Indigenous deaths in custody, Sherene Razack asks: “Why is Indigenous death nearly always considered a timely death, a death that no one could have prevented?”⁴¹⁸ What is important to understanding the maintenance of settler colonial myths is Razack’s argument that by focusing on the supposed pathologies of Indigenous peoples, states are able to “provide themselves with alibis not only for inaction but also for crimes of overt violence.”⁴¹⁹ In doing so, the settler colonial state diverts attention from its own illegality and violence, while simultaneously reifying national myths of benevolence. To this day, much of news media continues to retell these stories of Indigenous deficiency and deviance by emphasizing Indigenous presence only when we are “Dead, Drunk, Dancing or Drumming,”⁴²⁰ and in more recent years this has included an emphasis on Indigenous peoples as “protestors” rather than “protectors” or “defenders” of their homelands.⁴²¹ These narratives serve a dual purpose: legitimizing colonialism through the continuing disappearance of the Indian, and the placating of

⁴¹⁷ For a more thorough unpacking of settler colonial story around the Gerald Stanley trial see Dallas Hunt and Gina Starblanket, *Storying Violence: Unravelling Colonial Narratives in the Stanley Trial*. (Winnipeg: Arbeiter Ring Publishing, 2020).

⁴¹⁸ Sherene Razack, *Dying From Improvement: Inquests and Inquiries into Indigenous Deaths in Custody*, (Toronto: University of Toronto Press, 2015): 4.

⁴¹⁹ Razack, 5.

⁴²⁰ Duncan McCue, “What it takes for Aboriginal people to make the news,” *CBC*, January 29, 2014, <https://www.cbc.ca/news/indigenous/what-it-takes-for-aboriginal-people-to-make-the-news-1.2514466>.

⁴²¹ For a more thorough unpacking of the utilization of the framing, see: David Uahikeaikalei`ohu Maile, “Threats of Violence: Refusing the Thirty Meter Telescope and Dakota Access Pipeline,” in *Standing with Standing Rock: Voices from the #NoDAPL Movement*, edited by Nick Estes and Jaskiran Dhillon (Minnesota: University of Minnesota Press, 2019): 328-343.

settler guilt; for, as the logic would assert, if Indigenous peoples are so deficient and deviant, the colonial project must have a rightful and legitimate humanitarian basis. The privileging of these stories has attempted to subvert our own stories, the very stories that fundamentally challenge the colonial project because they force a reckoning with the unlawfulness of colonial acts.

Emphasizing Disconnection

Integral to the narratives of deficiency is the emphasis on Indigenous disconnection. In seeking to fashion the state's legitimacy in the face of broken treaty promises, settler colonial stories have attempted to convince us that we are disconnected from our communities, from our culture. Residential and boarding schools violently told stories of the supposed depravity of our cultures, emphasizing the early stories of deviance, deficiency and lawlessness. As Episkenew noted, "the colonizers believed so fervently in the veracity of their own mythology that they did not consider another perspective on history... they considered it their responsibility to eradicate pagan superstition and replace it with 'truth.'"⁴²² Once we had pruned our children away from the violent grasps of residential schools, we continued to be thrust against narratives of disconnection and dysfunction in public schools. In these spaces we encountered stories of the "noble savage" which held our cultures as a foil contained within the past. The child welfare system carried on the work of residential schools, as survivors have shared the psychological trauma inflicted after being removed from their families and placed in

⁴²² Episkenew, 5.

the care of white families while simultaneously hearing stories of disconnection, and dysfunction within our communities.⁴²³

These settler colonial narratives operate along a shame-based system. As Leanne Betasamosake Simpson notes, “I placed that shame as an insidious and infectious part of the cognitive imperialism that was aimed at convincing us that we were a weak and defeated people.”⁴²⁴ Shame has a way of sharpening the sense of who we are, and shifts how we interact with the world. Dian Million explores “colonialism as a felt, affective relationship,”⁴²⁵ wherein “it is a broad spectrum of nuances, valences/ practices with the power to generate emotionally charged meaning as *common knowledge*.”⁴²⁶ As a part of this, shame becomes the “quintessentially ‘embodied’ sociality, a primary self-reflective axis.”⁴²⁷ In this way shame has an all-encompassing quality to it that makes dehumanization possible. As Janice Cindy Gaudet and Lawrence Martin describe “shame gives the message of inadequacy, and imperfection—a message that seeps through the dark crevices of generations, deep into our bone marrow and into our blood.”⁴²⁸ These narratives of our disconnection are utilized within settler colonial states in an attempt to shatter kinship systems and create the illusion that we are so far gone, and our communities are so crushed, that there is nothing to go back to, leaving assimilation as the only possible option. By this logic, colonialism seeks to convince us the only choice

⁴²³ See for example the collection of testimony that was collected by the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission: <https://digitalcommons.bowdoin.edu/maine-wabanaki-trc/>

⁴²⁴ L. Simpson, *Dancing on Our Turtle’s Back*, 14.

⁴²⁵ Million, *Therapeutic Nations*, 46.

⁴²⁶ Million, *Therapeutic Nations*, 46.

⁴²⁷ Million, *Therapeutic Nations*, 48.

⁴²⁸ Janice Cindy Gaudet and Lawrence Martin/ Wapistan, “Learning Through Conversation: An Inquiry into Shame,” *Power Through Testimony: Reframing Residential Schools in the Age of Reconciliation*, edited by Brieg Capitaine and Karine Vanthuyne (Vancouver: UBC Press, 2017): 97.

is to give up our culture, our connection, our stories—and at the same time, our lands and waters—and become further entrenched in colonial society. This is how settler colonial states create their own legitimacy and attempt to solidify myths that suggest they are the rightful stewards of our lands and waters. If we are convinced of their narratives then we are not a threat to the colonial state, and the exploitation of our lands and waters, the theft and control of our *ḥaaḥuui*⁴²⁹ can continue unchallenged. As *gkisedtanamoogk* notes: “when there are no more Indian people, there is no more Indian land, no more treaties, no more Indian problem.”⁴³⁰ This is colonization’s end game.

To supplement the work of narratives of Indigenous deficiency, Indigenous stories that enter the mainstream discourse become manipulated in new ways. For example, when narratives of colonial trauma are centred in the search for truth, devoid of connection to resilience and resistance, Indigenous peoples become cast as victims whose experiences are strictly held in relation to colonialism. Not only does this constructed narrative actively silence the resistance and resurgence of our communities, but it holds settler power as the fundamental reference and assumption⁴³¹ while dissolving our agency and sovereignty. As we consider Indigenous conceptions of justice and the role of our stories within these projects of justice, it is necessary to think through the repercussions of what Eve Tuck calls “damage-centered research”⁴³² which demand a “thinking of ourselves as broken.”⁴³³ This begs the question: *How does deeply listening to our stories*

⁴²⁹ The traditional territories that our Ha’wiih care for. This extends beyond the land to include the waters, and more than humans.

⁴³⁰ *gkisedtanamoogk*, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

⁴³¹ Alfred Jeff Corntassel, “Being Indigenous,” 601.

⁴³² Tuck, “Suspending Damage.”

⁴³³ Tuck, “Suspending Damage”: 409.

and allowing them to guide our actions create paths that move towards our visions of justice for our nations?

As reconciliation has begun to infiltrate almost every aspect of political and social life, we have seen an inclusion of Indigenous stories within mainstream discourses. Truth and reconciliation commissions and inquiries have become an important focus of this inclusion, where space is carved out for the sharing of Indigenous experiences with a wider, and predominantly settler, audience as a way of moving to justice through education, or as Jonathan Allen noted, “justice as recognition.”⁴³⁴ While these truth commissions certainly have complex operations and nuanced reception, they also have the potential to become a dangerous constructed meeting point. Indigenous stories—in their entirety—have the fundamental power to challenge colonial authority by drawing attention to their illegality and violence. Yet truth and reconciliation commissions—through their connection to larger projects of liberal democratic state legitimation⁴³⁵—draw Indigenous experiential stories into spaces that may ultimately uphold the settler colonial power.

While there is tremendous strength in Indigenous peoples sharing their stories within these spaces, we must also reflect on how these stories can be constricted, and subsequently picked up by the state to further their own objectives. For example, despite the relative agency in meeting the terms of their mandates, truth commissions addressing injustice can engage with truth in extremely problematic ways. As bodies established to

⁴³⁴ Allen, 315 – 353.

⁴³⁵ See for example: Alexandra de Brito, Paloma Aguila and Carmen González-Enríquez, “Introduction, in *The Politics of Memory: Transitional Justice in Democratizing Societies*, edited by Alexandra Barahona de Brito, Carmen González-Enríquez and Paloma Aguilar (New York: Oxford University Press, 2001); Scott, *Omens of Adversity*; Wilson, “Justice and Legitimacy in the South African Transition,”

investigate wrongdoing and move towards reconciliation, truth and reconciliation commissions are motivated by a theory of change that seeks to document harm or injury in order to achieve reparation and justice. By reducing injury to singular past policies contained within the mandate as their investigative purview—residential schools or child welfare practices—whose foundations in historical and ongoing genocidal settler colonial logic can escape those who bear witness to the TRCs, truth can be constructed as within the past devoid of connection to ongoing colonial territorial theft and violence. The research of these commissions focused on specific harms “invites oppressed peoples to speak but to ‘only speak from that space in the margin that is a sign of deprivation, a wound, an unfulfilled longing. Only speak your pain.’”⁴³⁶ As mentioned in Chapter Two, these spaces can hinge on and advance the notion of *truth as justice*, where the ability to speak to specific violence is viewed as the fulfillment of justice, without necessarily resulting in change to the colonial structures which continue to facilitate violence due to a failure to implement changes called for by the recommendations. In these spaces, as Mohawk scholar Audra Simpson notes, “the cost of justice is pain, and its value is set within a market of sympathy.”⁴³⁷ Our victimization and pain become the truth that is sought in exchange for justice in its retelling. The danger in the format of listening to these stories lays in the potential construction of what I refer to as the *spectacle of victimhood* which reduces complex Indigenous experiences into an overarching narrative of victimhood, and further advances settler consumption and the reproduction of colonial power.

⁴³⁶ bell hooks, *Yearning* (Boston: South End Press, 1990): 152. Quoted in, Eve Tuck, “Suspending Damage,” 413.

⁴³⁷ Audra Simpson, “Reconciliation and Its Discontents,” University of Saskatchewan, March 22, 2016.

Spectacle of Victimhood

When considering the structural foundations of truth and reconciliation commissions, there is potentially dangerous overlap with what French Marxist theorist Guy Debord conceptualized as the spectacle.⁴³⁸ As discussed in previous chapters, the existence and emergence of the Truth and Reconciliation Commission of Canada and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission are vital due to their birth from the direct calls for justice from Indigenous peoples. The connections offered here are particular to the structural operations of truth and reconciliation commissions, which give rise to the potential for the vital work of these two particular commissions to go awry when specific aspects of Indigenous justice and Indigenous storytelling are missing from their operation. In this section I will explore the spectacle in connection to the structural work of the Truth and Reconciliation Commission of Canada and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission and argue that certain conditions have emerged which create the potential construction of what I refer to as the *spectacle of victimhood*. I further argue that the spectacle of victimhood limits the potential for substantial transformative structural change within the systems of oppression that have facilitated violence in settler colonial states, and instead moves to reify settler colonial power and colonial intervention into Indigenous lives, and on Indigenous homelands.

Truth and reconciliation commissions generally, through their connection to other state building and affirming programs,⁴³⁹ often work to uphold national unification versus

⁴³⁸ See: Guy Debord, *Society of the Spectacle* (Detroit: Black & Red, 1977).

⁴³⁹ Bakiner, 9; Wilson, 200.

the recognition of Indigenous nationhood as their goal⁴⁴⁰ since they seek to “bring victims back into the fold of society.”⁴⁴¹ In conceptualizing the social utility of the spectacle, Debord notes that “the spectacle presents itself simultaneously as all of society, part of society, and as *instrument of unification*.”⁴⁴² In the particular context of truth and reconciliation commissions, unification is advanced under the banner of mutual understanding: understanding of trauma, and understanding of the conditions which facilitated the violence. This particular aspect is evident in the desire to move towards reconciliation—which as discussed in the Introduction, often advances components of national unity—as affirmed within both of the mandates for the Truth and Reconciliation Commission of Canada⁴⁴³ and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission.⁴⁴⁴ We can also identify unity as a strong component in how reconciliation is understood by the Canadian state which was discussed earlier in this chapter and chapter two with specific attention to the framing within the 2008 apology offered by Prime Minister Stephen Harper,⁴⁴⁵ and the 2017 apology offered by Prime Minister Justin Trudeau.⁴⁴⁶

⁴⁴⁰ Corntassel & Holder.

⁴⁴¹ de Brito, Aguilar and González-Enríquez, 25.

⁴⁴² Debord, 3.

⁴⁴³ This is noted for example in the opening of Schedule N: as “the truth of common experiences will help set our spirits free and pave the way to reconciliation.” See: Indian Residential School Settlement Agreement, *Schedule N: Mandate for the Truth and Reconciliation Commission*, 1. http://www.trc.ca/assets/pdf/v-SCHEDULE_N_EN.pdf

⁴⁴⁴ This is noted in the mandate for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission as “Promote individual, relational, systemic and cultural reconciliation.” See: Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Mandate*, (June 2012): 3.

⁴⁴⁵ Canada, “Statement of Apology to former students of Indian Residential Schools,” June 11, 2008: https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-REC/STAGING/texte-text/rqpi_apo_pdf_1322167347706_eng.pdf

⁴⁴⁶ Justin Trudeau, “Remarks by Prime Minister Justin Trudeau to apologize on behalf of the Government of Canada to former students of the Newfoundland and Labrador Residential Schools,” November 24, 2017, <https://pm.gc.ca/eng/news/2017/11/24/remarks-prime-minister-justin-trudeau-apologize-behalf-government-canada-former>

If truth and reconciliation commissions are viewed through the lens of Debord's theorization of the spectacle, unification can be advanced through a negation of reflexive engagement with all aspects of the colonial project, both historic and ongoing. This is evident in the structural limitations—such as their singular policy focus—that are placed on the work of these commissions through their mandates which prevent them from engaging with the full breadth of truth and in effect potentially restricting a relinquishment of power by diverting attention from the breadth of the illegality and violence of the settler colonial state's actions. For example, as noted in Chapter Two, the particular emergence of the Truth and Reconciliation Commission of Canada out of the Indian Residential School Settlement Agreement forced a specific focus on the harms of residential schools and limited the ability of the TRC to investigate and situate that policy within wider settler colonial policies of erasure. While the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission's mandate allowed for a more open engagement with the Indigenous child removal within larger programs of settler colonial erasure, it is also true that their work was limited by a lack of resources attached to the mandate (namely fiscal restrictions which limited the human resources available to research further). Harm in both of these cases is identified as rooted in a singular policy which is often not emphasized as being connected to a larger program aimed at delimiting Indigenous sovereignty and political authority. By addressing the harms perpetuated by that single policy, relations of power are obscured and an illusion of reconciliation and justice is crafted without necessarily resulting in the structural change and an end to harms called for by Indigenous justice demands. In other words, the investigations of these commissions could not illuminate a complete truth, and as such restricted

Indigenous stories offered in those spaces. As Andrew Woolford notes, a restrictive framing of harm in effect “transfers the legitimate justice demands of Indigenous peoples into tidy boxes of repair, removing them as a challenge to the legitimacy of the settler colonial nation.”⁴⁴⁷

Within the truth-telling process, Indigenous survivors have shared testimony of the violence experienced within residential schools,⁴⁴⁸ and in the child welfare system⁴⁴⁹—experiences that have rippled out and into our communities. In sharing these experiences in front of and with settler audiences there is a performativity to the trauma, where—as Brieg Capitaine notes—the narration of a new history is composed of four elements: “the nature of the suffering, the nature of the victim, the relationship between the victim of trauma and the audience, and the attribution of responsibility.”⁴⁵⁰

Throughout this truth-telling process, the spectacle forces a reconsideration of our lived realities, and through its contemplation those who consume the spectacle simultaneously give it positive cohesive meaning.⁴⁵¹ This occurs in two predominant ways: first, in a reconsideration of previously upheld ideals directed towards the state, such as notions of benevolence. Confronted with the violence of residential school and child welfare policies, the settler colonial audience must rethink and reconfigure their understandings of the ideals of their respective nation-state. A settler colonial audience moving through

⁴⁴⁷ Andrew Woolford, *This Benevolent Experiment: Indigenous Boarding Schools, Genocide, and Redress in Canada and the United States*, (Winnipeg: University of Manitoba Press, 2015): 287.

⁴⁴⁸ Truth and Reconciliation Commission of Canada.

⁴⁴⁹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission.

⁴⁵⁰ Brieg Capitaine, “Telling a Story and Performing the Truth: The Indian Residential School As Cultural Trauma,” *Power Through Testimony: Reframing Residential Schools in the Age of Reconciliation*, edited by Brieg Capitaine and Karine Vanthuyne (Vancouver: UBC Press, 2017): 52.

⁴⁵¹ Debord, 8.

this reconsideration might mourn⁴⁵² the momentary loss of their notions of what it means to be Canadian or American. Second, this occurs through a reconfiguration of the vibrancy of Indigenous experiences within the confines of victimhood, where all aspects of Indigeneity are spectacularly tied to colonial violence devoid of resistance. In doing so, the spectacle of victimhood advances a damage-centered discourse,⁴⁵³ wherein emphasis is placed on illuminating the details of harm experienced as it relates to those specific policies. As Roger I. Simon noted about the work of the Truth and Reconciliation Commission of Canada:

when non-Aboriginal Canadians are presented with stories of victimization—particularly through the public circulation of select excerpts of conversations with IRS survivors wherein specific personal or social problems are noted in order to illustrate systemic effects of residential schooling—listeners often will reduce the persona of that person to one whose life has been over-determined by a history not of one’s own making. In other words, this person is experienced as a ‘victim’ deserving of ‘pity.’⁴⁵⁴

In this context, Indigenous bodies become crafted as lifeless objects, upon whom colonial violence is enacted often without refusal and whose existence is overdetermined by the violence experienced. This is most evident in the structural objectives of truth and reconciliation commissions. As truth seeking bodies whose objectives are to illuminate

⁴⁵² Judith Butler, in *Prekarious Life: The Powers of Mourning and Violence*, notes that mourning might have to do with agreeing to undergo a transformation (21). This idea of transformation is particularly important in the truth and reconciliation process and the settler colonial state moving to transform its actions. The reconfiguration of Indigenous experiences to that of victimhood is compounded with the continuation of previous narratives of Indigenous deficiency, and deviance that have marked Indigenous peoples as “unmournable.” Given this, I argue that part of the witnessable grief that settler have experienced at Truth and Reconciliation Commission events can be attributed to mourning not the lives of Indigenous peoples, but the previous notions of what it means to be a Canadian or American citizen.

⁴⁵³ Tuck, “Suspending Damage.”

⁴⁵⁴ Simon, “Towards a Hopeful Practice of Worrying,” 131.

the experiences of violence and wrongdoing, space is created for the sharing of these particular narratives while stories of our resistance are often marginalized.

The overarching focus on testimony about wrongdoing and harm reconfigures the breadth of Indigenous experiences to narratives of victimhood that often erase or marginalize experiences of resistance. The reception of these narratives poses challenges as Indigenous peoples seek justice and self-determination as the outcomes of truth-telling. As Million notes, through our engagement in these spaces and in our demand for justice “First Nations Peoples would have to fully assume this *victimhood* at the same time they [seek] political power and autonomy, spheres that speak the very opposite languages.”⁴⁵⁵ While it would be a failure to avoid deep understandings of how our experiences as quu?as include our survival through colonial violence, this narrative overstates the power of the colonial state in a way that removes our agency and strength. The reconstruction of our stories creates a distance between the settler as consumer and Indigenous stories for their consumption. This consumptive distancing is most visceral when Audra Simpson described that at a TRC event in Victoria, people “ate popcorn and hotdogs, and cried with [those who told their stories].”⁴⁵⁶

The more community driven process of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC) created space for the quick correction of the consumption of Indigenous pain during the MWTRC process. Despite this responsibility, we must also acknowledge that this spectacle also occurred at the first community listening session with Passamaquoddy people at Sipayik in 2013. At this first community listening session the Commission attempted a similar format to what was

⁴⁵⁵ Million, *Therapeutic Nations*, 81.

⁴⁵⁶ A. Simpson, “Reconciliation and Its Discontents.”

being used at Canadian TRC national events. It is worth quoting Passamaquoddy activist and co-founder of Maine Wabanaki REACH, Esther Anne (Altvater), at length here to understand how visceral this moment was:

When Denise gave her statement, and I was her support person, in front of the Commission and the statement gatherers were there. I remember the volunteer statement gatherers, a lot of them were crying, they were having a real hard time. There wasn't a lot of tribal people that showed up, and we were real cognizant of not making there be more people from the outside than people from the community. And I saw people from the community come and open the door and 'whewwph' [closing the door gesture] you know, 'oh my god that's too many people I don't know,' and leave.⁴⁵⁷

This tension was further exacerbated when, at the debriefing session that evening, one of the statement gatherers attempted to chastise Esther for the decision by the community to ask the statement gatherers to leave the community listening session: "I recognize that we're not your top priority, and we shouldn't have to be. But, if you want allies, I would say, from where I sit, there does need to be some different kind of communication."⁴⁵⁸

This was identified most precisely by community members as white privilege, and the frustration that Indigenous communities were saying no to the consumption of Indigenous pain. Further, this particular statement simultaneously moves to decenter Indigenous stories and recenter whiteness. As Esther firmly asserted: "It's not about making white people feel welcome, it's not about making you guys feel... it's not about you. It's about Sipayik...it's about my people feeling safe, and honoured, and listened to,

⁴⁵⁷ Esther Anne, *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

⁴⁵⁸ Statement Gatherer. *Dawnland*. directed by Adam Mazo and Ben Pender-Cudlip (2018; Boston: Upstander Project) DVD.

and validated. So, there's that moment where you choose to have your voice..."⁴⁵⁹

Following this event, as mentioned in Chapter One, the MWTRC listened to Wabanaki stories in the comfort of people's homes and not in the more public forum that occurred in Sipayik.

While private statement gathering did occur as part of the Canadian TRC, there was also a continuation of public spaces for sharing testimony that often contained larger audiences either within the room or online as events were streamed.⁴⁶⁰ These large national events with public spaces for sharing experiences within residential schools formed an important component of completing the TRC's mandate which emphasized one of their main goals as being to "promote awareness and public education of Canadians about the IRS system and its impacts."⁴⁶¹ And while the goal may be that public education will advance a rebuilding of relationships between Indigenous and non-Indigenous peoples—as noted in the mandates of the commissions⁴⁶²—the concern is that consumption of narratives of victimization forecloses the justice we seek in terms of structural change because Indigenous peoples are thought of in terms of ongoing

⁴⁵⁹ Esther Anne, *Dawnland*.

⁴⁶⁰ These web-broadcasts drew over 93 350 views from at least sixty-two different countries over the course of the National Events (TRC, *Honouring the Truth*, 31.)

⁴⁶¹ Indian Residential School Settlement Agreement, *Schedule N: Mandate for the Truth and Reconciliation Commission*, 2. http://www.trc.ca/assets/pdf/v-SCHEDULE_N_EN.pdf

⁴⁶² See for example the preamble of Schedule N which notes "this is a profound commitment to establishing new relationships..." (Indian Residential School Settlement Agreement, *Schedule N: Mandate for the Truth and Reconciliation Commission*, 1). Or the statement in the preamble of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Mandate: "Reconciliation may occur within or between any of the above groups and includes relational, systemic and cultural change" where the above groups referenced are "Wabanaki people who were formerly clients of Maine child welfare, their families, communities, religious entities, former state and tribal child welfare employees and the people of Maine." Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Mandate, 1.

victimhood engrained within Indigenous lives thus continuing the pathologization of Indigenous nations evident in previously told settler colonial stories.

The underpinning of Indigenous experiences with images of victimhood elicits settler pity as evidenced above when Audra Simpson described witnessing onlookers eating hotdogs and crying alongside those who shared testimony with the TRC,⁴⁶³ as well as the Maine-Wabanaki-State Child Welfare Truth and Reconciliation Commission's event in Sipayik. However, the affect produced through this consumption of Indigenous pain creates distance between the settler, and Indigenous peoples who are continually marked as 'other' and unmournable.⁴⁶⁴ This is particularly detrimental to our calls for and understandings of justice because this causes Indigenous experiences collected by the commissions to, as Roger Simon suggests "lose their specificity and historical grounding, and even more crucially, lose their transitive force, diminishing the possibility of the repair needed for a more just future,"⁴⁶⁵ wherein the singular story of victimhood becomes a reiteration of previously told stories of victimhood that become interchangeable while beginning to construct the core of Indigenous experiences.

The redefinition of Indigenous lives through the emphasis on trauma narratives is dangerous for our justice calls in that it can affirm and uphold the authority of the colonial state by pathologizing Indigenous peoples and subsequently providing

⁴⁶³ While Simpson is describing an experience witnessed at the regional event in Victoria BC, it is important to note that I also witnessed something similar—namely the distancing between those consuming Indigenous pain, and those sharing their experiences in residential schools, settlers crying alongside Indigenous survivors and the distancing between consuming Indigenous pain while eating popcorn or other snacks—when I attended the Montreal National Event in 2013. See: A. Simpson, "Reconciliation and Its Discontents."

⁴⁶⁴ See for example the work of Judith Butler in *Precarious Life*, or Teju Cole's article "Unmournable Bodies," *The New Yorker*, January 9, 2015: <https://www.newyorker.com/culture/cultural-comment/unmournable-bodies>

⁴⁶⁵ Simon, 132.

justification for continued intervention into Indigenous lives. As Simon argues, the danger is that “inter-generational Aboriginal life will be reduced to images of a problem-ridden, broken existence serving to confirm stereotypes offered as explanations for the marginalization of native populations within Canadian society.”⁴⁶⁶ To connect this back to Million’s earlier argument of “colonialism as a *felt*, affective relationship,”⁴⁶⁷ the containment of Indigenous experiences within the confines of victimhood effectively reproduces that which is “felt” and known by the settler public—dehumanized, distant/disconnected and pathologized Indigenous nations. The continuation of this narrative is evident in numerous instances, including the continued high rates of missing and murdered Indigenous women and girls, and child removal through the child welfare system in both Canada⁴⁶⁸ and the United States.

By upholding narratives predicated on victimization and trauma, the spectacle compliments the work of existing narratives of Indigenous deficiency, and damage-centered discourses which have dominated the American and Canadian socio-political discourse for decades. As previously noted, Daniel Heath Justice argues that these narratives of deficiency are particularly corrosive because they suggest that there is something missing from us; in other words that there is lack in our morals, culture, laws, restraint, etc,⁴⁶⁹ and by that logic if there is something lacking within us and within our nations, the fix or solution must be outside of our nations, our teachings, our laws, our

⁴⁶⁶ Simon, 132.

⁴⁶⁷ Million, *Therapeutic Nations*, 48.

⁴⁶⁸ For example, it is now widely recognized that there are more Indigenous children in the child welfare system than at the height of the residential schools system. See the work of the First Nations Child and Family Caring Society: <https://fncaringsociety.com/welcome>; Carolyn Bennett, “Bennett: ‘more children in care now than height of Residential Schools.’” *CBC*, October 27, 2016. <https://www.cbc.ca/news/politics/bennett-more-children-in-care-now-than-height-of-residential-schools-1.3823844>.

⁴⁶⁹ Justice, 2.

stories. These particular narratives of deficiency twist and disfigure our experiences, our existence, in which at every corner we are denied our humanity. Narratives of victimhood and trauma become another form of deficiency that continues the pathologization of our nations and legitimates colonial intervention into Indigenous lives and on Indigenous lands and waters. In other words, the pathologization of Indigenous peoples allows for the notion that Indigenous nations are continually in need of care from the state, thus legitimizing the interventions that occur within our lives and on our lands and waters.

Indigenous peoples must hold the duality of the truth and reconciliation commission's promise of justice, as well as the culmination of decades of advocacy and resistance on the part of their communities, with the psychological and material effects of consuming stories of victimized Indigeneity. While Million discussed the utility of the trauma discourse in mobilizing demands for justice,⁴⁷⁰ the reductive construction of our experiences to victimhood has the potential to do more harm as it not only demands that we consider ourselves as broken,⁴⁷¹ but it creates a forum for settlers and the state to look upon us as broken. Just as Justice notes that narratives of "unyielding deficiency become the solid object against which we're so often slammed,"⁴⁷² so too do narratives of Indigenous victimhood seek to destroy resistance, agency, resilience, strength, and instead become the marker of apparent failure. This constructed narrative actively silences the resistance and resurgence of our communities, and holds settler power as the fundamental assumption⁴⁷³ while pushing back against our demands for justice which

⁴⁷⁰ Million, *Therapeutic Nations*.

⁴⁷¹ Tuck, "Suspending Damage," 415.

⁴⁷² Justice, 3.

⁴⁷³ Alfred and Corntassel, 601.

emphasize an end to harm that has been perpetuated by paternalistic settler colonial relationships.

Deeply rooted in the spectacle is the reproduction of power. Debord noted that “the spectacle is thus a specialized activity which speaks for all others.”⁴⁷⁴ As bodies emboldened to seek the truth, truth and reconciliation commissions are often looked to as the authority in the revision of collective history.⁴⁷⁵ By seeking particular details focused on wrongdoing, the complexity of Indigenous experiences is obscured⁴⁷⁶ in order to advance an overarching narrative of right and wrong, of victim and perpetrator. The spectacle demands passive acceptance in the construction of a collective truth which Debord noted is achieved by “present[ing] itself as something enormously positive, indisputable, and inaccessible.”⁴⁷⁷ While Indigenous experiences are upheld as positive in their ability to illuminate “dark chapter[s] of history,” the demand for a collective truth also forces a passive acceptance of victimhood. While the two commissions may have attempted to note some instances of resistance as a way of pushing back against a singular focus on victimhood, it is not necessarily reflective of the take-away for many who engage with the TRC process as a witness. In other words, the overarching emphasis on illuminating wrongdoing and harm often overshadows and obscures Indigenous

⁴⁷⁴ Debord, 23.

⁴⁷⁵ See for example, P. Hayner, *Unspeakable Truths*; T. Phelps, *Shattered Voices*; Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy* (New York: Routledge Press, 2010); Bakiner, *Truth Commissions*.

⁴⁷⁶ Simon also discusses this as a potential in his article “Towards a Hopeful Practice of Worrying” in which he notes that in listening to the specific experiences of Indigenous peoples within residential schools as the way to learn how the logic of assimilation operated in specific instances, “the singular story becomes a reiteration of previous stories that have reduced Aboriginal peoples to victims of policies of assimilation with the intent of cultural genocide. On such terms, all residential school stories start to sound the same and therefore interchangeable, leading to diminished interest in listening and learning because there is nothing new to learn.” (132).

⁴⁷⁷ Debord, 12.

experiences of resistance which were noted in testimony provided to the truth and reconciliation commissions. It is possible to look to media reports as reflective of the main take-aways for many in the public who engaged with the TRC. For example, in Rosemary Nagy and Emily Gillespie's 2015 media analysis about truth and reconciliation in Canada, they note that reporting was primarily framed around "stories of abuse, forgiveness, and healing."⁴⁷⁸ As such it is possible for colonial power to be reified through the victim-centred nature of the commission which may unintentionally erase the specificity and complexity of experiences, and instead re-affirm narratives of the supposed pathologies of Indigenous peoples. This can hinder our pursuit of justice and self-determination and instead emphasize a state-led pathway forward because Indigenous people can be viewed as still in need of care from the state rather than being seen as strong, self-determining nations. In other words, the reproduction of settler state power is made possible through the emphasis on victimhood which privileges the expression of pity from a settler audience due to the fact that it validates previous narratives of humanitarianism.

When narratives of resilience and survivance are marginalized for the consumption of Native trauma and victimization, pity becomes a commodity for those who bear witness. As Audra Simpson notes, a theatre is created for Canadians and Americans "to sit within and watch as their history is resorted... and repaired for them,"⁴⁷⁹ yet there is no real demand for active engagement. While the stories told within these forums force a temporary contemplation of lived realities, the construction of truth

⁴⁷⁸ Rosemary Nagy and Emily Gillespie, "Representing Reconciliation: A News Frame Analysis of Media Coverage of Indian Residential Schools," *Transitional Justice Review* 1.3 (2015): 8, 22.

⁴⁷⁹ A. Simpson, "Reconciliation and Its Discontents," 2016.

as an entity of the past allows for settlers to distance themselves from discomfort and complicity and instead to occupy a space of absolution while simultaneously laying the burden of labour on Indigenous peoples to become, as Kim Stanton notes: “reconciled, or perhaps reintegrated (or ‘conciled’/ integrated) into... society.”⁴⁸⁰ As Simon has noted, the acknowledgement of victimhood becomes an affective transaction in which one feels for the pain of others, but “there is no need to ask difficult questions that might implicate one’s psychic, social and economic investments in the conditions and institutions responsible for the genesis and prolongation of that pain.”⁴⁸¹ In other words, settlers are able to feel good about the fact that they felt bad, but are not necessarily forced to consider the ways that they continue to benefit from the structures of power that facilitate violence and harm. In fact, this distancing is critical to the reification of settler colonial power. Sherene Razack noted a similar pattern within the inquiry and inquest process where she asserted that the presence of an inquiry “resolves settlers’ anxieties that they have in fact failed to care by announcing a commitment to improving Indigenous lives through understanding cultural difference.”⁴⁸² In the truth and reconciliation commission process, settler audiences are able to assuage settler guilt by publicly displaying grief and subsequently committing to improving Indigenous lives through generating an understanding cultural difference.⁴⁸³ Through this newfound commitment, the settler

⁴⁸⁰ Stanton, 11.

⁴⁸¹ Simon, 133.

⁴⁸² Razack, 23.

⁴⁸³ This can be seen most evidently in the embrace by settler groups, including church congregations, of the TRC’s calls to action around cultural revitalization. As discussed in the previous chapter, engagement on the TRC Calls to Action has tended to focus on cultural accommodation rather than Indigenous self-determination right to govern and maintain healthy relationships with our homelands. A more recent example of this in action is explored in the next chapter.

colonial myth continues thus “ ignoring or negating all evidence that calls into question its veracity.”⁴⁸⁴

Through the exploration of the process of genocide within the residential school system in Canada, or the child welfare system in Maine, the spectacle of victimhood elicits pity over abuses, and centers damage-centered discourses, but does not fully call into question the colonial underpinnings of the nation-state, nor the continuation of the colonial project through the obscuring of power relations and the interconnectivity of violence. Instead, the spectacle creates division between those who truth-tell and those who consume. In a move to unite, the spectacle, as Debord noted, “moves to reunite the separate, but reunites it *as separate*.”⁴⁸⁵ This continues to generate affective attachments for consumer citizens that further emphasize division. As Million stresses “consumer citizens are attached affectively to pitying/adoring/hating/loving Indians, but they do not seek to know them; particularly if they cannot figure out how to consume them.”⁴⁸⁶ The appeal of the consumption of the spectacle lies in its pathway to erase Indigenous nations while absorbing aspects of Indigeneity within multiculturalism, and where this is in progress, the legitimation of colonial imposition due to our crafted status as dysfunctional victims, and thus the continuation of a narrative that we must be “saved.” When Indigenous peoples are thought of in terms of pathologization which notes dysfunction and victimhood as ingrained within us, it becomes easier for colonial intervention to persist under the assumption that it is necessary. We can see this validation of colonial intervention occur through the continued high rates of removal of Indigenous children

⁴⁸⁴ Episkenew, 6.

⁴⁸⁵ Debord, 29.

⁴⁸⁶ Million, *Therapeutic Nations*, 161.

into child welfare which often note dysfunction within the family home, or onto Indigenous lands and waters such as through the promulgation of “public interest” when it comes to extractive natural resource projects,⁴⁸⁷ alongside the suggestion of dysfunctional and conflict ridden governance systems.⁴⁸⁸ This is how the spectacle of victimhood reproduces colonial power, and advances the continued imposition of colonial authority over strong, autonomous Indigenous nations.

The construction of the spectacle of victimhood places specific limits on the dissemination of truth in order to facilitate moves to innocence.⁴⁸⁹ Some have asserted that truth commissions, through their victim-centered focus, have the ability to symbolically reverse power by giving voice, and ownership of history to those who have been repressed.⁴⁹⁰ Yet, within colonial contexts, restrictions were placed on this reversal—forcing a focus on experiences with one specific colonial policy that is held

⁴⁸⁷ Consider for example the clashing of RCMP, and the provincial government of British Columbia with Wet’suwet’en hereditary leaders over the construction of the CGL pipeline. During the height of the conflict between Wet’suwet’en Hereditary Chiefs, the British Columbia Provincial Government and Coastal GasLink (discussed in the conclusion), Premier John Horgan, and the Minister of Indigenous Relations and Reconciliation Scott Fraser noted the tensions between Wet’suwet’en hereditary leaders and the elected band councils as “internal issues” but affirmed the continued reliance on decisions made by the band council noting that “We’ve called all the elected chiefs and heard their concerns again. They were pretty much all around the process that they said was not appropriate, not sufficient.” In making these comments, provincial leadership erases the colonial history which saw the implementation of band council systems to override hereditary leadership through the imposition of the Indian Act, and the suggestion of internal conflict within Indigenous communities between these systems of governance seems to allude to internal disfunction. See: Tom Fletcher, “Wet’suwet’en Land Title Disputes an ‘internal issue,’ BC minister says”, *Victoria News*, May 14, 2020: <https://www.vicnews.com/news/wetsuweten-land-title-disputes-an-internal-issue-b-c-minister-says/>

⁴⁸⁸ The most prominent example of this is the imposition of third-party management by the Department of Indigenous Affairs within Canada.

⁴⁸⁹ Eve Tuck and K Wayne Yang, “Decolonization is not a Metaphor,” *Decolonization: Indigeneity, Education & Society* 1.1 (2012).

⁴⁹⁰ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd edition (London: Zed Books, 2012); Matt James, “A Carnival of Truth: Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission,” *The International Journal of Transitional Justice* 6 (2012): 183-4.

statically within the past. The victim-centered nature of truth and reconciliation commissions certainly creates social power for Indigenous people in the sharing of their experiences once at the margins of history. Yet, this occurs within a limited context by focusing on singular wrongdoing, and where our stories as a whole are understood within the parameters of a colonial violence with limited ability to move or evolve in their breadth and strength. Further, these processes move to affirm settler subjectivities by—as Razack argues—being “tailor made for redemptive gestures, establishing settlers as caring in the moment when the very opposite as true.”⁴⁹¹ What is particularly troubling about the advancement of the narrative of Indigenous victimhood is that its reductive view of Indigenous lives erases Indigenous agency while simultaneously validating ongoing colonial intervention in Indigenous lives and on Indigenous lands and waters.

In advancing the supposed pathologies of Indigenous peoples, the spectacle can posit justice as embodied in interpersonal healing. In doing so, it connects back to previous discourses of healing,⁴⁹² but does not necessarily connect with healing in our relationships with place, or our more-than-human relations, and thus potentially limits our expressions of self-determination. As Dian Million has argued, “the space of our medicalized diagnosis as victims of trauma is not a site wherein self-determination is practiced or defined.”⁴⁹³ Instead, it directly pushes against Indigenous conceptions and justice through its compartmentalization of Indigenous relationality—which is understood as connected to all of creation—in favour of an emphasis on a Western view of land, waters, and nature as outside of national society, and whose primary purpose

⁴⁹¹ Razack, 23.

⁴⁹² See for example the discussion of the healing industry in Canada and the United States in: Million, *Therapeutic Nations*.

⁴⁹³ Million, *Therapeutic Nations*, 150.

remains as resource extraction, exploitation, and capitalistic development. This redefinition of justice as interpersonal healing and relationships is explored more thoroughly in Chapter Four. However, I must stress here that structuring justice in this way, as devoid of our relationality to our territories and all of creation, allows for the denial of inherent Indigenous self-determination when it is in conflict with colonial desires or what is argued to be the “public interest.”⁴⁹⁴ It denies the self-determining authority of Indigenous nations to refuse engagement with the continued disruption of our individual and community relationships to the natural world in order to uphold economic benefit and resource extraction. As such, the redefinition of justice to be devoid of these understandings of self-determination continues to reproduce settler colonial power and authority over Indigenous peoples.

The existence of truth and reconciliation commissions in Canada and Maine to redress Indigenous child removal policies in settler colonial states represented an important moment in the recognition of Indigenous demands for justice. Despite this, there are structural aspects of truth and reconciliation commissions that give rise to the potential creation of the spectacle of victimhood. This is particularly detrimental to Indigenous conceptions and visions of justice because the spectacle of victimhood can delimit transformative structural change and reify settler colonial power by validating ongoing settler colonial intervention into Indigenous lives, and on Indigenous lands and waters. Given these limitations, and the transformative potential of our stories in their own right, might the path for justice emerge from within our own nations? As Million

⁴⁹⁴ Consider for example the advancement of various extractive industry project which continue despite having the free, prior and informed consent of Indigenous nations including the Site C Dam addressed in Chapter Four, and the construction of the CGL pipeline through Wet’suwet’en territories.

argues, “the answer [is] to strengthen Native family bonds and to revive traditions...the solution to their problems would have to come from within their own communities.”⁴⁹⁵ It is within this context, in spaces outside of the grasp of colonialism that we gather our strength, that we build ourselves and our nations, where we are deeply tied in our relationality, and where we assert our self-determination. As such, the fundamental question becomes: how does the (re)claiming of our stories—deeply listening to our stories and allowing them to guide us—create alternative paths that move towards our visions of justice for our nations?

Indigenous Stories on Our Own Terms

To align with our visions and conceptions of justice, our pathways forward must center the (re)generation of healthy relationships to self, to family, to community, to place—to every being located within our webs of kinship. Representing ourselves on our own terms can be understood as an expression of our self-determination. The imposition of settler colonial narratives has attempted to restrict and reshape these relationships in order to create certainty for settler colonial power and sovereignty.⁴⁹⁶ Despite the multitude of tactics employed by the settler colonial state to force Indigenous nations to forgo our relationships in favour of unhealthy relationships subsumed within the colonial system, our ongoing resistance is a testament to our commitment to our relationships and

⁴⁹⁵ Million, *Therapeutic Nations*, 80.

⁴⁹⁶ For a further unpacking on the attempted creation of certainty, see for example: specifically on creating certainty, see Carole Blackburn, “Searching for Guarantees in the Midst of Uncertainty: Negotiating Aboriginal Rights and Title in British Columbia,” *American Anthropologist* 107.4 (12/2005): 586-596; Eva Mackey, “Unsettling Expectations: (Un)certainty, Settler States of Feeling, Law and Decolonization,” *Canadian Journal of Law and Society* 29.2 (2014): 235-252; Andrew Woolford, *Between Justice and Certainty: Treaty Making in British Columbia* (Vancouver: University of British Columbia Press, 2005).; Arthur Manuel, *Reconciliation Manifesto*.

envisioning our futurity. We have continually centred our stories outside of the spaces which have sought to co-opt them. In doing so, we confront and detach colonial narratives of our supposed disconnect, deficiency, and victimhood from ourselves first and foremost, and while simultaneously advancing decolonization and the resurgence of our nations. Focusing on the primacy of Indigenous futures and liberation, resurgence and decolonization are relationally intertwined. Resurgence can be understood as having several interrelated dimensions including “centering Indigenous nationhood and land/water-based governance; honouring and practicing relational responsibilities which form the basis for Indigenous self-determining authority; turning away from the state and decentering the politics of recognition, heteropatriarchy, and settler colonialism; [and] engaging in everyday acts of renewal, remembering and regeneration”⁴⁹⁷ As it relates to decolonization, resurgence centers Indigenous nationhood in ways that move towards freedom from oppressive structures of domination and control.

At the heart of both of these concepts is the necessity of storytelling. Storytelling, both contemporary and traditional, offers a medium for decolonization by centering the resurgence of Indigenous peoples and providing a counter narrative to colonial discourse

⁴⁹⁷ Jeff Corntassel, “Life Beyond the State: Regenerating Indigenous International Relations and Everyday Challenges to Settler Colonialism,” *Anarchist Developments in Cultural Studies* 1(2021): 74. See also, but not limited to: L. Simpson, *Dancing on our Turtle’s Back.*; L. Simpson, *As We Have Always Done.*; Coulthard, *Red Skin White Masks.*; C. Coté, *Spirits of Our Whaling Ancestors.*; Corntassel, editor, *Everyday Acts of Resurgence: People, Places Practices*; J. Corntassel, Robynne Edgar, Renée Monchalin, Carey Newman, “Everyday Indigenous Resurgence during COVID-19: A Social Media Situation Report,” *AlterNative* 16.4 (2020): 403-405.; Heather Dorries, Robert Henry, David Hugill, Tyler McCreary and Julie Tomiak, editors, *Settler City Limits: Indigenous Resurgence and Colonial Violence in the Urban Prairie West* (Winnipeg: University of Manitoba Press, 2019); Elaine Coburn, editor, *More Will Sing Their Way to Freedom: Indigenous Resistance and Resurgence* (Winnipeg: Fernwood Publishing, 2015); Laura Harjo, *Spiral to the Stars: Mvskoke Tools of Futurity* (Tucson: University of Arizona Press, 2019).; Noelani Goodyear- Ka’ōpua, *The Seeds We Planted* (Minnesota: University of Minnesota Press, 2013); Michelle Daigle, “tracing the Terrain of Indigenous Food Sovereignities,” *The Journal of Peasant Studies* 46.2(2017): 297-315.

that is envisioned on our own terms, and for our nations. It becomes an expression of our relationships, love, and resistance while simultaneously articulating the recovery, assertion and continuance of Indigenous ways of being and knowing. In foregrounding our freedom, storytelling explores resurgence and decolonization, and actively creates pathways towards justice through the continued assertion of our self-determination and our relationships to all of creation over time.

Contemporary storytelling has become an important component of the decolonial process which is aimed at achieving freedom from the imposition of colonial power and the further articulation of self-determination. Indigenous storytelling in this capacity has created a pathway for the (re)generation of our relationships in their various capacities and as such, directly speaks to our visions of justice. In exploring *felt theory*, Million notes how the first person experiential stories of First Nations and Métis women were political acts that “in their time exploded the measured “objective” accounts of Canadian (and US) colonial histories.”⁴⁹⁸ Through their labour and courage, space was created for “both men and women to speak one of colonialism’s nastiest domestic secrets.”⁴⁹⁹ These stories trace the impact of settler colonial policies on our peoples—policies whose impacts have reverberated through generations—through storytelling on our own terms. As Qwul’sih’yah’maht argues, “the beauty of storytelling is that it allows the storytellers to use their own voices and tell their own stories on their own terms.”⁵⁰⁰ The sheer number of our people who have sought to share their stories in various capacities and in numerous spaces offers important insight into the settler colonial system, shedding light

⁴⁹⁸ Million, *Therapeutic Nations*, 56.

⁴⁹⁹ Million, *Therapeutic Nations*, 56.

⁵⁰⁰ Qwul’sih’yah’maht “Honouring the Oral Traditions of the Ta’t Mustimuxw,” 184.

on how the system functioned, and challenging the structural imperatives of the system through our active and ongoing resistance.

Storytelling about our resistance to the imposition of outside forces seeks to break the silence about ongoing colonial oppression, assimilation and genocide. This storytelling also deeply connects us with the physical places we call home, with the lands, waters, and more-human-relations within our webs of kinship. For generations we have not been the final arbiters of what counts as truth,⁵⁰¹ and what has been documented in history books and subsequently taught to our children is imbued with colonial power dynamics that seek to erase us from the landscape. As a decolonizing practice, when we engage in storytelling that speaks to our histories and experiences we actively counter colonial narratives of history, and can force settlers into a reckoning with the past, present and future while seeking to reverse the power dynamics at play in our daily lives. What is important to note here is that our stories have a stronger capacity to do this when they are not restricted by external forces such as those discussed earlier. As Gloria Bird notes, she understood her writing as “testimony aimed at undoing [the processes of colonization] that attempt to keep us in the grips of the colonizer’s mental bondage.”⁵⁰² Stories in this capacity can be both written to incite change in settlers, and to awaken action within qu?as who have relied on the colonial state. These stories can emerge in many forms including (but not limited to) academic papers and books documenting the true history of the country,⁵⁰³ written testimony, or testimony presented to truth and reconciliation

⁵⁰¹ L. Smith, *Decolonizing Methodologies*, 35.

⁵⁰² Bird, “Breaking the Silence,” 29.

⁵⁰³ While there are many books and articles that come to mind, see for example: Harold Cardinal, *Unjust Society* (Vancouver: Douglas & McIntyre, 1999).; Fournier & Crey, *Stolen from Our Embrace*; Charlotte Coté, *Spirits of Our Whaling Ancestors* (Vancouver: University of British Columbia Press, 2010).; Nick Estes, *Our History is the Future* (London: Verso, 2019).

commissions (although its reception is certainly nuanced),⁵⁰⁴ blog posts,⁵⁰⁵ poetry,⁵⁰⁶ novels⁵⁰⁷ or orality. While Nishinaabeg scholar, Leanne Simpson postulates that story has the most transformative potential in its original form (orality) because it holds dynamic relationships at its core,⁵⁰⁸ this should not discount the strength of the above mediums to challenge the colonial narrative. As Episkenew argues, contemporary Indigenous literature also is transformative and has spirit.⁵⁰⁹ Through these counter narratives, Indigenous peoples issue their own calls to action for those who engage with the story; they demand change and move toward justice that is rooted in an end to harm and the ability to tend to our relationships in all of their forms thus pointing to the importance of decolonization.

⁵⁰⁴ Over the course of the Truth and Reconciliation Commission of Canada's work, 6 750 statements were received from Survivors of residential schools, members of their families and other individuals who wished to share their knowledge of the IRS system and its legacy. (TRC, *Honouring the Future*, 25).

Through the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Process, 159 statements were gathered from individuals and those who spoke jointly. In addition, 78 people participated in focus groups/ listening circles. (Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 14).

⁵⁰⁵ Chelsea Vowel and Pam Palmater are two prominent bloggers who come to mind when considering presenting counter narratives to colonialism. Vowel's work has since been culminated in *Indigenous Writes: A Guide to First Nations, Métis, and Inuit Issues in Canada* (Winnipeg: Portage & Main Press, 2016) which tackles some of the common racist misconceptions about Indigenous peoples. Palmater has also had her blog posts captured within her book *Indigenous Nationhood* (Nova Scotia: Fernwood Publishing, 2015). Both of these women contribute their blogposts reflecting on Indigenous resistance and Idle No More in *The Winter We Danced: Voices from the Past, Future, and the Idle No More Movement* (Winnipeg: Abreiter Ring Publishing, 2014).

⁵⁰⁶ While there is also a large collection of works by Indigenous poets, some that stand out the most are: Billy-Rae Belcourt, *The Wound Is a World*; Billy-Rae Belcourt, *NDN Coping Mechanisms*; Lee Maracle, *Bent Box*; Columpa Bob, Lee Maracle, and Tania Carter, *Hope Matters*; Tenille Campbell, *#IndianLovePoems*; and Annharte who beautifully and humorously critiques the colonial experience in her collection *Indigena Awry* (Vancouver: New Star Books, 2012).

⁵⁰⁷ For example: Tracey Lindberg seeks to change the way Indigenous women and girls are viewed in her novel *Birdie* (Toronto: HarperCollins, 2015); Lee Maracle documents her experiences clashing with the colonial system and her resistance in *Bobbi Lee: Indian Rebel* (Toronto: Women's Press Library, 1990); Waubgeshig Rice offers a powerful critique of the insatiable settler in his novel *Moon of the Crusted Snow*; Cherie Dimaline, *The Marrow Thieves*.

⁵⁰⁸ L. Simpson, *Dancing on Our Turtle's Back*, 34.

⁵⁰⁹ Episkenew, 14.

At the heart of Indigenous nations are stories. Stories tie us to the land,⁵¹⁰ emphasizing the connections we have in place for generations such as noting for example why we might fish in certain spaces, or how the lands and waters received their names. They trace our histories and locate us within specific webs of kinship; they create our understandings of place,⁵¹¹ they affirm our relations,⁵¹² they carry our *haahuupaa*,⁵¹³—teachings—and they are how we make sense of the world.⁵¹⁴ To consider the resurgence of Indigenous nations and the regeneration of our relationships to the lands and water is to inherently reflect upon our stories. As already discussed, contemporary storytelling can advance decolonization through the creation of a medium to express our resistance, as well as space to honour and celebrate our relationships and love. Each of these intrinsically challenge the colonial discourse and provide a counter narrative that unsettles colonial stories about Indigenous peoples both those held by the settler colonial public, as well as the ones we have internalized and generated shame.

Contemporary storytelling has tremendous power within our communities, and generates power to heal and reaffirm vital relationships with self, family, community, and all of our kin which are fundamental components of our conceptions of justice. In moving toward this healing, these stories provide a vocabulary to discuss the impacts of

⁵¹⁰ Umeeek, *Tsawalk*.

⁵¹¹ Keith Basso, *Wisdom Sits in Places* (Albuquerque: New Mexico, 1996).

⁵¹² Lee Maracle, *Memory Serves*, ed. Smarko Kamourel (Edmonton: NeWest Press, 2015); Simon Ortiz, “Native Heritage: A Tradition of Participation,” *A Poetic Legacy of Indigenous Continuance*, eds. Susan Berry Brill de Ramírez and Evelina Zuni Lucero (New Mexico: University of New Mexico Press, 2009).

⁵¹³ In *Tsawalk*, Alteo recounts Nuu-chah-nulth creation stories and discusses the emerging worldview of the Nuu-chah-nulth people centered on *hišukʔišcawak* (everything is one). These stories carry important *haahuupaa* (teachings) about how Nuu-chah-nulth people, our relationships, and how we function as a part of creation.

⁵¹⁴ Stark, “Transforming the Trickster: Federal Indian Law Encounters Anishinaabe Diplomacy,” 260-61.

colonialism that might not have otherwise been in a person's life.⁵¹⁵ While reconciliation between Indigenous peoples and settlers has been limited as a result of truth and reconciliation commissions, the most transformative potential seems to emerge where interpersonal relationships already existed and has been embodied most in the intergenerational and familial healing that occurred through the sharing of story. Throughout my work with the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, and in watching my own relatives and other Indigenous peoples engage with the Truth and Reconciliation Commission of Canada, I witnessed Indigenous families coming back together, embracing each other, and honouring their relationships from a place grounded in understanding, love and care. As Gaudet and Martin argue, as sites of resistance, the process of storytelling and holding conversations about shame “disrupted the emotional and physical charge shame held. It cleansed us of the pollutants of colonial shame—even for a short time... [it is] a self-reflexive and relational approach to healing [that] helped us to break shame into smaller manageable pieces, thereby giving it less control over our bodies, hearts, and minds.”⁵¹⁶ When we speak our truths, we can see connections between our stories. We are able to move beyond the shame-based systems that drove settler colonial stories, and move to dislodge that which we have internalized. We honour our relations and relationships this way and generate solidarity as we affirm the strength and vibrancy of our nations.

Within our communities, this storytelling holds up our *ḥaaḥuupaa* by foregrounding the recovery, assertion, and continuance of our distinct ways of being and knowing. When we engage in relational storied practices that are grounded in our nations,

⁵¹⁵ Episkenew, 17.

⁵¹⁶ Gaudet and Martin, 107.

we are not writing or speaking to settler colonial powers. We tell these stories to offer future imaginations of nation,⁵¹⁷ to envision and create our existence in a space of freedom that is grounded in our conceptions of justice. Storied practice shifts the dialogue from lament and appeals to settler colonial powers, and directs it to our own people, to awaken change and resistance.⁵¹⁸ In these actions we challenge the colonial narratives that hold the “settler’s power [as] the fundamental reference and assumption.”⁵¹⁹ Storytelling, as a relational practice, seeks to challenge the colonial system by inciting change and privileging our ways of being as a path to freedom.

yaʔakstalḥ—care for one another

As we contemplate paths forward that are grounded in our conceptions of justice which emphasize Indigenous self-determination, the resurgence of our ways of being and knowing, and balanced relationships with each other, the teachings of our nations offer solutions. A central teaching and worldview of the nuučaañuł people is hišukʔišcawaak—everything is one. We are taught about our unity, interconnectivity and relationship to all of creation. When we understand our positionality to all of creation, the impacts of colonialism—which has been intent on the destruction of our relationships in all forms—are glaring. Storytelling resists colonialism, and settler colonial understandings of justice through its relational practice and the creation of narratives rooted in our understandings

⁵¹⁷ Michael Wilson, *Writing Home: Indigenous Narratives of Resistance* (East Lansing: Michigan State University Press, 2008), xvii.

⁵¹⁸ Fanon, *Wretched Of The Earth*, 173.

⁵¹⁹ Alfred and Corntassel, 601.

of relationships.⁵²⁰ Our creation stories were typically told in family settings, drawing attention to the centrality and importance of our relationships to one another, particularly in teaching and guiding us through our interactions. In recounting the story *How Son of Raven Captured the Day*,⁵²¹ Umeek—a prominent nuučaañuł leader—describes how the story conveys community as a natural phenomenon.⁵²² We are taught to be kind to each other, and “consequently, a person in need is taught and encouraged to depend upon their neighbours, and this interdependence is considered one of the strengths of a traditional Nuu-chah-nulth community.”⁵²³ This story also exemplifies other relational principles of life, including helpfulness that Umeek notes is a “call to cooperate with the original design of creation, which is characterized by oneness, wholeness, interconnectedness, and interrelationality.”⁵²⁴ From this space, our traditional stories not only remind us of the centrality of our relationality to life, but guide us in how we should conduct ourselves in these relationships to embody our guiding relational principles of love and respect.

Focusing on relationships that constitute who we are as Indigenous nations and communities shifts the dialogue away from seeking legitimacy and accommodation from

⁵²⁰ Elaine Coburn notes that narratives rooted in Indigenous understandings of relationships resist colonial narratives and relations of violence. Coburn, “Indigenous Resistance and Resurgence,” 33.

⁵²¹ Storytelling is an important aspect of nuučaañuł life. There has been great discussion within our communities about the sharing of these stories in public spaces, and the sharing of these stories in public spaces has not been within controversy for some. It is important to follow protocols when sharing these stories and because of this, I have chosen to reference *How Son of Raven Captured the Day*—a nuučaañuł origin story—but not to recount this story here in writing. I have made this decision as a part of my commitment to respect the complexities and protocols that are a part of storytelling. For those who are interested in this particular story, I encourage you to read Umeek (E. Richard Atleo), *Tsawalk: A Nuu-chah-nulth World View* (Vancouver: UBC Press, 2004), who recounts this story in his book.

⁵²² Umeek, 12.

⁵²³ Umeek, 12.

⁵²⁴ Umeek, 14.

the structures that have been complicit in ongoing violence⁵²⁵ and that have emphasized justice in interpersonal relationships only. These stories connect us deeply with our communities, with our lands, and with our more-than-human relations. Focusing on these relationships generates strength, and as nuučaañuł people, we have consistently affirmed the centrality of these relationships in our lives.⁵²⁶ In recounting these stories, we actively reaffirm these relationships and place them at the forefront of our existence, while also connecting with our conceptions of justice that emphasize balance and health in all of our relationships. The relationality of and within our stories brings our responsibilities to the fore. They are gifts⁵²⁷ that help us to build bridges in disruptive situations.⁵²⁸ When we tell and listen to story, we are engaged in an active relationship that hinges on our participation;⁵²⁹ there is no passivity in our storied practice.

Intrinsic to stories and our relationships is the concept of love. For the nuučaañuł people, yaaʔakmis, translates to ‘love,’ but the word itself also notes the deeply interconnected experiences of love and pain. As Umeek, notes, our experience “has found the goodness of love to be inseparable from the experience of pain,” and while “little of love can be described on printed page...[it is] an experience of the heart, of one’s soul and life essence.”⁵³⁰ Sto:Lo writer Lee Maracle also speaks to the unity of love and pain in her critique of the desire not to hear sad stories: “When we are sad for ourselves, it is a measure of love and justice in our lineage. When we dodge that sadness, we also negate

⁵²⁵ Aguirre, “Telling Stories,” 185.

⁵²⁶ Barney Williams Jr., interview with author, June 14 2019.; Shana Thomas, *Nuu-chah-nulth Reconciliation Project Report*, October 2019.; kekinusuqs, interview with author, May 9, 2019.

⁵²⁷ James (Sa’ke’j) Youngblood Henderson, “Ayukpachi: Empowering Aboriginal Thought,” *Reclaiming Indigenous Voice and Vision*, ed. Marie Battiste. (Vancouver: University of British Columbia Press, 2000).

⁵²⁸ Cruikshank, *The Social Life of Stories*.

⁵²⁹ Ortiz, “Native Heritage,” 86.

⁵³⁰ Umeek, 15.

the empathy, justice, and love.”⁵³¹ Given the attempted destruction of our relationships, the act and expression of love becomes revolutionary. Our survival demands that we act on this love, for without a knowledge and love of our relations, as Simon Ortiz, Acoma Pueblo poet and writer, has stressed: “there is no Existence literally.”⁵³²

The love embodied in our traditional and contemporary stories, not only act as liberation from colonial oppression, but they also seek to (re)structure our relationships and responsibilities to each other and to the lands and waters. In describing our traditional story of Aint-tin-mit and Almaquuʔas, Umeek notes the teaching of yaaʔakmis, and in particular the way the story emphasizes the way nuučaañuʔ life is founded on creating and maintaining relationships: “it is unnatural, and equivalent to death and destruction, for any person to be isolated from family or community.”⁵³³ The teaching of yaaʔakmis embodied by this story also reminds us of the responsibilities we carry because of the centrality of our relationships. We are taught to understand all relatives as gifts of the Creator, and as such *cla-ya-hoe-aulth-ee yakh-yew-itk*—“greet with joy, gladness, and enthusiasm those who are related to you,”⁵³⁴—is essential. We must honour the important connection that all our relations have with the Creator. When we enact love we are in continual relation to creation and our responsibilities. (Re)centering yaaʔakmis celebrates our relations, and as such rejects colonial violence and the continued pathologization of our nations. It asks us to reflect on how we are enacting love, and how we hold and act on our responsibilities.

⁵³¹ Maracle, *Memory Serves*, 37.

⁵³² Ortiz, “Native Heritage,” 94

⁵³³ Umeek, 27.

⁵³⁴ Umeek, 29.

In our connection to all of creation, when we love we engage in a constant practice of assertion and continuance of our self-determination. Our stories, both traditional and contemporary, foreground these practices. The resurgence of our communities hinge on these assertions, after all, Paulo Freire notes that “freedom is acquired by conquest, not by gift.”⁵³⁵ A colonial state intent on our suppression will not hand over our freedom, we must assert our rights and responsibilities. The responsibilities we carry to our relations with all of creation—grounded in an intimate understanding of hišukʔišcawaak—are essential to the continuation of our nations, our self-determination and our understandings of justice. As sii-yaa-ilth-supt eloquently put it, “from an [nuučaañuł] perspective ʔuuʔuuqʷaačii is dependent on hišukʔišcawaak.”⁵³⁶ ʔuuʔuuqʷaačii describes self-independence/determination. While colonialism may have interrupted our worldview, it has never brought it to extinction.⁵³⁷ Our stories, and the relational process of storytelling offer connection with our worldviews in a way that guides us from a grounded place as quuʔas.

These stories also offer insight into our governance systems, and call on us to connect with our teachings. Recounting the oral stories of his ancestors, XEMFOLTW (Nick Claxton) draws attention to the intricate governance system of the WSÁNEĆ people in the SXOLE, or reef-net fishery.⁵³⁸ While noting the centrality of the SXOLE to the WSÁNEĆ peoples, XEMFOLTW also enacts the project of “writing home” with the

⁵³⁵ Paulo Freire, *Pedagogy of the Oppressed*, (New York: The Continuum International Publishing Group Inc, 2006): 47.

⁵³⁶ D. Smith, “hiil kʷiiʔi sił,” 7.

⁵³⁷ D. Smith, “hiil kʷiiʔi sił,” 70.

⁵³⁸ Nicholas Xemthoult Claxton, “ISTÁ SCÍÁNEW, ISTÁ SXOLE ‘To Fish as Formerly’: The Douglas Treaties and the WSÁNEĆ Reef-Net Fisheries,” *Lighting the Eighth Fire: The Liberation, Resurgence, and Protection of Indigenous Nations*, ed. Leanne Simpson (Winnipeg: Arbeiter Ring Publishing, 2008).; Claxton and Price, “Whose Land Is It?”

intention of encouraging his people to (re)center this system of governance despite colonial imposition. In the collection *The Winter We Danced*, Tara Williamson also draws attention to the importance of our governance systems, and how our stories of governance can impact change.⁵³⁹ In considering our stories as holding and asserting our self-determination, Kam'ayaam /Chachim'multhnii (Clifford Atleo Jr.) foregrounds our engagement with our stories as a way of engaging with tradition to assert our self-determination and to live Nuu-chah-nulth-aht in new ways, particularly when it comes to our ties to the water.⁵⁴⁰ When we engage with our stories in ways that assert our self-determination we continually (re)imagine our existence in the present and future outside of the confines of the state's authority. Story becomes the vehicle through which we deepen our understanding of our responsibilities to the lands, waters, humans and more than humans over time, and how we come to understand how we function in the world. After all, as Q'um Q'um Xiiem, Lee-Morgan and De Santolo assert, "our stories [are] part of articulating our world, understanding our knowledge systems, naming our experiences, building our relationships, and most importantly, identifying ourselves."⁵⁴¹ These stories inherently privilege our ways of being and knowing, and by emphasizing these stories we resurge against contemporary colonial forces that remain intent on our erasure.

⁵³⁹ Tara Williamson, "#IDLENOMORE Provides Us With Opportunity to Examine Nationhood," *The Winter We Danced: Voices from the Past, the Future, and the Idle No More Movement*, ed. The Kino-nda-niimi Collective (Winnipeg: Abreiter Ring Publishing, 2014), 153.

⁵⁴⁰ Clifford (Kam'ayaam/ Chachim'multhnii) Atleo, "Aboriginal Economic Development and Living Nuu-chah-nulth-aht," *More Will Sing Their Way To Freedom*, ed. Elaine Coburn (Halifax: Fernwood Publishing, 2015).

⁵⁴¹ Q'um Q'um Xiiem, Lee-Morgan, De Santolo, 5.

Critical to the resurgence of Indigenous nations are projects of recovery. These projects also figure centrally in our contemporary stories as we share how to combat colonial imposition through the (re)centering of our ontologies and epistemologies. Our pathways to freedom and justice must focus on the embodiment of our traditions, our ھااھuupaa, and our self-determination. When we recover our stories, or as Johnny Mack posits “take our stories seriously,”⁵⁴² we create a new dynamic for engagement with settlers and the state⁵⁴³ that shifts preconceived notions of state sovereignty and authority, while simultaneously centering our self-determination in the dialogue. This resurgent recovery focuses on our relationality with our ھاaھuuli. The calls to action found in many of our contemporary stories, such as the Makah whale hunt discussed by Charlotte Coté,⁵⁴⁴ emphasize the (re)clamation and recovery of our traditional practices not only as the embodiment of who we are as Indigenous peoples, but also as a necessity for our futurity and freedom from the state. Through the exploration of how storied practice connects us to each other, but also to our lands and waters we offer future imaginations of nation in particular around coastal governance. For example, I see this strongly embodied in Tribal Journeys where Indigenous nations from across the west coast assert their self-determination centered in coastal governance, affirm relations, and unmake and resist colonial borders and violence. As we consider the resurgence of our communities, we

⁵⁴² Johnny Mack considers the critical question of how our relationships with settlers would change if we took our stories seriously, and particularly how taking these stories seriously would transform what happens in treaty negotiations. Johnny Mack, “Hoquoist: Reorienting Through Storied Practice,” *Storied Communities: Narratives of Contact and Arrival in Constituting Political Community*, ed. Hester Lessard, Rebecca Johnson and Jeremy Webber (Vancouver: University of Vancouver Press, 2011).

⁵⁴³ Stark, “Transforming the Trickster: Federal Indian Law Encounters Anishinaabe Diplomacy.”; Mack, “Hoquotist.”

⁵⁴⁴ Charlotte Coté, *Spirits of Our Whaling Ancestors* (Vancouver: UBC Press, 2010).

engage in the imagination and creation of our futurity, a future that is dependent on the survival of our nations.

As the pathologization of Indigenous nations through the *spectacle of victimhood*, and the presence of many other destructive settler colonial stories continue in the public sphere, the necessity of our visions of justice and storytelling on our own terms becomes increasingly crucial to our survival as Indigenous nations and to our ability to live together in respectful relations. At the heart of our nations are our stories. When we (re)claim our stories, we create paths to self-determination grounded in our resistance, strength, and futurity. Storied practice is inherently political as it expresses the assertion, continuation, and recovery of diverse Indigenous ways to being and knowing. It speaks to our conceptions of justice as it (re)generates all of our relationships, interpersonal, more-than-human, and spiritual. To consider the futurity of our nations without our stories would be to destine our communities to destruction. After all, as Qwul'sih'yah'maht notes “these stories tell us who we are, leave us with a sense of purpose and pride, and give us guidance and direction—these are stories of survival and resistance.”⁵⁴⁵ Our stories hold our ḥaaḥuupaa, teach us how to relate to one another, and how to carry ourselves in the world in a way that honours our responsibilities. The (re)telling and (re)creation of our stories emphasizes the centrality of our relationships to the existence of life, expresses yaaʔakmis as well as the nuučaañuł concept ʔiisaak—respect. yaaʔakmis and ʔiisaak remain our guiding relational principles, and inform who we are as quuʔas and how we carry forward our responsibilities. When we understand hišukʔiščawaak—everything is one—we necessitate a consciousness that all of creation is

⁵⁴⁵ Qwul'sih'yah'maht, “Honouring the Oral Traditions of the Ta't Mustimuxw,” 178.

of common origin, and as such we extend ?iisaak to all life forms.⁵⁴⁶ This practice deeply connects the personal and political, regenerates our relationships and responsibilities, and creates paths to self-determination grounded in our conceptions of justice.

⁵⁴⁶ Umeek, 15-6.

Chapter Four

Wastelanding and the Remaking of Native Homelands in a Moment of Reconciliation

Change. It's a funny feeling, to empty yourself into efforts towards the elusive. It's an even funnier feeling when those efforts have been towards elusive justice. Justice. Not materials, not dreams, not a larger bank statement, not trinkets, nor personal ventures, but Justice. When you believe that the right will always prevail and time and time again it does not happen, you feel a twisting in your chest. A wrestling of the heart trying not to give up on itself.⁵⁴⁷

- Helen Knott (Prophet River First Nation)

Indigenous stories have informed the conceptions of justice within our nations as they emphasize our relational teachings and the centrality of relationships to all of creation. The teachings which emerge from our stories not only guide who we are, and how we carry ourselves, they also illuminate the importance of balance and health within our relationships to all within our webs of kinship including the physical places we call home. As such, it is not a surprise that generations of Indigenous activism have connected Indigenous calls for justice with self-determination in all spheres of life. The long road to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and

⁵⁴⁷ Helen Knott, "Women, Water, Land: Writing from the Intersections," *Water Rites: Reimagining Water in the West*, edited by Jim Ellis (Calgary: University of Calgary Press, 2018), 28-29.

subsequently to its implementation⁵⁴⁸ is one testament to this. If justice is found in the balance of our relationships, and truth and reconciliation commissions have emerged as an avenue to address some of our calls for justice, then we must also consider how these transitory bodies have laid the path for justice in our relationships in all of their forms, not just the interpersonal.

The existence of truth and reconciliation commissions in Canada and Maine have attempted to weave together the importance of Indigenous place-based relationships in their calls for justice and reconciliation. Yet questions remain on the clarity of these pathways and more specifically: how have these calls manifested in practice? As traced earlier in this project, the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission's first recommendation in their final report called for: "Respect tribal sovereignty and commit to resolve and uphold federal, state and tribal jurisdictions and protocols at both state and local levels."⁵⁴⁹ This recommendation can be understood as important in its emphasis on the interconnectivity of place-based relationships to Indigenous conceptions of justice. However, its somewhat broad nature suggests difficulties in completing the recommendation unless of course this is considered not as a check-box recommendation but as an ongoing process which is more in line with Indigenous conceptions of justice that emphasize an end to harm. Similarly, the Truth and

⁵⁴⁸ As will be discussed below, in November 2019 the Province of British Columbia passed Bill 41 – Declaration on the Rights of Indigenous Peoples Act (DRIPA). While it is beyond the scope of this dissertation to fully explore the implications of a national bill focused on UNDRIP, it is important to note that throughout early 2021, Bill C-15 (United Nations Declaration on the Rights of Indigenous Peoples Act) was moving through the parliamentary process at the national level and received Royal Assent on June 21, 2021. The bill purports bring Canadian law into alignment with the United Nations Declaration on the Rights of Indigenous Peoples. See: Bill C-15: <https://parl.ca/DocumentViewer/en/43-2/bill/C-15/royal-assent>

⁵⁴⁹ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 66.

Reconciliation Commission of Canada also emphasized the self-determination of Indigenous nations as an important component of reconciliation. The TRC went a step further to “call upon federal, provincial, territorial and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) as the framework for reconciliation.”⁵⁵⁰ Although UNDRIP is established as the framework for reconciliation, the TRC further elaborates on the vision for reconciliation and the land in their expanded volume on reconciliation: “sustainable reconciliation on the land involves *realizing the economic potential of Indigenous communities* in a fair, just, and equitable manner that respects the rights of their self-determination.”⁵⁵¹ There is potential danger in this positioning of reconciliation’s connection to the land since it does not honour the breadth of our relationships with kin in the physical places we call home, and instead places the emphasis on relationships of capitalistic exploitation which are often fundamentally disjointed from Indigenous worldviews. Further, raises the potential for direct contradictions with Articles 10 and 13 within UNDRIP itself.

With this context, in this chapter I explore how reconciliation—specifically as it relates to justice in our relationships with the physical places we call home—has been taken up in the immediate years following the work of the Truth and Reconciliation Commission of Canada (TRC) and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC). I examine this through two case studies. The first is an analysis of the Site C Dam case in British Columbia which is the first

⁵⁵⁰ Truth and Reconciliation Commission of Canada, *Honouring the Truth*, 325.

⁵⁵¹ Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: Reconciliation*, 207. Emphasis mine.

substantial clashing of Indigenous place-based relationships with a provincial governmental understanding of reconciliation following the release of the TRC Final Report. In the second case study I look at the Penobscot River Case which is the first substantial jurisdictional dispute over water to reach a verdict after the release of the MWTRC Final Report. I explore both of these cases through Traci Brynne Voyles' concept of "wastelanding" to consider the ways that specific spaces are marked as disposable as part of an ongoing process of settler colonialism,⁵⁵² thus continuing violent interventions onto Indigenous lands and waters previously advanced through the spectacle of victimhood discussed in Chapter Three. As such, I argue that settler colonial goals of unrestricted access to Indigenous lands and waters, coupled with extractive industry's drive for resources and capital, has forced a redefinition of reconciliation—and by extension justice—that is compatible with continued settler colonial power and authority. More specifically, I emphasize how this practice of reconciliation diverges from Indigenous conceptions of justice by emphasizing the recognition of Indigenous cultural rights, while sidelining Indigenous self-determination and perpetuating violence to Indigenous lands and waters.

Creating a Wasteland: The Site C Dam and Treaty 8 Territory

The Site C Dam is the third planned dam on the Peace River in what is now known as British Columbia, and has been in the works since the 1950s. Under Christie Clark's BC Liberal Government, the project was pushed forward despite ongoing and

⁵⁵² Traci Brynne Voyles, *Wastelanding: Legacies of Uranium Mining in Navajo Country*, (Minneapolis: University of Minnesota Press, 2015).

fierce Indigenous and settler resistance. The over \$10 billion project that is set to turn an 83km stretch of the Peace River Valley into a reservoir⁵⁵³ will flood “approximately 5,000 hectares of land when the reservoir is finished, and [where] parts of the reservoir will be two to three times the width of current riverbanks.”⁵⁵⁴ This, of course, does not fully account for residual flooding and impact on the land due to the collapse of “unstable banks.” In fact, BC Hydro’s modest estimates of the impact is covered only by the “erosion impact line” on their maps, while the potential reshaping of the land is much farther reaching and only partially detailed by the radiating “flood impact line” and “stability impact line” on their maps.⁵⁵⁵ The demarcation of the land in this way by BC Hydro obscures the beauty and vitality of the region, and silences the interconnected relationships First Nations hold with the vibrant diversity of life within this place.

At various stages of the process, Indigenous communities affected by the proposed Site C Dam have fought to centre their knowledges in state forums such as the spaces created for the Environmental Impact Assessment, Joint Review Panel, or the review by the BC Utilities Commission. Under the guidelines established by the Environmental Impact Statement, BC Hydro needed to consult with 29 different First Nations who would be affected by the project,⁵⁵⁶ of which 21 are Treaty 8 signatories.

⁵⁵³ Amnesty International, “The Point of No Return: The Human Rights of Indigenous Peoples in Canada Threatened by the Site C Dam” (London, UK: Amnesty International Ltd, 2016), 3, <https://www.amnesty.ca/sites/amnesty/files/Canada%20Site%20C%20Report.pdf>.

⁵⁵⁴ British Columbia Utilities Commission, “British Columbia Utilities Commission Inquiry Respecting Site C: Final Report to the Government of British Columbia” (Vancouver, BC: British Columbia Utilities Commission, November 1, 2017), 2.

⁵⁵⁵ Sarah Cox, *Breaching the Peace: The Site C Dam, and a Valley’s Stand Against Big Hydro*. (Vancouver: University of British Columbia Press, 2018), 12-13.

⁵⁵⁶ Joint Review Panel, “Report of the Joint Review Panel: Site C Clean Energy Project” (Canadian Environmental Assessment Agency, May 2014), 123.

Out of these 29 communities, only six did not participate in the Joint Review Panel⁵⁵⁷ on the Site C Dam, but did submit information directly to BC Hydro during the pre-panel stage.⁵⁵⁸ Indigenous knowledges have filled thousands of pages of documents submitted to these various forums, each detailing the deep connection to and relationships with the land, waters, and more-than-humans⁵⁵⁹ in what is now known as the Peace River Valley. It is important to note that the number of Indigenous nations who engaged in these forums should not be used to indicate the depth or meaningfulness of consultation nor to evaluate the structures in place for consultation or their ability to achieve free, prior and informed consent. In spite of the structural flaws in these processes, Indigenous peoples' decisions to engage can be understood as tangible markers of the deep responsibility that these nations have with their kin. At every corner, Indigenous nations have sought to protect and defend their relationships to the lands, waters, and more-than-human relations. At every corner, the struggle between protecting kin and resisting colonial processes can be felt deep within Indigenous communities. According to Chief Roland Willson of West Moberly First Nation, "losing the valley to Site C would be like losing an organ from your body... it's like cutting out a kidney. Our connection to the land is

⁵⁵⁷ In August 2013, the federal and provincial governments named a Joint Review Panel to examine BC Hydro's Site C dam project. They held public hearings, and were "mandated to inquire into the environmental, economic, social, health, and heritage effects of the Project and their significance, to examine proposals for the mitigation of adverse effects, and to record assertions of Project effects on the Aboriginal rights and treaty rights of Affected First Nations and Métis peoples." See: Joint Review Panel, "Report of the Joint Review Panel: Site C Clean Energy Project," iv.

⁵⁵⁸ Joint Review Panel, 124.

⁵⁵⁹ I deeply recognize the failing of using "more-than-human" in discussing our relationships with all of creation. This terminology, along with "other-than-human" or "non-human," continues to emphasize a dichotomy which centres and privileges humans. I do not believe this accurately reflects the nature of our relationships with all of creation – nor, from my own nuučaanuł understanding of hišukʔišcawaak. I believe that so much of this comes from the impossibility of English to truly encapsulate the breadth of how we understand our relationships and responsibilities. My decision to utilize "more-than-human" comes with this caveat and with the hope that this framing moves, in a small way, to decenter humans and gesture to the importance of all of creation.

spiritual. We're people of the land. You take us off the land and you destroy a piece of who we are."⁵⁶⁰ In describing this Chief Willson not only reiterates the vibrance of story grounded in place, but the intimate connection of place to identity, spirituality, epistemologies and ontologies.

There is no denying that the Site C project will fundamentally alter the relationships that Treaty 8 First Nations hold with the Peace River Valley given the severe altering of the land outlined by the project. Within the territory, First Nations have identified hundreds of sites in the project flood zone that are sacred, or are of other cultural or historic significance,⁵⁶¹ including gathering places and burial sites in Bear Flats.⁵⁶² Beyond the loss of such vital territory, the environmental impact as a result of the Site C Dam would have devastating consequences on Indigenous communities and their relationships including the flooding of “a series of small islands where moose take shelter when calving” and “potentially jeopardize[ing] migration of an already threatened fish species,”⁵⁶³ causing methylmercury poisoning of fish in the waters,⁵⁶⁴ the changing of traditional fish stocks, and the drying of the Peace-Athabasca Delta,⁵⁶⁵ to name just a few. In fact, previous extractive resource projects have already produced significant damage in these territories and their relations, and shed light on the potential damages of similar projects in the future. For example, bull trout, a central food source, were already

⁵⁶⁰ Chief Roland Willson, quoted in Sarah Cox, *Breaching the Peace: The Site C Dam and a Valley's Stand Against Big Hydro* (Vancouver BC: UBC Press, 2018), 94.

⁵⁶¹ Amnesty International, “The Point of No Return: The Human Rights of Indigenous Peoples in Canada Threatened by the Site C Dam,” 5.

⁵⁶² British Columbia Utilities Commission, “British Columbia Utilities Commission Inquiry Respecting Site C: Final Report to the Government of British Columbia,” 30.

⁵⁶³ Amnesty International, “The Point of No Return: The Human Rights of Indigenous Peoples in Canada Threatened by the Site C Dam,” 5.

⁵⁶⁴ British Columbia Utilities Commission, “British Columbia Utilities Commission Inquiry Respecting Site C: Final Report to the Government of British Columbia,” 30.

⁵⁶⁵ Joint Review Panel, “Report of the Joint Review Panel: Site C Clean Energy Project,” 126.

so contaminated with mercury as a result of the Bennett Dam that they exceeded Health Canada's contamination standards.⁵⁶⁶ In attempting to bring awareness to the toxicity in the region as a result of extractive industry, Chief Roland Willson held up a Hershey's chocolate kiss on the lawn of the BC Legislature noting this is "the amount of the fish that women of child-bearing age could safely consume about every other day."⁵⁶⁷ Importantly, warnings of this contamination did not come from BC Hydro, nor from the BC government. Instead, community members only became aware of these levels through their own Environmental Resources Management Consulting testing.⁵⁶⁸

Although, as Kim Anderson notes, Indigenous women have been equated with the land and "the Euro-constructed image of Native women, therefore, mirrors western attitudes towards the earth,"⁵⁶⁹ there is a tendency to view justice and efforts to protect the lands and waters as disconnected from the struggle to protect Indigenous women. Further, protecting the land is sometimes viewed as more important than protecting Indigenous women. Yet, these are deeply interconnected and our calls for justice frequently stress this interconnectivity. As Helen Knott stresses, these struggles are intrinsically connected: "the ideology that permits the violation of Indigenous bodies is the same one that perpetuates the violation of Indigenous lands."⁵⁷⁰

⁵⁶⁶ Cox, 118.

⁵⁶⁷ Cox, 116.

⁵⁶⁸ Cox, 118–19

⁵⁶⁹ Kim Anderson, *A Recognition of Being* (Toronto: Sumach Press, 2000): 100.

⁵⁷⁰ Helen Knott, "Violence and Extraction," in *Keetsahnak: Our Missing and Murdered Indigenous Sisters*, Kim Anderson, Maria Campbell, and Christi Belcourt eds, (Edmonton: University of Alberta Press, 2018): 152.

Consider as well: Alex Wilson, "Our Coming In Stories: Cree Identity, Body Sovereignty and Gender Self-Determination," *Journal of Global Indigeneity* 1.1 (2015): 1-5; Erynne M. Gilpin, "Land as Body: Indigenous Womxn's Leadership, Land-Based Wellness and Embodied Governance" PhD Dissertation. University of Victoria, 2020.

The proliferation of natural resource projects in the northeastern part of what is now British Columbia has fostered environments that can and have led to violence against women. Indigenous women face particular danger in these spaces after generations of settler colonial stories of Indigenous deviance, promiscuity, and dispensability intersect with “man-camps” that breed hyper-masculinity and high-rates of substance abuse. As Knott notes, these “man-camps” draw in individuals “who don’t care what happens to the lands [in] our territory. They extend the same mentality to women, both Indigenous and non-Indigenous.”⁵⁷¹ In 2016, Amnesty International released their report *Out of Sight, Out of Mind: Gender, Indigenous Rights and Energy Development in Northeast British Columbia, Canada*, and noted that “in 2014, Fort St. John had the highest per capita crime rate among 31 British Columbia municipalities of 15,000 people or more,” and there were numerous indications that this included high rates of violence against Indigenous women and girls.⁵⁷² The National Missing and Murdered Indigenous Women and Girls Inquiry also noted that “resource extraction projects can drive violence against Indigenous women in several ways, including issues related to transient workers, rotational shift work, substance abuse and addictions, and economic insecurity.”⁵⁷³

Research on the interconnection between violence to the land and violence against Indigenous peoples continues to point to—as the National Inquiry into Missing and Murdered Indigenous Women and Girls noted—the same conclusion: “federal,

⁵⁷¹ Knott, “Violence and Extraction,” 150.

⁵⁷² Amnesty International, “Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada” (London, UK: Amnesty International Ltd, 2016): 50.

⁵⁷³ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, Volume 1a (2019): 584.

provincial, territorial and Indigenous governments, as well as mining, oil and gas companies, should do a more thorough job of considering the safety of Indigenous women and children when making decisions about resource extraction on or near Indigenous territories.”⁵⁷⁴ Despite this, Amnesty International found that “the assessment of the Site C Dam, in particular, failed to consider the specific impacts on Indigenous women and girls.”⁵⁷⁵ For many Indigenous peoples, the decision to move forward with these resource extraction projects—despite considerable evidence tracing their connections to violence against Indigenous women, girls and two-spirits—feels like a decision that damns our people to violence and death.

Both the Joint Review Panel⁵⁷⁶ and the BC Utilities Commission’s Final Report on Site C noted that Indigenous communities were overwhelmingly against the project, many noting how the project violates Treaty 8.⁵⁷⁷ In fact, the Joint Review Panel went into extensive detail siding with First Nations on matters related to the detrimental impact of the project on their communities, calling BC Hydro’s argument that traditional practices can be reproduced elsewhere “superficial” and unsupported.⁵⁷⁸ Despite the obligation to uphold the treaties, enshrined in the Canadian Constitution and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP),⁵⁷⁹ there is an evident disregard for the rights and knowledges of Indigenous peoples in the approval and construction of the Site C Dam from a series of provincial governments and various

⁵⁷⁴ National Inquiry into Missing and Murdered Indigenous Women and Girls, 584.

⁵⁷⁵ Amnesty International, *The Point of No Return*, 14.

⁵⁷⁶ Joint Review Panel, “Report of the Joint Review Panel: Site C Clean Energy Project.”

⁵⁷⁷ British Columbia Utilities Commission, “British Columbia Utilities Commission Inquiry Respecting Site C: Final Report to the Government of British Columbia,” 28–37.

⁵⁷⁸ Joint Review Panel, “Report of the Joint Review Panel: Site C Clean Energy Project,” 96.

⁵⁷⁹ Amnesty International, “The Point of No Return: The Human Rights of Indigenous Peoples in Canada Threatened by the Site C Dam,” 10.

extractive industries in particular when it goes against the supposed “public interest.” In fact, in early 2016 BC Hydro argued against applying UNDRIP to the project, calling the declaration “aspirational,”⁵⁸⁰ and thus not binding. This assertion is a direct parroting of the Conservative federal government’s qualified support of UNDRIP as “aspirational” in 2010,⁵⁸¹ and later the Liberal federal government’s full endorsement of the declaration in 2016, followed swiftly by the assertion that UNDRIP’s adoption as Canadian law is “unworkable.”⁵⁸² This has been affirmed again most recently in the passing of Bill 41 (Declaration on the Rights of Indigenous Peoples Act) in 2019 followed by the John Horgan’s assertion that the declaration is “forward looking” and does not apply to current projects including the Coastal Gas Link Pipeline⁵⁸³ through Wet’suwet’en territory. It has also been affirmed by the juxtaposition of the most recent passing of Bill C-15 in June 2021 and the continual insistence by the Trudeau government that free, prior and informed consent does not grant Indigenous nations a veto on natural resource extraction projects,⁵⁸⁴ thus limiting the self-determining rights of Indigenous peoples. The international community has also weighed in on the violation of Indigenous rights around the Site C Dam. Amnesty International authored a report noting that the project and

⁵⁸⁰ Andrea Smith, “BC Hydro Argues against Applying UNDRIP to Site C Dam Project,” *Windspeaker* 34, no. 3 (May 2016): 8–8.

⁵⁸¹ Lightfoot, *Global Indigenous Politics*, 108.

⁵⁸² Jody Wilson-Raybould, “Address to Assembly of First Nations Annual General Assembly” Speech, Niagara Falls, ON, July 12, 2016. Cited in APTN National News, “Justice Minister Jody Wilson-Raybould says Adopting UNDRIP into Canadian law ‘unworkable,’” *APTN National News*, July 12, 2016:

⁵⁸³ John Horgan quoted in, the Canadian Press, “Horgan says ‘rule of law applies,’ LNG pipeline will proceed despite opposition,” *APTN National News*, January 13, 2020: <https://aptnnews.ca/2020/01/13/horgan-says-rule-of-law-applies-lng-pipeline-will-proceed-despite-opposition/>

⁵⁸⁴ *National Observer*, “Indigenous rights and Trans-Mountain: In-depth with Prime Minister Justin Trudeau,” *National Observer*, August 31, 2018: <https://www.nationalobserver.com/2018/08/31/news/indigenous-rights-and-trans-mountain-depth-prime-minister-justin-trudeau>

process have violated Canada’s human rights obligations towards Indigenous peoples, and that the impacts to Indigenous peoples’ rights and wellbeing cannot be justified.⁵⁸⁵ In December 2018, the United Nations Committee on the Elimination of Racial Discrimination instructed Canada to suspend the Site C dam until the project obtains the ‘free, prior and informed consent’ of Indigenous peoples following the full and adequate discharge of their duty to consult, and gave them until April 8, 2019 to respond.⁵⁸⁶

In describing the effect of the project, the Joint Review Panel explicitly noted that “virtually all of the physical effects of the [Site C Dam] would occur, on land expressly included in Treaty 8.”⁵⁸⁷ These physical effects, as outlined above, would fundamentally and irreversibly alter the relationships Treaty 8 Nations hold with the lands, waters, and more-than-humans connected deeply in webs of kinship. To make matters even more clear, the Joint Review Panel found that “the Project would significantly affect the current use of land and resources for traditional purposes by Aboriginal peoples... *It would not, however, significantly affect the harvest of fish and wildlife by non-Aboriginal people*”⁵⁸⁸ (emphasis mine).

The specific marking of Treaty 8 lands and waters for destruction for a supposed “clean energy project” speaks to the ongoing colonial project of *wastelanding*. According to Traci Brynne Voyles, wastelanding is the fully colonial process that renders resources extractable, and lands, waters, and bodies pollutable.⁵⁸⁹ Race and colonialism are deeply

⁵⁸⁵ Amnesty International, “The Point of No Return: The Human Rights of Indigenous Peoples in Canada Threatened by the Site C Dam,” 15.

⁵⁸⁶ United Nations Committee on the Elimination of Racial Discrimination to Her Excellency Ms Rosemary McCarney, “CERD/EWUAP/Canada-Site C dam/2018/JP/ks,” 14 December 2018, https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_ALE_CAN_8818_E.pdf

⁵⁸⁷ Joint Review Panel, 126.

⁵⁸⁸ Joint Review Panel, iv. Emphasis mine.

⁵⁸⁹ Voyles, *Wastelanding*.

embedded in this project, animating the demarcation of specific spaces and specific bodies for degradation as a way of remaking native homelands. Voyles argues that this takes two primary forms: “the assumption that nonwhite lands are valueless” or valuable only for what can be taken from them, “and the subsequent devastation of those very environs by polluting industries.”⁵⁹⁰ In her discussion of the legacies of uranium mining in Navajo territories, Voyles notes that remaking native land as settler home “involves the exploitation of environmental resources, to be sure, but it also involves a deeply complex construction of that land as either always already belonging to the settler—his manifest destiny—or as undesirable, unproductive, or unappealing: in short, as wasteland.”⁵⁹¹ The correlation between extractive industry’s destruction of Indigenous lands, and the advancement of the colonial project brings further truth to historian Ned Blackhawk’s argument that “the indigenous body in pain is the ultimate symbol of colonial progress and modernity, indigenous land laid waste is its territorial corollary.”⁵⁹²

In the case of the Site C Dam, the settler colonial process of wastelanding is advanced through the specific targeting of Indigenous lands, where the breadth of effects will be felt primarily by Indigenous peoples and their kin, and where non-Indigenous peoples are significantly less affected by those damages. In advancing a hydro power project as the solution to a supposed energy crisis⁵⁹³—as Kyle Powys Whyte stresses—

⁵⁹⁰ Voyles, 10.

⁵⁹¹ Voyles, 7.

⁵⁹² Ned Blackhawk, *Violence over the Land: Indians and Empires in the Early American West* (Cambridge, Mass.: Harvard University Press, 2009) cited in Voyles, 9.

⁵⁹³ Various tactics have been utilized in pushing forward the Site C project, including former premier Christie Clark’s fear mongering while campaigning for re-election in 2017. Sarah Cox specifically draws attention to Clark’s declaration that “it was urgent to build Site C ‘to literally keep the lights on’ for BC families.” This construction of a supposed energy crisis was also echoed in documents that were submitted by BC Hydro to the Joint Review Panel, but which the panel found to be baseless. In fact, as Cox notes: “Even while Clark raised the spectre of a future electricity shortage so severe that British Columbians might not have enough power to flick on their kitchen lights, BC

these types of projects “run roughshod over relationships,” and reinforce the harmful relationships between settler states and Indigenous nations.⁵⁹⁴ In doing so, there is a clashing of competing stories about place, wherein settler stories about place attempt to erase Indigenous stories of the vitality and importance of place and place-based relationships. In this case, the lands of the Peace River Valley are simultaneously classified as “out of sight, out of mind,”⁵⁹⁵ as valueless, save for extraction, and as always belonging to the settler through the privileging of colonial authority in decision making and the denial of Indigenous knowledge. As the late Secwepemc leader Art Manuel argued, it all comes back to the land, who has title to it, and who is the legitimate decision maker over it.⁵⁹⁶

One thing must be clear, as Manuel asserted: “this is not a matter of Indigenous peoples being collateral damage in the colonial system. Our oblivion is precisely its objective.”⁵⁹⁷ By destroying the relationships which have sustained Indigenous nations in the Peace River Valley for generations, the settler colonial government moves closer to unfettered control of the land, and the subsequent destruction of Indigenous nations who bring into question the completeness of the colonial project. By extension, the Site C project could be argued to be not as much about providing “clean energy” for the province—a need which the Joint Review Panel found was not certainly justified⁵⁹⁸— as

was swimming in so much extra electricity that hydro customers were paying independent power producers millions of dollars a year not to produce power.” Sarah Cox, 23.

⁵⁹⁴ Kyle Powys Whyte, “It’s Too Late for Indigenous Justice: Problems with Urgency in Climate Change Advocacy,” paper presented at the Victoria Colloquium, Victoria BC, February 8, 2019.

⁵⁹⁵ Amnesty International, “Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada.”

⁵⁹⁶ Manuel, A, *Reconciliation Manifesto*, 18.

⁵⁹⁷ Manuel, A, *Reconciliation Manifesto*, 81.

⁵⁹⁸ Joint Review Panel, “Report of the Joint Review Panel: Site C Clean Energy Project,” 305.

a series of projects whose outcomes quell settler anxieties and seek to advance the colonial project of unrestricted control over territory either by the political nullification of Indigenous peoples through the total destruction of Indigenous nations, or through the creation of a palatable form of Indigeneity devoid of connection to lands and waters.

“150 Years of Disappointment”: Reconciliation in British Columbia

The damming of the Peace River has been a hotly contested topic in British Columbia for over 40 years. In various forums Indigenous peoples have documented the ways in which the Site C Dam violates their own laws, their treaty rights and those rights outlined by UNDRIP. Despite this and renewed provincial commitments to govern the province in accordance with UNDRIP⁵⁹⁹ and fully embrace “genuine reconciliation,”⁶⁰⁰ on December 11, 2017 at a press conference at the BC Legislature, Premier John Horgan announced that the Site C Dam would move forward. While stressing that this is “not the project we would have started,” Horgan repeated his commitments to the values and best interests of British Columbians,⁶⁰¹ and noted that when making this decision they wanted to ensure “it is consistent with our values...and also that true reconciliation with Indigenous peoples was part and parcel of our quest to create jobs in an environmentally sustainable way.”⁶⁰² He went on to state that “we agree that decisions like this must, must, be done in tandem and in concert with Indigenous peoples. *But those challenges*

⁵⁹⁹ In his opening remarks at the BC Cabinet and First Nations Leaders Gathering, Horgan spoke of the centrality of governing the province in accordance with the United Nations Declaration on the Rights of Indigenous peoples, mentioning it was included in his letters to each of his Ministers. John Horgan, “BC Cabinet and First Nations Leaders’ Gathering Opening Remarks” (September 6, 2017).

⁶⁰⁰ Horgan, “BC Cabinet and First Nations Leaders Gathering Opening Remarks”.

⁶⁰¹ John Horgan, “Site C Announcement” (December 11, 2017).

⁶⁰² John Horgan, “Site C Announcement” (December 11, 2017).

have passed.”⁶⁰³ Horgan’s posturing within this statement sheds important light on the approach to relationships with Indigenous nations and reconciliation more generally. In one fell swoop, Indigenous peoples and legally required consultation with self-determining nations, are positioned as “the challenge” to the “rule of law” and subsequently to the progress and economic benefit of Canadian society, otherwise couched as the “public interest.” By emphasizing this oppositional position, Horgan also subtly gestures to longstanding settler colonial stories of supposed Indigenous deficiency which suggest that there is something wrong within Indigenous nations particularly when we stand in opposition to what is perceived as the common “best interests” of the settler colonial nation. These narratives, by extension, emphasize that there is something wrong with *us* and not the oppressive structures of power that we push back against. This framing does not suggest an embracing of a new relationship with Indigenous nations, or an embrace of the spirit, intent, or letter of UNDRIP, but instead a continuation of settler colonial relationships of domination.

Although suggesting that reconciliation with Indigenous peoples was considered in making this decision, Horgan makes his commitment clear when answering media questions following his announcement. For example, when asked about restitution for First Nations that oppose the project, Horgan deflects by noting that “our commitment to reconciliation and UNDRIP don’t stop in the [Peace River Valley],”⁶⁰⁴ subtly suggesting that the rights of some nations can be sacrificed for reconciliation with Indigenous nations in other areas of the province. To make matters more clear, the depth of Horgan’s commitments to Indigenous peoples is made explicit when he states: “when it comes to

⁶⁰³ Horgan, “Site C Announcement.” (Emphasis mine).

⁶⁰⁴ Horgan, “Site C Announcement.”

reconciliation and working with Indigenous leadership, look there has been over 150 years of disappointment in British Columbia, I'm not the first person to stand before you and disappoint Indigenous people."⁶⁰⁵ In expert political double speak, Horgan alludes to the fact that it will be "business as usual" in the province wherein Indigenous rights will continue to be positioned against the "best interests of British Columbians," while simultaneously crafting an image of himself as the lesser of previous evils due to his commitment to "the more important issues to communities:"⁶⁰⁶ programs and services for Indigenous peoples.

When considering the province's commitment to reconciliation with Indigenous peoples, the invocation of the importance of programs and services can be suggested to align with the creation of *palatable Indigeneity*. As discussed in Chapter Two, the construction of palatable Indigeneity attempts to craft Indigeneity in ways that are legible to the settler colonial state, but do not challenge its territorial sovereignty or authority. Instead, this palatable form of Indigeneity is drawn in and included as a vital component of multiculturalism. By emphasizing access to programs and services as "the true reconciliation that we're focused on,"⁶⁰⁷ and "the things that matter to people,"⁶⁰⁸ there is a move to dismiss Indigenous self-determination to govern our relationships with our homelands, in favour of more palatable expressions of Indigeneity which do not challenge the territorial sovereignty or power of the state. This particular move suggests that reconciliation is being conceptualized in ways that are not aligned with Indigenous conceptions of justice because there is a division and privileging of certain rights over

⁶⁰⁵ Horgan, "Site C Announcement."

⁶⁰⁶ Horgan, "Site C Announcement."

⁶⁰⁷ Horgan, "Site C Announcement."

⁶⁰⁸ Horgan, "Site C Announcement."

others. Soft Indigenous rights,⁶⁰⁹ such as those focused on Indigenous culture, language, and education, have been heavily prioritized by the Canadian state as positively contributing to a multicultural Canadian identity.⁶¹⁰ On the other hand, hard Indigenous rights⁶¹¹—to govern and maintain healthy relationships with our territories—have been either actively silenced, or affirmed only when they can be reconciled with Crown sovereignty. Lightfoot notes that these rights are termed “hard” to indicate “both the difficulty in negotiation, but also to expose their perceived threat to the ‘hard core’ of the international system; that is, state territorial sovereignty.”⁶¹² When Indigenous peoples become strictly imagined through the advancement of our soft rights—cultural rights such as those embodied in our languages, songs, prayers, and art—we are removed as a challenge to settler access to our territories. Yet, what this particular advancement of rights fails to conceptualize is that our culture is deeply tied to our relationality with kin in the physical places we call home. The continued violence against Indigenous relations meted out by the colonial state, along with the construction of palatable Indigeneity which does not appear to challenge the supposed authority of the Crown, can be understood as a tactic to create state legitimacy. As Erica Violet Lee eloquently states: “this is what a failing colonial empire does to people whom they are afraid will rise like a full moon if we are given the chance to think about something more than survival.”⁶¹³

⁶⁰⁹ Lightfoot, *Global Indigenous Politics*, 13.

⁶¹⁰ Rachel yacaaʔal George, “A Move to Distract: Mobilizing Truth and Reconciliation in Settler Colonies,” *Pathways to Reconciliation*, Aimee Craft and Paulette Regan eds (Winnipeg: University of Manitoba Press, 2020).

⁶¹¹ Lightfoot specifically classifies these rights as those which strike at the fundamentals of the international system: land, territory, self-determination, and sovereignty. Lightfoot, *Global Indigenous Politics*, 13

⁶¹² Lightfoot, *Global Indigenous Politics*, 14.

⁶¹³ Erica Violet Lee, “In Defence of the Wastelands: A Survival Guide,” *Guts Magazine*, November 30, 2016: <http://gutsmagazine.ca/wastelands/?fbclid=IwAR1YDgw8P5Ba3bvUTGRpiN0196WtqeYcr2cfZbD0g>

What is alarming about Horgan’s announcement on the Site C Dam is not just the continued violation of Indigenous rights, but the ways in which he invokes reconciliation while at the same time advancing the destruction of Indigenous life. Only three months earlier, at the BC Cabinet and First Nations Leaders Gathering, Horgan spoke to the vital importance of respecting Indigenous knowledges, noting that: “Using traditional understandings of how the land has managed changes is critically important, and I acknowledge Chief Judy Wilson who today reminded us all... that if we are not as a government, as a federal government, as a provincial government, are not going to listen and learn from the experiences of First Nations, and their understanding of the land, we’re going to fail again...”⁶¹⁴ Yet, pushing the Site C Dam project forward in the face of resistance by Indigenous nations not only ignores Indigenous knowledge which has been voiced in pages submitted and testimony provided to the Joint Review Panel as well as at protests against the Site C Dam project. This disregard for Indigenous knowledges that trace the centrality of relationships and responsibilities to the territory that will be laid waste by the Site C Dam suggests a marking of that knowledge, and Indigenous rights to self-determination as unimportant, and of lesser value than the supposed best interests of the general population. In connecting this move to the process of wastelanding, the destruction of vital relationships—as Voyles notes—demands that “indigenous ways of knowing landscapes and their worth must be themselves rendered pollutable, marginal, unimportant.”⁶¹⁵

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⁶¹⁴ Horgan, “BC Cabinet and First Nations Leaders’ Gathering Opening Remarks.”

⁶¹⁵ Voyles, 11

The process of wastelanding Indigenous knowledges is exemplified in Horgan's "engagement" with Indigenous knowledges at the BC Cabinet and First Nations Gathering in September 2017 and subsequent disregard for Indigenous knowledges with the pushing forward of the Site C Dam in December 2017. This selective engagement and subsequent disposal of Indigenous knowledges also signals a wider move across various sectors including education where Indigenous knowledge is viewed as simultaneously additive and disposable. As Adam Gaudry and Danielle Lorenz critique, Indigenous inclusion merely seeks to add Indigenous peoples into pre-existing structures, where it is believed that this inclusion "can indigenize without substantial structural change"⁶¹⁶ to systems that uphold oppressive power relations. The selective inclusion of Indigenous peoples and knowledges into systems without structural change has become a defining feature of reconciliation across the country as evidenced by the level of engagement with the TRC Calls to Action discussed in Chapter Two. In the same way education systems choose when and how to engage with Indigenous knowledges, so too does Horgan assert authority to uphold or discount Indigenous knowledges when it suits political objectives.

The juxtaposition of reconciliation, as an illusion of justice, with the simultaneous destruction of Indigenous life and lands makes the justice Indigenous nations seek impossible. Instead, under governments that have devoted themselves to the advancement of this version of reconciliation, it has become clear that Indigenous peoples and our knowledges are still marked as dispensable when it does not suit political objectives or the "public interest." Programs and services, alongside an embracing of our cultural

⁶¹⁶ Adam Gaudry and Danielle Lorenz, "Indigenization as Inclusion, Reconciliation, and Decolonization: Navigating the Different Versions for Indigenizing the Canadian Academy," *AlterNative* 14.3 (2018): 219.

rights, are upheld as the fulfillment of reconciliation—and by extension, justice—while violence to the lands and waters continues. We are promised that change is coming at the same time that extractive industry’s violence on our lands, waters, peoples, and kin persists, suggesting we are still moving towards what Helen Knott called “elusive justice” in the epigraph of this chapter. Reconciliation has been advanced as possible only if we do not pose a challenge to ‘national interests’—and as it would seem, only when our needs and desires are amenable to capitalistic exploitation. Where we stand in resistance to these projects, our lands, waters, and bodies are marked for destruction, and we are denied justice.⁶¹⁷ As Art Manuel argues, “Reconciliation then and now is only possible if we abandon our rights, which have since been enshrined in the UN Declaration on the Rights of Indigenous Peoples, or if the government recognizes our land rights and our fundamental right to self-determination. Without that, all of the hugs, and tears, and increases in program and service money are meaningless.”⁶¹⁸

State Regulation of Penobscot Relationality

The process of deconstructing Indigenous self-determination that is a facet of wastelanding has been a generations long experience for *Wahponahki* (Wabanaki) peoples in Maine. As mentioned in Chapter One, four tribes make up the Wabanaki in the state of Maine: *Peskotomuhkati*, *Penawahpkek*, *Wolastoqiyak*, and *Mi'kmaq'i* (Passamoquoddy, Penobscot, Maliseet and Mi'kmaq). Collectively, they are the people of

⁶¹⁷ There is perhaps no more relevant and pertinent example of this than the physical violence exerted against Wet’suwet’en peoples standing in opposition to the Coast Gas Link pipeline.

⁶¹⁸ Manuel, *The Reconciliation Manifesto*, 98–99.

the dawnland, “the keepers of the eastern gate.”⁶¹⁹ In an all-too-familiar story, the Wabanaki people continue to push back against settler colonial violence, and encroachments on their self-determination; most recently this has come to head in *Penobscot Nation v Mills*, also known as the Penobscot River Case wherein the State of Maine attempted to usurp Penobscot territory and stewardship over the Penobscot River. The heightened tensions that colour the Penobscot River case can be traced from the emergence of the land claims fight which lead to the Maine Indian Claims Settlement Act of 1981. In order to understand the complexities behind this case, we must first explore the path to the Maine Indian Claims Settlement Act (MICSA).

In an investigative newspaper series that traced the recent history of Passamaquoddy people in the state of Maine, historian Collin Woodard explored the Passamaquoddy story that drew linkages to Wabanaki experiences across Maine and familiarities for Indigenous nations across settler colonial states. While focused on Passamaquoddy experiences, Woodard turned to an investigation of the MICSA whereby the “Passamaquoddy and Penobscot agreed to set aside their claim to two-thirds of the state.”⁶²⁰ Discussing Passamaquoddy experiences here is not to conflate Penobscot experiences with those of their Passamaquoddy relatives, but to contextualize and situate the Penobscot River case within the wider program of settler colonial violence, territorial theft and attempted erasure waged by the state of Maine.

A legacy of continued land theft, the denial of hunting and fishing rights and the disregard for a treaty signed with Massachusetts in 1794 led to the beginning of what

⁶¹⁹ Mitchell (Weh’na Ha’mu’ Kwasset), 3.

⁶²⁰ Colin Woodard, “Unsettled: Triumph and Tragedy in Maine’s Indian Country,” *Portland Press Herald*, 2014: 4.

historian Colin Woodard called “an unlikely, formidable alliance [between new-to-Maine lawyer Don Gellars and Passamaquoddy Chief George Francis⁶²¹]...one whose reverberations would be quickly felt in Augusta and eventually travel all the way to the halls of the U.S. Capitol.”⁶²² Conducting research for the tribe's land claims case, Gellars received consistent pushback from the State of Maine's Governor John Reed, and the Attorney General including a refusal to disperse funds for the case from the Indian's trust fund controlled by the governor of Maine.⁶²³ As tensions increased, Woodard notes that “state officials cut off food and medicine to members of Francis' and Steven's⁶²⁴ families, who would find windows broken at their homes and car tires slashed.”⁶²⁵

Despite this harassment, the land claims case was building against Maine. A critical component of this case was the 1794 Treaty negotiated with Massachusetts which had controlled Maine at the time. Woodard notes that under this treaty:

The Passamaquoddy has surrendered their ancestral lands in exchange for perpetual ownership of 15 islands in the St. Croix River, two in Big Lake, 10 acres at Pleasant point, and the entirety of what would come to be called Indian Township, 23,000 acres of forest, streams and lakes in what would later be eastern Washington County that the tribe used as winter hunting grounds since time immemorial. Recognizing the Indians would not be able to sustain themselves entirely on this reduced land base, they were also given a trust fund - \$37 471 in 1822 or \$147 million if it has been left to compound interest through 1964.⁶²⁶

When Maine became a state in 1820, it took possession of this trust and the 395,000 acres of deeded land. In separating from Massachusetts, the state of Maine was required

⁶²¹ George Francis was the governor at Pleasant Point (Sipayik) in the early 1960s, and was also the tribal representative to the legislature.

⁶²² Woodard, 17-18.

⁶²³ Woodard, 42.

⁶²⁴ John Stevens was the governor at Indian Township (Motahkomikuk) for seven terms.

⁶²⁵ Woodard, 43.

⁶²⁶ Woodard, 46

to uphold the 1794 treaty, and these obligations were written into the constitution under Article X, Section 5.⁶²⁷ Despite retaining these obligations, the state of Maine authorized some tracts of land to be flooded by dams and others to be annexed for roads or transferred to white owners.

Demanding full compensation, a suit would be filed against the Commonwealth of Massachusetts—as the State of Maine refused to allow itself to be sued—for failing to uphold the 1794 treaty. It was presumed that Massachusetts would then sue the state of Maine as an aggrieved sovereign.⁶²⁸ Don Gellars filed *Passamaquoddy vs. Massachusetts* on March 8, 1968 in Boston, Massachusetts. Refusing to relinquish power, and driven by a desire to quell Indigenous discontent, it soon came to light in a conversation between Boston trial lawyer, Harvey Silvergate, and Maine Assistant Attorney General John Kelly that the “‘powers that be in this state’ were going to take down Gellers... Because he was a ‘trouble maker’ who was ‘stirring up the Indians’ and they ‘wanted to get him off the Indian suit.’”⁶²⁹ State interference with a legal case against them continues to highlight the tensions between Wabanaki peoples and state authorities, as well as the lengths settler colonial governments will go to in order to contain Wabanaki sovereignty and self-determination.

Tom Tureen, former intern of Don Gellars, later took over the land claims case and further asserted that the United States had failed to uphold the Indian Non-Intercourse Act of 1790 which prevented the sale of Indian lands without Congressional approval. As Woodard's exposé notes, as a result of this failure the United States should

⁶²⁷ Woodard, 46.

⁶²⁸ Woodard, 56.

⁶²⁹ Woodard, 66.

be prodded to sue the state on the tribe's behalf.⁶³⁰ In June 1972, following a federal court order stemming from a suit launched by Tureen's legal team, the United States filed two \$150 million lawsuits against Maine—one on behalf of the Passamaquoddy, and the second on behalf of the Penobscot. Between 1973 - 1976, litigation ruled in the tribes' favour and upheld that the federal government retained a trust relationship.

This litigation and the following tense negotiations culminated in the Maine Indian Claims Settlement Act, 25 U.S.C. §§ 1721 -1735 — (MICSA) signed by President Jimmy Carter in 1980, and the Maine Implementing Act 30 M.R.S.A. §§ 6201-6214 (MIA). Wabanaki communities in Maine continue to deal with the ramifications of the 1980 Maine Indian Claims Settlement Act,⁶³¹ in which they were forced into a major compromise that limited their sovereign powers while giving up their claim to two-thirds of the state. The out of court settlement, signed on October 10, 1980 “awarded \$81-million to the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet. The tribes reacquired 300,000 acres of land—almost all of it went to the Passamaquoddy and Penobscot—and the Houlton Band of Maliseet received federal recognition and a small portion of that money.”⁶³² While there were some concessions around the extent of sovereignty, the MICSA affirmed sustenance hunting and fishing rights of the Penobscot Nation and the Passamaquoddy Tribe. While certainly marking an accomplishment in the fight for self-determination, the process was also undeniably

⁶³⁰ Woodard, 76.

⁶³¹ The Maine Wabanaki TRC did draw attention to the complexities of the Maine Indian Claims Settlement Agreement (MICSA) and a brief overview of the ramifications that are felt in Wabanaki communities, however, it was not the focus of the commission's work. Any evaluation of MICSA was not included as a recommendation.

⁶³² Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 55.

divisive across the state and within communities with the final agreement granting significantly less than what Wabanaki communities had claim to. A truth-telling and peacemaking process particularly focused on the path to and culmination of the MICSA is currently being discussed within the state of Maine, led by Maine Wabanaki REACH.⁶³³ Even with the MICSA, confrontations over jurisdiction continue thus indicating a continued assertion of settler colonial power over Indigenous nations, even after settler colonial courts have sought to resolve jurisdictional disputes.

Confrontations over Penobscot Relationality in a Moment of Reconciliation

The Penobscot nation is located on a small island in the Penobscot river. The Penobscot people remain intimately connected to these waters which they have called home for generations. “*Penawahpskek* literally means ‘the place where the white rocks come out of the water.’”⁶³⁴ Place—as for Indigenous nations across the world—is deeply embedded within our consciousness, connecting us in kinship with creation and remaining foundational in how we understand who we are individually and collectively. It is worth quoting Sherri Mitchell, a Penobscot lawyer and Indigenous rights activist, at length here:

This land has been occupied by the Penobscot people for more than ten thousand years. For me, being Penawahpskek means that my roots are embedded in that land and nourished by the waters of the Penobscot River. We are deeply entwined—me, the land, and those waters, and I am tied to the generations of others who have their roots embedded in that land, past, present, and future. When I define myself as Penawahpskek, I express how my deep connection to that place makes the distinction between the land, those waters, and who I believe myself to be

⁶³³ Wabanaki REACH, “Truth & Peacemaking,” *Wabanaki REACH*: https://www.mainewabanakireach.org/truth_peacemaking

⁶³⁴ Mitchell, 3.

indistinguishable.⁶³⁵

In the summer of 2012, the Penobscot Nation received a letter from the Department of Inland Fisheries and Wildlife and the Colonel of the Maine Warden Service containing a written legal opinion from then Attorney General William J Schneider. The letter itself sought to redefine the boundaries of the Penobscot reservation, noting that the reservation included the islands themselves but not the waters that surround them. More explicitly, Schneider noted that “With the exception of the islands that form the Penobscot Indian Reservation, the River is open for public use and enjoyment, and the State of Maine has exclusive regulatory jurisdiction over activities taking place on the River.”⁶³⁶ What is alarming about the assertion is that it directly contradicts the enduring relationality that Penobscot people hold with the waters which has included responsibilities of stewardship over the waters for generations. This claim by the state of Maine seeks to constrict Penobscot authority and self-determination which has been held with the Penobscot River since time immemorial and is an attempted territorial theft by the state, directly going against what was established by the Maine Indian Claims Settlement Act of 1980.

The letter went on to assert that “[t]he River itself is not part of the Penobscot Nation’s Reservation, and therefore is not subject to its regulatory authority or proprietary control... Accordingly, members of the public engaged in hunting, fishing or other recreational activities on the waters of the Penobscot River are subject to Maine law as

⁶³⁵ Mitchell, 6.

⁶³⁶ Letter from Department of Inland Fisheries and Wildlife to Penobscot Nation August 8 2012, cited in *Penobscot River Rights Case Summary*. Sunlight Media Collected, directed by Meredith DeFrancesco, 2017.

they would be elsewhere in the State, and are not subject to any additional restrictions from the Penobscot Nation.”⁶³⁷ Here the State of Maine—who had just signed on to the Mandate for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission—was moving to contain the sovereignty and jurisdictional authority of the Penobscot Nation. Further, for a nation that has been deeply connected to those waters since time immemorial, this move by the State of Maine represented an alarming violation of their subsistence rights, threatening their ability to survive. As Chief Kirk Francis noted: “that one paragraph was a very serious attack on the tribe in multiple ways... really what it said was your 70 miles or so of ancestral territory is no longer yours, so there was a territorial removal threat and it was also a cultural identity threat.”⁶³⁸

On August 20, 2012 the Penobscot Nation filed a lawsuit against the state, who was trying to run roughshod over their relationships and relational responsibilities, in what is now known as the Penobscot River case. As Dawn Neptune Adams stressed, this court case emerged due to the threat of removal: “we've been fighting this court battle, you know, just so they're not taking our relatives again; that river is our relative. It's been called territorial theft, but it's not territorial theft; it's theft of our relatives.”⁶³⁹ The Penobscot asserted in their case that the “2012 Attorney General Opinion [later Schneider Opinion] reflects a misinterpretation of the law [namely, MICSA] governing the

⁶³⁷ Letter from Department of Inland Fisheries and Wildlife to Penobscot Nation August 8 2012, cited in *Penobscot River Rights Case Summary*. Sunlight Media Collected, directed by Meredith DeFrancesco, 2017.

⁶³⁸ Chief Kirk Francis, *Penobscot River Rights Case Summary*. Sunlight Media Collected, directed by Meredith DeFrancesco, 2017.

⁶³⁹ Dawn Neptune Adams, interview with author, May 15, 2018.

boundaries of their reservation and their rights to engage in sustenance fishing.”⁶⁴⁰ The Penobscot firmly pressed the state that “its reservation includes the water in the river because of the tribe’s sustenance fishing rights.”⁶⁴¹ Beyond this, the case is grounded in Penobscot self-determination, authority, and their stewardship over the health and well-being of the river—each firmly rooted in maintaining the vibrancy and health of Penobscot relationalities.

On August 16, 2013 the United States, through the Department of Justice, filed a motion to intervene on behalf of the Nation which was granted on February 14, 2014.⁶⁴² During this time, municipalities and business consortiums along the Penobscot River pushed back against Penobscot self-determination by intervening in the case on the side of the State of Maine. A dedicated program of fear mongering employed by the state’s legal team began to appear in newspapers in which the state equated Penobscot rights recognition to a restriction of public access to the river.⁶⁴³ These narratives seemed to connect back to previous narratives of deficiency that emphasized the oppositional position of Indigenous peoples that have been used to legitimize state control and regulation over Indigenous lives and on Indigenous lands and waters. This attempted fear mongering also directly clashes with Penobscot stories which emphasize care, stewardship and relationality with place, and more specifically with the Penobscot River. Responding to this fear mongering, the surrounding municipalities were granted intervener status, and moved to support the state’s contention that the reservation

⁶⁴⁰ Penobscot Nation v. Mills, 151 F.Supp.3d 181 (D. Me. 2015)

⁶⁴¹ Judy Harrison, “Judge Rules Against Penobscot Nation in Lawsuit over River Rights.” *Bangor Daily News*, December 16, 2015.

⁶⁴² Penobscot Nation v Mills, 861 F. 3d 324, 328 (1st Cir. 2017).

⁶⁴³ *The Penobscot: Ancestral River, Contested Territory*. Sunlight Media Collective, directed by Meredith DeFrancesco, Maine, 2017; Dawn Neptune Adams, interview with author, May 15, 2018.

included the islands but not the water. As reported in local news at the time, “the municipalities claimed that a ruling in the tribe’s favor would give it control over water quality on the river and allow the tribe to impose stricter rules than the state does on municipal discharges into the river.”⁶⁴⁴ Yet, this issue went far beyond regulatory influence within the confines of colonial law. Penobscot rights to the river are deeply embedded in their relationality and responsibilities to the river which have been held for generations and were not abrogated with the signing of the Maine Indian Claims Settlement Act. As Chief Kirk Francis noted in Sunlight Media’s documentary on the case: “for us it’s really not about controlling the river system or controlling individuals within the system. It’s really about our ability to manage a subsistence resource that we have a responsibility for multiple generations.”⁶⁴⁵ The drawing together of 18 municipalities and businesses—some of whom were outside the scope of the Penobscot reservation, such as the town of Bucksport—as interveners in a case on Penobscot rights and self-determination begged the question: on whose behalf was this battle being waged?

In drawing this consortium together, Pierce Atwood Attorney Matt Manahan took the position that the recognition of Penobscot rights would modify current state laws regulating waste water discharge which had previously been affirmed in District Court in the 2003 case *Maine v. Johnson*. At the same time, Dawn Neptune noted that “the lobbying firm that represented the industrial interests was writing op-eds in the Bangor Daily News scaremongering, trying to tell the people of Maine that Penobscot people

⁶⁴⁴ Harrison, “Judge Rules Against Penobscot Nation.”

⁶⁴⁵ Chief Kirk Francis, *The Penobscot: Ancestral River, Contested Territory*. Sunlight Media Collective, directed by Meredith DeFrancesco, 2017.

were trying to, you know, un-include them from their river enjoyment, when that was not the case.”⁶⁴⁶ As Penobscot Tribal Court Judge Eric Mehnert stressed, by asserting this falsehood “what Pierce Atwood is really doing, is asking the towns along the river to step in and cover an agenda being driven by large corporate interests.”⁶⁴⁷ He stressed this was affirmed by the fact that the towns were not being asked to pay the legal bills in this case, which “really means that corporate polluters are paying [the towns’] legal bills.”⁶⁴⁸ This level of interference should be directly seen within the context of ongoing attempts by the state to contain Wabanaki self-determination—as was evident in the early years of the case that resulted in the Maine Indian Claims Settlement Act.

The interference of corporate interests on the side of the state lays out clearly the process of wastelanding as a colonial tactic to erode Penobscot self-determination, sovereignty and identity. As previously discussed, wastelanding renders nature extractable, and Indigenous land/seascapes and bodies pollutable and disposable⁶⁴⁹ in pursuit of colonial expansion and control. In this particular case, the move to restrict Penobscot authority and connection to the river seeks to draw the river within the confines of state jurisdiction and regulation thereby limiting the self-determination of the Penobscot Nation and impacting cultural identity derived from their relationships with the water and more-than-humans within the water. In doing so, the process of wastelanding directly connects to the creation of palatable Indigeneity in that it imagines Indigeneity as legible to the state and conducive to settler colonial power. The investment

⁶⁴⁶ Dawn Neptune Adams, interview with author, May 15, 2018.

⁶⁴⁷ Judge Eric Mehnert quoted in *The Penobscot: Ancestral River, Contested Territory*. Sunlight Media Collective.

⁶⁴⁸ Judge Eric Mehnert quoted in *The Penobscot: Ancestral River, Contested Territory*. Sunlight Media Collective.

⁶⁴⁹ Voyles, *Wastelanding*.

of corporate interests in this case, particularly focused on regulations of wastewater discharge, suggests a desire to maintain business as usual for corporate polluters. Further, the intersecting denial of Penobscot knowledges of their river by the state in the case points to settler colonial attempts to render our knowledges disposable—a central facet of wastelanding—when they do not align with state interests which are often driven by corporate interests. While connected to a specific attempt at territorial theft and removal of relatives, we must understand this case within the wider context of justice. As Sherri Mitchell has stressed: “water sovereignty is not just an environmental issue. It is also inextricably tied to social justice. The human right to life is dependent on access to clean water. Therefore, all human rights are deeply connected to the water.”⁶⁵⁰

The understanding of Penobscot responsibilities to the lands and waters emerges from “the original agreement made with the Creator [which] is held under the laws of creation.”⁶⁵¹ These responsibilities are deeply embedded in continued relationality with creation premised on balance which is fundamental to Indigenous conceptions of justice. It is in this balance that there is an intimate connection between responsibilities and rights. In pursuing this case, Penobscot people were not merely seeking a recognition of their rights to the water, but understand these rights as stemming from their responsibilities under the laws of creation. For Indigenous nations, this responsibility is intertwined with our understandings of stewardship where we carry specific responsibilities to care for the lands and waters—as they continue to care for us—and to ensure their health for future generations. Mitchell speaks to this most clearly in noting that:

⁶⁵⁰ Mitchell, 200.

⁶⁵¹ Mitchell, 88.

When my tribe decided that the Penobscot river needed to be cleaned of decades of toxic waste created by industry, they didn't simply stand up and claim a right to clean water. Instead, they worked in concert with others and took on the responsibility of cleaning those waters for the benefit of all current users, and for the enjoyment of future users. We recognized that if we wanted to claim the right to clean water for our own people, then we had to take responsibility for ensuring clean water for everyone.⁶⁵²

The interconnectivity of responsibilities, stewardship and rights moves beyond the current preoccupation of much of settler society with an almost insatiable consumption at the cost of the existence of future generations. It is from this specific place that the Penobscot people have pushed back against the state, demanding a recognition of their rights and responsibilities as intrinsically connected to their identity.

The case reached a verdict in December 2015, ruling against the Penobscot Nation, their sovereignty and self-determination. In a moment of supposed reconciliation following the completion of the Maine Wabanaki TRC mandate in June of that year, this ruling pushed back against a vision of justice as encompassing Indigenous self-determination, and further went against the MWTRC's specific recommendation to "respect tribal sovereignty."⁶⁵³ Instead, a verdict against Penobscot self-determination in this moment, points to a reconsideration of reconciliation and justice to emphasize cultural recognition since there is a commitment to improve aspects of child welfare, including the re-introduction of ICWA training called for by the MWTRC⁶⁵⁴ but a failure to commit to honouring Indigenous self-determination and sovereignty. This process of cultural recognition is one which for the state seems to be mutually exclusive from the

⁶⁵² Mitchell, 89.

⁶⁵³ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 66.

⁶⁵⁴ Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate*, 66.

affirmation of Indigenous rights of self-determination and the continuation of relationships with our territories. This attempted erasure of Indigenous rights and responsibilities does not emerge by happenstance, and is instead situated within a long history of attempted erasure. As Colville Confederated Tribes scholar Dina Gilio-Whitaker asserts: “The robbing of Indigenous agency by State governments is, after all, the hallmark of hegemonic colonial relationships.”⁶⁵⁵ The case was appealed and heard before the United States Court of Appeals for the First Circuit in 2017. By a vote of 2-1, the court upheld the District Court's ruling against the Penobscot Nation. In October 2020, it was reported that the court has now granted an en blanc review of the case, which allows the case to be reheard by the original three judges, as well as three new judges.⁶⁵⁶

These rulings against the Penobscot nation continue the bureaucratic regulation and constriction of Indigenous self-determination which continues to impact the daily lives of Indigenous people. In seeking to address the impact of recognition politics as it relates to the environmental justice movement, Gilio-Whitaker asserts that within the US legal system—where Indigenous nationhood is expressed as federal recognition—“the State has become the sole determiner of Native nationhood, despite the longevity of a people and a community that have been tied to a place since time immemorial and their collectively and ongoing identity.”⁶⁵⁷ While it is certainly true that the settler colonial state has sought to control and limit Indigenous expressions of nationhood, as evident in

⁶⁵⁵ Dina Gilio-Whitaker, *As Long As The Grass Grows: The Indigenous Fight for Environmental Justice, From Colonization to Standing Rock* (Boston, MA: Beacon Press, 2019): 69.

⁶⁵⁶ Evan Popp, “Tribal Leaders Decry Attempted ‘Territorial Taking’ by State as Court Rehears Penobscot River Case,” *Maine Beacon*, October 4, 2020: <https://mainebeacon.com/tribal-leaders-decry-attempted-territorial-taking-by-state-as-court-rehears-penobscot-river-case/>

⁶⁵⁷ Gilio-Whitaker, *As Long as the Grass Grows*, 24.

Penobscot Nation v. Mills, I would caution against an analysis that reifies the superiority of settler-colonial law above the traditional laws which have governed Indigenous nations for generations. Statements such as the above, while they certainly point to overreaching control exerted by the state, can also move to suggest that Indigenous nations have not been continuing to understand and express our nationhood and Indigeneity in ways that are unintelligible to the State system precisely because they are grounded in our ways of being and knowing.

The emergence and litigation of this case running parallel to the operation of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission speaks to the complex entwining of reconciliation and justice. Often viewed as intimately connected, the contradictions that emerge through the paralleled existence of a case focused on Penobscot self-determination, and Wabanaki truth and reconciliation, suggest a redefinition of reconciliation—and by extension justice—within the public sphere that moves away from Indigenous conceptions of justice. In particular, corporate interests have intervened to dictate Penobscot paths to freedom, subsequently limiting justice to interpersonal healing—embodied within truth and reconciliation—while simultaneously seeking to contain, limit, and erase the self-determining rights of Wabanaki nations to govern their territories which include the waters. The structural containment and redefinition of relationality within the state’s understanding of reconciliation wherein justice is emphasized within interpersonal relationships but not in our relationships with our homelands, affirms underlying colonial fantasies of our erasure and seeks to remove Indigenous nations as a challenge to colonial fantasies of entitlement and legitimacy. While there has been an attempt to disconnect and redefine justice away from our

relationality to the lands and waters, we must understand that the removal of Indigenous women and children is also intimately tied to the removal of our relatives—the lands, waters, and other-than-humans—across space and time. As such, Indigenous conceptions of justice continually call on the interconnectivity between all of our relationships, and stress that justice cannot be envisioned as strictly tied to our interpersonal relationships but must be understood as deeply entwined with the balance of all creation. When nations are continually resisting colonial violence to assert their authority, rights, and responsibilities in their territories, the work of justice and envisioning new relationships is impossible.

“Wastelanding” and the Remaking of Native Homelands

Over many generations, settler colonial states have become adept at mythmaking which positions them as the rightful owners of Indigenous homelands. Narratives about Indigenous peoples, such as those explored in Chapter Three, have been an important facet of this mythmaking. These settler colonial narratives have attempted to lay claim to and remake Indigenous territories through concepts like Terra Nullius and the Doctrine of Discovery,⁶⁵⁸ by emphasizing the criminality of Indigenous peoples,⁶⁵⁹ and through the marking of specific places for economic benefit and settler colonial possession regardless of the relationships that exist in those spaces. The responsibilities that we carry to relationships we hold are central in so many Indigenous nations. Nishnaabeg scholar

⁶⁵⁸ For a further exploration on the utilization of these particular arguments to lay claim to native homelands, see: Eva Mackey, *Unsettled Expectations*, (Winnipeg: Fernwood Books, 2016); Brenna Bhandar, *Colonial Lives of Property*, (Durham, NC: Duke University Press, 2018); Robert J. Miller, Jacinta Ruru, Larissa Behrendt and Tracey Lindberg, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (Oxford: Oxford University Press, 2010).

⁶⁵⁹ Stark, “Criminal Empire.”

Leanne Betasamosake Simpson described the complexity of our relationality as an “ecology of intimacy” embodied in the webs of connections that exist between each of us, all of nature, the cosmos, and our neighbours.⁶⁶⁰ Accounting for and honouring this ecology of intimacy, an “ecology of relationships in the absence of coercion, hierarchy, or authoritarian power,”⁶⁶¹ is necessary to our conceptions of justice.

Although the Truth and Reconciliation Commission of Canada, and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission both recognized the importance of Indigenous self-determination to reconciliation and justice, how these calls have manifested in practice has frequently resulted in something disconnected from the original vision. As the Site C Dam case in British Columbia and the Penobscot River case in Maine have illustrated, the settler colonial state’s understanding of reconciliation in practice has emphasized a decoupling of Indigenous interpersonal relationships from our ecologies of intimacy, from our relationships and responsibilities to our webs of kinship in all forms. In doing so, a vision of reconciliation is pushed forward that sees justice as only applying to interpersonal relationships and cultural recognition and which diverges from Indigenous conceptions of justice while simultaneously upholding settler colonial authority and power, and allowing for a continuation of the extraction, exploitation and destruction within our homelands.

Within both of these cases, the process of remaking native lands as settler colonial possession continues in the form of what Traci Brynne Voyles referred to as “wastelanding.” In this process, specific places and knowledges are marked as pollutable,

⁶⁶⁰ L. Simpson, *As We Have Always Done*, 8.

⁶⁶¹ L. Simpson, *As We Have Always Done*, 8.

disposable and dispensable thus enabling extraction and fundamentally altering the relationships Indigenous nations maintain with their homelands. The focus on the creation of more programs and services for Indigenous peoples at the expense of Indigenous rights to govern our lands and waters seeks to redefine justice and our relationality in ways that do not honour the breadth of our self-determination or our visions of justice. Instead it is possible to identify a move to create a palatable form of Indigeneity commensurate with settler colonial power while accommodating cultural differences. This is not to say that cultural projects or programs and services should not receive attention, but merely to emphasize that soft rights cannot, and should not, be divorced from hard Indigenous rights; both are integral to our self-determination and our conceptions of justice.

State advancement of this version of reconciliation for Indigenous peoples has sought to redefine justice to make it amendable to state sovereignty and corporate interests. This practice of reconciliation in fact denies justice due to the continuation of harm, and violence to our homelands and relatives. As a result, as Dawn Neptune Adams put it, this “sometimes doubles or quadruples the pain of injustice. Because first you're mourning and grieving that which happened, and then to top it off when there isn't justice, there is the—the mourning and the grief of that.”⁶² Instead, we must understand self-determination and justice as intimately connected to the relationships and responsibilities we hold both interpersonally, as well as to the lands, waters and other-than-humans. As Sarah Hunt asserts, we must conceptualize self-determination as “rooted in an understanding that there is no separation between the ability to be free of bodily

⁶² Dawn Neptune Adams, interview with author, May 15, 2018.

violence, and the ability to be free of dispossession from our homelands. There is no separation between the ability to be free of state control over our everyday lives, and the ability to be free of state-imposed controls over our lands and waters.”⁶⁶³

⁶⁶³ Hunt, “Justice at the Shoreline.”

Conclusion

“Reconciliation is Dead”

In early 2020 I sat in my Political Science seminar on Resurgence and Reconciliation at the University of Alberta and listened to my students pose thoughtful questions to David B Macdonald who was guest lecturing on genocide and the Truth and Reconciliation Commission of Canada. We had spent the morning reflecting on the use of the term genocide as it relates to settler colonial violence in Canada and the United States, and the limitations of the United Nations Convention on the Prevention and the Punishment on the Crime of Genocide (UNGC). The argument was one I was familiar with as my master’s thesis argued that the Indian Residential School System should be understood as genocide as defined in the Convention.⁶⁶⁴ While Indigenous survivors, activists and leaders have called for the application of the UNGC to settler colonial violence, there is undoubted limitation in what the UNGC can achieve given that it does not recognize the depth and breadth of violence committed against Indigenous peoples as a part of a drawn-out history of attempted elimination especially given that crimes of genocide are only punishable after the implementation of the convention in 1946. David B MacDonald unpacks this eloquently in his book *The Sleeping Giant Awakens: Genocide, Indian Residential Schools and the Challenge of Conciliation*. Pointing to what he calls a pluralist conception of genocide, MacDonald notes that if we are to focus

⁶⁶⁴ George, “Not Just an Indigenous Problem.”

on what Tony Barta called “relations of destructions”⁶⁶⁵ we might better see “genocide as a broad-based phenomenon that extends beyond governments, ruling ideologies, bureaucracies, and/or the military. Genocidal intent can be rooted in the evolving norms, patterns of thought, and behaviours in a settler society as much as they are found among policy planners and political and military leadership.”⁶⁶⁶ While reconciliation initiatives like truth and reconciliation commissions have been put in place in settler colonial states in response to Indigenous demands for justice and redress for instances of violence, many of the underlying norms, patterns of thought and behaviours that MacDonald notes continue into the present and make justice for Indigenous nations impossible while violence persists.

In our discussion, a student asked: “what would justice look like if Canada recognized the treatment of Indigenous peoples to be genocidal?” When I heard this question, I was instantly brought back to my considerations about justice when Prime Minister Stephen Harper apologized to residential school survivors in 2008, and when the work of truth and reconciliation commissions in Canada and Maine sought to highlight Indigenous stories in response to our calls for justice and truth-telling. While recognition may be important for some in healing, recognition alone does not move towards Indigenous understandings of justice given that recognition does not always result in an end to harm, or the ability to tend to the health and balance in our relationships with all of creation over time. Indigenous stories—both experiential and traditional—illuminate our relational teachings, and emphasize our conceptions of justice as rooted in an end to

⁶⁶⁵ Tony Barta, “Relations of Genocide: Land and Lives in the Colonization of Australia, in *Genocide and the Modern Age: Etiology and Case Studies of Mass Death*, ed. Isidor Wallimann and Michael N Dobkowski (Westport, CT: Greenwood Press, 1987), 239-40. Quoted in MacDonald, 49.

⁶⁶⁶ Macdonald, 46.

violence, alongside balance in all of our relationships. These moments of apparent recognition of harm, such as through apologies or truth and reconciliation commissions, seemed to promise movement towards justice, yet in practice—as this project has highlighted—justice as a goal has remained relatively elusive. Indigenous storytelling and conceptions of justice have remained at the center of this project, asking how Indigenous stories might provide a lens through which we can understand the work of truth and reconciliation commissions born of Indigenous calls for justice. And further, how might Indigenous stories inform a more grounded understanding of justice for Indigenous nations?

Indigenous demands for justice certainly did not come to an end with the birth of the Truth and Reconciliation Commission of Canada or the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. On the contrary, the continued calls for justice demonstrate that there is still much work that needs to be done. In this moment of reconciliation, our anger over ongoing violence, the denial of our rights and laws, and the failure of the settler colonial governments to respect our self-determination while promising reconciliation seemed to reach a tipping point in early 2020 when the British Columbia provincial government continued to uphold corporate rights and the seemingly insatiable desire for profit over the rights of Indigenous peoples to steward our relationships in the places we call home.

One year after the violent arrests of land defenders asserting Wet'suwet'en laws and rejecting the construction of the Coastal GasLink Pipeline through Wet'suwet'en lands, and only two and a half months after the passing of Bill 41 – 2019: Declaration on

the Rights of Indigenous Peoples Act,⁶⁶⁷ the provincial government called on the police to violently remove Indigenous peoples from their lands once again. In response to a court injunction issued by the British Columbia Supreme Court, Wet’suwet’en hereditary chiefs issued an eviction notice to Coastal Gaslink (CGL) in early January 2020.⁶⁶⁸ As Jeff Corntassel notes, this eviction can be understood as an embodiment of Wet’suwet’en self-determination, a vision of “life beyond the violence of the state,” where “their territory was a place where Indigenous laws would be honoured and upheld.”⁶⁶⁹ Just one year earlier, the RCMP invaded Wet’suwet’en lands, arrested fourteen land defenders at Gidimt’en camp, and set up an exclusion zone prohibiting anyone from entering that was not a member of Canadian law enforcement.⁶⁷⁰ *The Guardian* later reported that notes from a strategy session for that militarized raid instructed RCMP to use lethal force, and “as much violence toward the gate as you want,”⁶⁷¹ against the unarmed land defenders who were honouring Wet’suwet’en laws and the hereditary chiefs’ refusal to have the CGL pipeline through their traditional territories.

Despite this assertion of Wet’suwet’en laws, and the United Nations Committee on the Elimination of Racial Discrimination’s calls for the immediate halt to construction

⁶⁶⁷ Bill 41 – 2019, *Declaration on the Rights of Indigenous Peoples Act*. 4th Session. 41st Parliament. 2019: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/first-reading/gov41-1>

⁶⁶⁸ Brett Forester, “Hereditary chiefs issue eviction notice to pipeline company in Wet’suwet’en territory,” *APTN National News*, January 5, 2020: <https://www.aptnnews.ca/national-news/hereditary-chiefs-issue-eviction-notice-to-pipeline-company-in-wetsuweten-territory/>

⁶⁶⁹ Corntassel, “Life Beyond the State,” 71.

⁶⁷⁰ Chantelle Bellrichard and Michelle Ghoussoub, “14 arrested as RCMP break gate at Gidimt’en camp checkpoint set up to stop pipeline company access,” *CBC Indigenous*, January 7, 2020: <https://www.cbc.ca/news/indigenous/rcmp-injunction-gidimten-checkpoint-bc-1.4968391>

⁶⁷¹ Jaskiran Dhillon and Will Parrish, “Exclusive: Canada Police Prepared to Shoot Indigenous Activists, Documents Show,” *The Guardian*, December 20, 2019: <https://www.theguardian.com/world/2019/dec/20/canada-indigenous-land-defenders-police-documents>

of the CGL pipeline, the Trans Mountain Pipeline and the Site C Dam without the free, prior and informed consent of Indigenous peoples⁶⁷² violence continued through the deployment of RCMP and the invasion of Wet’suwet’en territory in early 2020. This has been the RCMP’s role: to protect the interests of settler colonialism at the expense of Indigenous peoples. It has stemmed back to the establishment of the North-West Mounted Police—precursor to the RCMP—to “protect ‘law and order,’ and forcibly displace Indigenous peoples as settlers advanced west,”⁶⁷³ and continues through the mobilization of the RCMP to protect corporate interests over Indigenous rights.⁶⁷⁴ The first raid began two days after the breakdown of talks between hereditary chiefs and the province of BC in which CGL called off the talks because of the chiefs’ continued refusal to allow CGL workers on their lands. As hereditary Chief Na’Moks described to Vice News: “‘We always knew that industry was directing government, but this is the first time we’ve ever seen them say it publicly, right there in our meeting minutes.’”⁶⁷⁵

⁶⁷² United Nations Committee on the Elimination of Racial Discrimination, *Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedure*, December 13, 2019: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_EWU_CAN_9026_E.pdf

⁶⁷³ Emily Riddle, “Police Protect Corporations, Not People,” *Briarpatch Magazine*, February 10, 2020: <https://briarpatchmagazine.com/articles/view/police-protect-corporations-not-people>

⁶⁷⁴ Riddle, “Police Protect Corporations, Not People,”

⁶⁷⁵ Chief Na’Moks, quoted in Jesse Winter, “The Raid on Wet’suwet’en the RCMP Couldn’t Finish,” *Vice News*, February 7, 2020: https://www.vice.com/en_ca/article/n7j78b/the-raid-on-wetsuweten-the-rcmp-couldnt-finish



Figure 4: Unist'ot'en Camp – Reconciliation⁶⁷⁶



Figure 5: RCMP Invasion⁶⁷⁷

A few days later, on February 10, 2020, the RCMP invaded unceded Unist'ot'en territory and forcibly removed Matriarchs and Land Defenders who were in ceremony. They trespassed on Indigenous lands, and tore down the gate across the Morice River Bridge—battering through, destroying reconciliation literally and figuratively. They tore down red dresses—hung to honour missing and murdered Indigenous women, girls and two-spirit people—extinguished the sacred fire, and arrested Freda Huson (Chief Howilhkat), Brenda Michel (Chief Geltiy), Dr. Karla Tait and four Indigenous land defenders.⁶⁷⁸ In the blog post released by the camp, they noted:

Canada invades. Invades on behalf of industry. Invades during ceremony. Canada tears us from our land. Tears us from our families, from our homes. Takes our drums away. Takes our women away. Jails us for protecting the land, for being in ceremony, for honouring our ancestors... We have had enough. Enough dialogue, discussion,

⁶⁷⁶ Unist'ot'en Camp, "All Eyes on Unist'ot'en: February 10, 2020" *Unist'ot'en Camp*, February 10, 2020: <https://unistoten.camp/feb10/>

⁶⁷⁷ Photo from Unist'ot'en Camp. Shree Paradkar, "RCMP's dastardly defiling of reconciliation on Wet'suwet'en lands cannot be undone," *The Star*, February 10, 2020 https://www.thestar.com/opinion/star-columnists/2020/02/10/rcmps-dastardly-defiling-of-reconciliation-on-wetsueten-lands-cannot-be-undone.html?fbclid=IwAR04o-4Km517IX_Wy-m8Cebfy4k3dz4UJXtWRDAdSEgT7_N50x59PaEA4

⁶⁷⁸ Unist'ot'en Camp, "Reconciliation is Dead. Revolution is Alive," *Unist'ot'en: Heal the People, Heal the Land*, February 13, 2020: http://unistoten.camp/reconciliationisdead/?fbclid=IwAR2t3HL-aN12BhS4Jwlfyt_7wlG6le2g56M5XZD6huEA2UWRh6JxqWf4evs

negotiation at the barrel of a gun. Canada comes to colonize. Reconciliation is dead.⁶⁷⁹

The settler colonial system may be reconfiguring its power in this moment of reconciliation, but this should not be confused with a relinquishment of power particularly as it relates to our relationships with our homelands. As settler colonial media coverage emphasizes the band councils that have signed onto the pipeline, and classifies Indigenous Land Defenders as protestors and environmental terrorists, Indigenous people continue to push back against the slanted narrative. Wet'suwet'en leaders asserted once again that "Canada can no longer claim to have discharged its responsibilities, including the duty to consult, by cherry-picking only Indigenous leaders that sing to its tune."⁶⁸⁰ As Judith Sayers—Hupačasath President of the Nuu-Chah-Nulth Tribal Council—asserted in response to BC Premier John Horgan's pushing forward of the CGL pipeline in the face of Wet'suwet'en hereditary leadership not providing consent:

Is this a scorecard of how many First Nations say yes compared to those who say no? Is that how we measure rights and title? Are we not in a new era of reconciliation? A new decade? The decade of the enactment of the United Nations Declaration on the Rights of Indigenous Peoples Act in this province? ... In criminal law, a woman can say no to a man and no means no. If he proceeds against her wishes, he can be guilty of a crime. Why doesn't the requirement for free, prior and informed consent give the same right to Indigenous peoples?⁶⁸¹

⁶⁷⁹ Unist'ot'en Camp, "Reconciliation is Dead. Revolution is Alive," *Unist'ot'en: Heal the People, Heal the Land*, February 13, 2020:

http://unistoten.camp/reconciliationisdead/?fbclid=IwAR2t3HL-aN12BhS4Jwlfyt_7wlG6le2g56M5XZD6huEA2UWRh6JxqWf4evs

⁶⁸⁰ Gina Starblanket and Joyce Greene, "Opinion: What is happening on Wet'suwet'en territory shows us that reconciliation is dead," *Globe and Mail*, February 13, 2020: <https://www.theglobeandmail.com/opinion/article-what-is-happening-on-wetsuweten-territory-shows-us-that/>

⁶⁸¹ Judith Sayers, "Horgan's Pipeline Push Betrays His Reconciliation Promise," *The Tyee*, January 15, 2020: <https://thetyee.ca/Opinion/2020/01/15/Horgans-Pipeline-Push-Betrays-Reconciliation-Promise->

Beginning in January 2020, Indigenous youth came together, gathered in ceremony to defend Indigenous rights, to continue to call for justice, and to demand change. Indigenous Youth for Wet’suwet’en held ceremony on the BC Legislature lawn beginning with Kolin Sutherland-Wilson’s solidarity in January⁶⁸² and extending into early March 2020. They too felt the hypocrisy of the provincial government embracing reconciliation and upholding the implementation of the United Nations Declaration on the Rights of Indigenous Peoples in the form of the BC Declaration on the Rights of Indigenous Peoples Act (DRIPA), all the while continuing to perpetuate harm and violence. As Kolin Sutherland-Wilson asserted at the press conference on January 24, 2020 with Indigenous Youth who occupied the Ministry of Energy, Mine and Petroleum Resources: “When you say that UNDRIP is meant to be forward looking and not backwards looking, you deliberately ignore the ongoing injustices and infractions of those rights. When you insist that free, prior and informed consent is not the same as a veto, you are saying that we have the right to say yes but not the right to say no.”⁶⁸³ A collective path toward justice that is informed by Indigenous conceptions of justice that emphasize the vitality, health and balance of our relations, alongside the end to harm, requires a fundamental rethinking of broader society’s relationality to place and to each other.

UNDRIP/?fbclid=IwAR2vCjNItR7Yg_ZQ5yM0rrEUy7YU9YKaCwewJ4VNKtRSgFfPJSW8d-APxqg

⁶⁸² Josh Kozelji, “Why Kolin Sutherland-Wilson can’t stay quiet,” *Martlet*, January 22, 2020: https://www.martlet.ca/why-kolin-sutherland-wilson-cant-stay-quiet/?fbclid=IwAR188N6o5mwAQfG-RYeCy3ksewGEs0F3gbYz-boK0Vsr1R_YAILDw1eWUEU

⁶⁸³ Kolin Sutherland-Wilson, Indigenous Youth for Wet’suwet’en Press Conference, Victoria BC, January 24, 2020: <https://www.facebook.com/indigenousclimateaction/videos/193902321662938>

The Indigenous youth who gathered in ceremony to protect Indigenous rights in Victoria BC continually demanded justice, held teach-ins, supported one another, and often faced violence at the hands of the Victoria Police. In witnessing continued violence perpetuated against Indigenous peoples and to Indigenous relations in the places we call home, Indigenous youth have told us that reconciliation is dead. They have argued that governmental promises of reconciliation have been hollow. In solidarity actions that extended across the country, Indigenous leadership came together to support our youth.⁶⁸⁴ These moments ask vital questions of how we imagine our existence as Indigenous nations into the future. How can we discuss reconciliation and justice when we are being violently ripped from our territories? When we are told that our rights don't matter if they go against what is couched as the "public interest"? How can we discuss reconciliation when the state is engaged in tactics of elimination? Indigenous peoples continue to put our lives on the line seeking justice for our people, and the right to continually live and envision our existence as nations in the present and into the future. We must listen to our youth now.

⁶⁸⁴ Nuu-chah-nulth leadership stood in solidarity with Indigenous youth at the Legislature in Victoria. The Nuu-chah-nulth Tribal Council also released a statement of support on February 11, 2020: https://nuuchahnulth.org/sites/default/files/news/Wetsuwet%27en.pdf?fbclid=IwAR1Rg01_nu6q2emeP5q8wK4Eu7NXBPqriomYMynImW5QDOg_qv48xv3Z9VE



Figure 6: Reconciliation is Dead⁶⁸⁵

Defining Justice as Relational

When I first started this project in 2015 it felt like a continuation of work I had been doing for many years. I had returned home to the West Coast perhaps a little jaded and in need of my own healing after working as the Research Coordinator for the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. While it is undeniable that the work of the Commission met the needs of some Wabanaki community members, I also witnessed areas where it couldn't go far enough because of various constrictions to the process. I heard these same concerns when I sat with family and other Indigenous peoples who shared with the Truth and Reconciliation Commission of

⁶⁸⁵ Photography Credit: Stacie Swain, *Reconciliation is Dead*, February 2020. Used with Permission.

Canada, or who made very conscious decisions not to engage. As the Research Coordinator for the MWTRC, I was privy to the internal workings of a truth and reconciliation commission that further illuminated the possibilities and limitations of this particular process. As a result, I frequently wondered how these transitory bodies fit within our conceptions of justice, and if their outcomes matched our visions for what justice looks like for our own communities.

It began with a question of whether truth and reconciliation commissions, as a part of larger transitional justice frameworks, move towards justice for Indigenous nations. Over time, with more clarity and focus, this question shifted to center Indigenous stories as I was continually reminded of the centrality of storytelling to our communities. The question then became: how do Indigenous stories provide lenses through which we can understand the work of truth and reconciliation commissions, and develop a better understanding of justice for Indigenous nations? Engaging in various forums reflecting on the truth and reconciliation commissions in Canada and Maine, at conferences, at documentary screenings, in classrooms, I was frequently asked if I thought other Indigenous nations should have their own truth and reconciliation commissions to redress aspects of colonial violence. The truth is, there is not a clear-cut answer to this question. It isn't black and white, yes or no. The answer is: it depends. There are certainly ways that truth and reconciliation commissions can positively impact relationships, particularly between kin and within communities as individuals develop a deeper understanding of the complexities of Indigenous experiences. This change seems to happen most prominently in spaces where those relationships already exist. There are also various concerns that can emerge through these processes, some of which have been illuminated

in this project. The answer is that Indigenous stories can inform a more grounded conception of justice for our communities.

The increasing prominence of truth and reconciliation commissions to redress past violence points to the potential vital role that they play for those who call for their existence. Indigenous nations have increasingly looked to these mechanisms as spaces for their voices to be heard while working towards improved and just relationships.⁶⁸⁶ These spaces have also been important for some in their healing journey. At the same time, as Jamie Rowen argues, there is a malleability to truth commissions that may become a liability which makes it easy for actors with contradictory goals to support the work of truth and reconciliation commissions.⁶⁸⁷ The competing justice objectives of Indigenous peoples and settler colonial governments can all find space within the truth and reconciliation process, but the tensions between these objectives are brought to the fore as the work proceeds. In their work, truth and reconciliation commissions—under the best possible conditions—can incorporate a constellation for norms and practices, including ones that attempt to reflect the worldviews of the Indigenous peoples they serve. Yet, there is also a risk that, as Bakiner argued in his study of the work of truth commissions generally, “they ultimately legitimize the nation and the nation-state as the object and audience of historical narrative and political normativity.”⁶⁸⁸ As such, there are

⁶⁸⁶ Following the establishment of the Truth and Reconciliation Commission of Canada (2008), and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (2013), a number of Indigenous nations have looked to these forums as potential spaces for seeking justice. Rauna Kuokkanen notes that a Truth and Reconciliation Commission was established in Norway in 2018, a proposal for a commission was approved in Finland in 2019 and in Sweden there has been public debate about a truth and reconciliation process for over a decade. (Rauna Kuokkanen, “Reconciliation as a Threat or Structural Change? Truth and Reconciliation Processes and Settler Colonial Policy Making in Finland,” *Human Rights Review* (May 2020)).

⁶⁸⁷ Rowen, *Searching for Truth in the Transitional Justice Movement*.

⁶⁸⁸ Bakiner, 227.; Escué, Alcibiádes. “Regional and National Perspectives on Truth and Reconciliation Processes.” Presentation. *International Expert Seminar on the Access to Justice for*

potentially dangerous limitations in the process' capacity to move towards justice for Indigenous nations if justice is understood as something other than inclusion into settler colonial state structures and power relations.

The Truth and Reconciliation Commission of Canada and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission were born of Indigenous calls for justice and truth-telling. In tracing to the work of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission through its entirety, I have illuminated the areas where Indigenous conceptions of justice were embedded within the principles and work of the Commission. Some of the work of incorporating Indigenous conceptions of justice and Indigenous worldviews was also evident in the work of the Truth and Reconciliation Commission of Canada. In considering these pieces, it becomes possible to see the spaces where truth-telling bodies such as truth and reconciliation commissions can serve the needs of Indigenous nations, particularly when they reflect back the conceptions of justice of the communities that they serve.

At the same time, exploring the work of these two commissions through the lens of Indigenous stories has revealed the areas where the practice of reconciliation has diverged from Indigenous conceptions of justice. For example, I have argued that although the Commissioners of the Truth and Reconciliation Commission of Canada emphasized Indigenous self-determination, and the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation within the country, governmental response and action on the TRC's 94 Calls to Action leaves much to be

Indigenous Peoples Including Truth and Reconciliation Processes Conference. New York, 27 February 2013.

desired. Although these recommendations are directed at various sectors of Canadian society, federal governmental action on the Calls to Action they are responsible for has been relatively minimal. I have located this response within the discourse of multiculturalism which emphasizes cultural accommodation. As such, I have argued that the governmental response to the Calls to Action within the first five years after the release of the TRC's report and recommendations indicates a trajectory for reconciliation that moves away from Indigenous conceptions of justice in that it frequently emphasizes balance only in certain types of relationships. In doing so, this advances what I have referred to as *palatable Indigeneity* which can be understood as a vision of Indigeneity that is embodied in cultural expression, is legible to the settler colonial state and which is perceived as unchallenging of the state's assertions of sovereignty over self-determining Indigenous nations.

Many of the Indigenous experiential and traditional stories that have been shared continue to emphasize the central importance of relationships to life. For nuučaañuł peoples, this is reflected in hišukʔiščawaak, the teaching that everything is one. Indigenous understandings of justice that emerge through these stories emphasize an end to harm, alongside balance in our relationships with all of creation. While the Truth and Reconciliation Commission of Canada and the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission attempted to weave together the importance of Indigenous place-based relationships within their conceptions of reconciliation and in their recommendations, how reconciliation has been taken up in the immediate years following the commissions' work specifically as it relates to Indigenous place-based relationships has suggested a redefinition of reconciliation that is compatible with settler

colonial power and authority. In exploring the Site C Dam and the Penobscot River Case, I argued that this practice of reconciliation advances the recognition of Indigenous cultural rights while Indigenous self-determination is sidelined and violence to Indigenous homelands continues. In doing so, there is a redefinition of our relationality that attempts to erase our connection to place, and the responsibilities we carry to our relationships with all of creation. While this practice very clearly moves against Indigenous conceptions of justice, it also fails to conceptualize the interconnectivity between the cultural and the political. As Leanne Betasamosake Simpson argues, “our ‘cultural’ practices were hidden from the surveillance of the Indian Act authorities because they embodied our political practices, because they were powerful, and regenerating language, ceremony, and land-based practices is always political.”⁶⁸⁹

Some might argue that the inability to move towards, or the failure of, reconciliation stems from an incomplete truth which has emerged from these processes; in other words, there is still more truth-telling that needs to occur before society can truly move towards reconciliation.⁶⁹⁰ This may certainly be accurate since an end to harm might require an understanding of the depth and multiplicity of harm both in the past and currently being perpetuated. Yet, I have also cautioned that it is necessary to be mindful of the forums that Indigenous stories are shared in as I explored the intersection of truth and reconciliation commissions with Indigenous experiential stories, and offered an analysis of how this intersection colours understandings of reconciliation and justice

⁶⁸⁹ L. Simpson, *As We Have Always Done*, 50.

⁶⁹⁰ Consider for example the public lectures given by Patricia Barkaskas and Sarah Hunt: Patricia Barkaskas and Sarah Hunt, *Truth Before Reconciliation: Reframing/ Resisting/ Refusing Reconciliation*. SFU Institute for the Humanities, (March 10, 2017): https://www.youtube.com/watch?v=mB_7odACIpI

specifically. While truth and reconciliation commissions in Canada and Maine centered Indigenous voices in their work, and sought to draw in stories of Indigenous experiences into mainstream discourses, I have argued that there is a potential danger that can emerge given the structural operations of truth and reconciliation commissions more generally. Specifically, I caution that there is a danger in listening to and consuming Indigenous stories of victimization when aspects of Indigenous storytelling, as understood within our communities, are missing such as the elements of interconnectivity and holism. Further, I argued that these structural operations give rise to the potential construction of what I have referred to as the *spectacle of victimhood* which reduces the complexity and vibrancy of Indigenous experiences into an overarching narrative of victimhood thus limiting the potential for substantial transformative change within the systems of oppression that have and continue to facilitate violence. Instead, the *spectacle of victimhood*, overdetermines Indigenous life through experiences with violence and provides validation for ongoing settler colonial intervention into Indigenous lives and on Indigenous lands and waters through the notion that Indigenous peoples are still in need of care from the state rather than as strong self-determining nations. While it would be fallacious to suggest that TRCs can *only* result in the reproduction of colonial power, there remains a concern that our participation will benefit the state in an asymmetrical fashion.⁶⁹¹ Given this, we must remain conscious of the tensions in a truth commission's promise of justice, and the tangible repercussions of advancing narratives of victimhood and the redefinition of Indigenous relationality as devoid of our responsibilities in relationships to all life in our territories. To counter this, I reflect on the transformative

⁶⁹¹ L. Simpson, *Dancing on Our Turtle's Back*, 22.

potential of Indigenous stories on their own, grounded in Indigenous storytelling principles, and emphasize the teachings which emerge when we deeply listen to Indigenous stories and allow them to guide us thus creating more informed understandings of what justice looks like for Indigenous nations.

There is an undeniable importance that these truth commissions hold for our communities; after all, they are born of the love of our kin for our relations and a determination to envision beautiful futures of freedom for our nations. I have been privileged to be asked to hold some of these stories and to bear witness to multigenerational resistance and strength. In those moments and through relations continually built, I see the centrality that our stories have in our healing. The sharing of these stories has moved deep healing in individuals, between family members, and within communities. This is the pivotal work of the truth and reconciliation commissions for our people—in the ways they have created space for us to hear stories between relations and to move toward healing in our own communities. Esther Anne (Altvater)—co-director of Maine Wabanaki REACH—stresses this most eloquently:

It's not about making white people feel welcome, it's not about making you guys feel... it's not about you. It's about Sipayik...it's about my people feeling safe, and honoured, and listened to, and validated. So, there's that moment where you choose to have your voice...And I knew all along in this process, just as there are competing interests with truth, healing, and change — sometimes they compete with each other. So does truth and reconciliation. Because, we knew from the beginning, that non-native people wanted to jump right into the reconciliation: 'why can't we just all...' you know? ...All through this process, you know since 2008, I have thought: 'we should have just called it a truth commission,' because reconciliation is not, it's not my goal really, I mean, the healing of my people is my goal.⁶⁹²

⁶⁹² Esther Altvater, quoted in *Dawnland*, directed by Adam Mazo and Ben Pender-Cudlip, (Massachusetts: Upstander Project, 2018).

As has become evident throughout this project, the mere existence of truth-telling bodies on their own do not necessarily lead to the structural change that Indigenous calls for justice seek, they do not necessarily result in an end to harm. Writing about this now, as the bodies of over 1000 children were found in unmarked mass graves at residential schools across Canada including Kamloops Indian Residential School and Marieval Indian Residential School is like having all of the air sucked out of your body. Thinking about these questions while I carry my own child, as I feel her kick and move, continually reminds me that there is more work that needs to be done to achieve the justice our communities envision. We are not yet in a space where practice matches the visions of justice we have for our nations. There is still very real concern that the outcomes of our engagement with truth and reconciliation commissions have reproduced the very structures of power we sought to leave behind. Instead of allowing current practices of reconciliation to encapsulate justice for our communities, we must consider more active and responsive tactics that will move towards our visions of justice.

Envisioning Vibrant Indigenous Futures

As we consider pathways of justice, the teachings of our nations hold the solutions. The resurgent practices of Indigenous nations are liberatory precisely because they have a decentralized, grassroots focus that builds from our place-based understandings to embody our responsibilities and regenerate our relationality. The process begins with family and radiates out,⁶⁹³ it is about connecting back to our stories,

⁶⁹³ Barney Williams Jr, quoted in “Indigenous Storytelling, Truth-Telling and Community Approaches to Reconciliation,” Jeff Corntassel, Chaw-win-is and T’lakwadzi, *English Studies in Canada*, 35.1 (March 2009), 145.

and taking them seriously.⁶⁹⁴ When we conceptualize resurgence in relational ways, we direct our attention to what Gina Starblanket describes as the “significant role that our everyday interactions play in defining and pursuing our political objectives and priorities.”⁶⁹⁵ Grounding our freedom from oppressive structures in resurgence allows for the continued creation of vibrant Indigenous futures that emerge from and honour our worldviews since resurgence emphasizes the (re)generation of our ways of being and knowing and the continued assertion of our self-determination. It shifts the focus to our relationality with all of creation, not just the interpersonal. As Starblanket stresses: “because it is through our interactions with our environments that we learn the most about ourselves and those we share our existence with, our relationships have the biggest potential to act as sites of change and imagination.”⁶⁹⁶

Through an intimate engagement with our stories—both traditional and experiential—we are able to work towards healing, and (re)generating our relationships grounded in our relational teachings. Our teachings are the pathway to justice, reminding us of our obligations and responsibilities as quuʔas. For nuučaanuʔ peoples, this is a deeply informed connection with hišukʔiščawaak. We are guided through our traditional stories to understand our relationality as central to our existence. A living commitment to hišukʔiščawaak informs and guides our personal and political engagements. Because of this, our healing and justice must begin at home. The centrality of beginning at home was echoed throughout our conversations with community members at the Nuu-chah-nulth

⁶⁹⁴ Mack, “Hoquotist: Reorienting through Storied Practice.”

⁶⁹⁵ Gina Starblanket, “Resurgence as Relationality,” *Everyday Acts of Resurgence*, edited by Jeff Corntassel et al. (Washington: International Cry, 2018): 30.

⁶⁹⁶ Starblanket, “Resurgence as Relationality,” 30.

Tribal Council Reconciliation Forums.⁶⁹⁷ This means taking care of each other, taking care of our ʔawiih and understanding justice and reconciliation as deeply connected to our ʔaaʔuupaa.⁶⁹⁸ We must seek balance in all of our relationships—with all of creation—as that is ʔaas⁶⁹⁹ original design. Our responsibilities to these relationships, and the balance that is integral for the existence of life is how we understand justice. This balance is what justice looks like.

While hišukʔiščawaak is a central teaching for nuučaaʔuł peoples, the centrality and importance of relationality is also prevalent within Wabanaki communities. As Penobscot activist and lawyer, Sherri Mitchell has stressed: “When we balance our demand for rights with an acceptance of our responsibility toward one another and all other living beings, we take back our power. When we do so, we build a foundation for a rights-based society that is balanced, just, and harmonious. This work won't be fast, and it won't be easy. And it will never be complete if we don't take responsibility for making it happen.”⁷⁰⁰ Much of this work is underway by the Wabanaki community members of Maine Wabanaki REACH. These individuals stressed the importance of healing the community and welcoming our relatives back in healthy ways.⁷⁰¹ So much attention has been focused on what might be needed from the state for justice, but our community members are also emphasizing that we must heal our communities outside of the state, that we must heal ourselves. As Huyanna Clearwater described:

⁶⁹⁷ S.Thomas, *Nuu-Chah-Nulth Reconciliation Project*, October 2019.; Nuuchah-nulth Tribal Council Reconciliation Forum, May 2019.; Nuuchah-Nulth Tribal Council Annual General Meeting, September 2019.

⁶⁹⁸ Nuuchah-Nulth Tribal Council Annual General Meeting, Tsawout First Nation, September 24, 2019.

⁶⁹⁹ The creator

⁷⁰⁰ Mitchell, 91.

⁷⁰¹ Denise, Altvater, Esther Anne (Altvater), Erika Bjorum, Penthea Burns, Luke Joseph and Barbara Kates, Maine Wabanaki REACH group discussion with author. May 15, 2018.

In all in all, it's really focused on what the State can do. And how the State can better their practices. But really deep inside for us, it not only is the State's obligation to make these changes, but it's also our obligation to want it. For our - for us to stand there and take full advantage of the opportunity that we're given. It's no longer about just questioning like if our children will be taken away. It's if they're not, how are we gonna live our lives? And for me, that's where justice stems from, is how we choose to live our lives as people after everything that we've gone through. How we decide to hold ourselves - how we decide to get involved in our communities.⁷⁰²

In the years following the release of the MWTRC's final report, REACH has carried forward vital community work, and sought to ensure implementation of the MWTRC recommendations. Central to healing our communities, REACH members stressed the importance of their work with youth,⁷⁰³ in addressing gendered relationships within the community, and work with kin within Maine's correctional centres.⁷⁰⁴ As Esther Anne (Altvater) described: "Nobody else is doing direct work with inmates in prisons. It connects to everything, substance abuse, violence, mental health issues, everything."⁷⁰⁵ Wabanaki community organizers work within these spaces, holding Peace and Healing Circles, sharing history, connecting to spirituality and healing, and offering points of connection to "allow for all of the inmates to feel that they're still part of the community."⁷⁰⁶ There is a deep interconnectivity to this work, to the continued envisioning of our futurity as self-determining nations. While Wabanaki communities

⁷⁰² Huyanna Clearwater, interview with author, May 2018.

⁷⁰³ Denise Altvater, REACH group discussion with author, May 15, 2018.

⁷⁰⁴ Basset, Sandra, Penthea Burns, Andrea Francis, Jeffrey Hotchkis, Susan Howe, Carla Hunt and Katie Tomer. Maine Wabanaki REACH group discussion with author. May 16, 2018.

⁷⁰⁵ Esther Anne, REACH group discussion with author, May 15, 2018.

⁷⁰⁶ Katie Tomer, REACH group discussion with author, May 16, 2018.; Sandra Basset, REACH focus group discussion with author, May 16, 2018.

continue to push the state for justice, they have also centered the restoration of balance in their relationships at home, healing individuals, families and communities.

Gendering the Discussion—Living Our Responsibilities

While we need to understand justice as seeking balance in our relationships, this cannot only be focused on the absence of our self-determining rights to steward relationships with our lands and waters in the discussion of reconciliation. As nuučaañuł community members consistently asserted, we must understand that “it must include everything, that it is holistic and cannot include just one piece of this, and one piece of that.”⁷⁰⁷ This must be rooted in a deep understanding of the interconnectivity between violence to the lands and waters, and bodily violence. As Sarah Hunt has stressed, “there is no separation between the ability to be free of bodily violence, and the ability to be free of dispossession from our homelands. There is no separation between the ability to be free of state control over our everyday lives, and the ability to be free of state-imposed controls over our lands and waters.”⁷⁰⁸ These are sentiments that have been echoed by community members, reports like Amnesty International’s *Out of Sight, Out of Mind*, as well as the National Inquiry into Missing and Murdered Indigenous Women and Girls. Despite this wealth of documentation, the urgency of this is increasingly prevalent as Indigenous peoples continually push back against settler colonial violence to our bodies from the violent removal of matriarchs from our territories while in ceremony,⁷⁰⁹ to

⁷⁰⁷ S. Thomas, 9.

⁷⁰⁸ S. Hunt, “Justice at the Shoreline.”

⁷⁰⁹ Charlie Smith, “RCMP arrest Unist’ot’en matriarchs during ceremony to honour missing and murdered Indigenous women and girls” *The Georgia Straight*, February 10, 2020: <https://www.straight.com/news/1358106/rcmp-arrest-unistoten-matriarchs-during-ceremony-honour-missing-and-murdered-indigenous>

police violence during wellness checks.⁷¹⁰ Our women, girls and two-spirits continue to be the targets of this violence.

In emphasizing relationships, Starblanket and Stark argue that there is a danger that emerges from “discourses that posit Indigenous women as primarily responsible for maintaining healthy relationships within Indigenous communities, minimizing and/or eclipsing Indigenous women’s political agency.”⁷¹¹ It is critical to draw attention to this not to foreclose Indigenous women’s association with creation and with relationships but to emphasize attentiveness to “the ways in which notions of care and nurturance have been associated with femininity through and in response to colonialism.”⁷¹² I recognize that by emphasizing relationality, there is a potential danger for this to be viewed as the responsibility of Indigenous women. Indigenous women have been at the forefront of this work for generations, and our labour and love are evident in the emergence and existence of justice mechanisms like the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. I see this most strongly in the ways Indigenous women carry the labour that is often hidden and silenced in our political movements and our fights for justice.

I emphasize the centrality of our relationality not to direct this work to Indigenous women, but to stress a deep connection to our teachings that call on all of us to reflect on our responsibilities to these relationships; we each have a role to play in carrying out these responsibilities. Settler-colonial paths of justice have attempted to draw us away from our understandings of justice, instead addressing justice in a piecemeal fashion that

⁷¹⁰ On June 4th 2020, police in Edmundston, NB shot and killed Tla-o-qui-aht woman Chantel Moore during a wellness check. Our people are still mourning the loss of this young woman

⁷¹¹ Starblanket and Stark, 184.

⁷¹² Starblanket and Stark, 184.

redefines our relationality with each other and all of creation. Our path forward must be one that is guided by our truths and the teachings of our nations, one that calls on the responsibilities that every single one of us carries. Embodying our relational teachings in a living commitment to our responsibilities is necessary to move towards justice for our nations, and for the continued envisioning of our existence as nations. As I traced in Chapter Three, our stories carry our ھااھuupaa, emphasizing yaʔakstalth—that we must care for one another. Our kinships demand care. As Dian Million described, these kinships are spaces “where care is like Indian law.”⁷¹³ The language of trauma and care has been drawn in and used as a mechanism to control Indigenous sorrow, anger and resistance. As Million argued, “we must not leave this care to the capitalist state as that is the abandonment of care.”⁷¹⁴ The state continues to demonstrate this as it violently removes us from our homes, and places corporate interests and profit above lives. We must center yaʔakstalth as a commitment to our teachings, to hišukʔišćawaak, to our continued existence as nations. Our “care is anti-capitalist, it builds the trust that communities need;”⁷¹⁵ and must be extended as a responsibility we each carry.

The health of these relationships also demands that we dismantle the ways colonialism has impacted our gender relationships, and caused violence against Indigenous women, girls and two-spirits. As Rauna Kuokkanen argues “failure to incorporate an analysis of gender into the struggles and exercise of Indigenous self-determination will effectively perpetuate and replicate the logics of settler colonialism and heteropatriarchy in the structures put in place in the name of Indigenous

⁷¹³ Dian Million, “What Do We Mean By Indigenous Well-being, Health and Healing,” *CIRCLE Speaker Series*, University of Victoria, November 19, 2019

⁷¹⁴ Million, “What Do We Mean By Indigenous Well-being, Health and Healing.”

⁷¹⁵ Million, “What Do We Mean By Indigenous Well-being, Health and Healing.”

governance.”⁷¹⁶ While it is beyond the capacity of this dissertation to explore what this looks like in greater detail,⁷¹⁷ it is critical to name this as essential in our pursuit of justice. As Kuokkanen stresses, “Indigenous self-determination is about restructuring relations of domination.”⁷¹⁸

Justice for colonial violence is about more than just rethinking national narratives that seek to uphold settler colonial notions of benevolence or stewardship of human rights, or decolonizing the settler mind.⁷¹⁹ Justice, as informed by Indigenous stories and relational teachings calls for an end to harm and balance in our relationships with all of creation. It calls for structural change to the systems of oppression that have and continue to perpetuate violence. Concrete restitution needs to include our lands and waters, and a dismantling of settler colonialism’s various manifestations of violence. Justice means honouring our self-determination and building relationships from that place. Anything that moves away from this, that relegates our experiences to something solely of the past while denying the colonial realities of the present, merely reproduces the violence and colonial power structures we have sought liberation from.

⁷¹⁶ Rauna Kuokkanen, *Restructuring Relations: Indigenous Self-Determination, Governance, and Gender*, (New York: Oxford University Press, 2019): 217.

⁷¹⁷ For a deeper exploration of this, consider the growing wealth of information on Indigenous feminisms: Kuokkanen, Rauna. *Restructuring Relations: Indigenous Self-Determination, Governance, and Gender*, (New York: Oxford University Press, 2019); Goeman, Mishauna, *Mark My Words: Native Women Mapping Our Nations* (Minnesota: University of Minnesota Press, 2013); Sarah Nickle and Amanda Ferh editors, *In Good Relation: History, Gender and Kinship in Indigenous Feminisms* (Winnipeg: University of Manitoba Press, 2020); Maracle, Lee. *I Am Woman* (Vancouver: Press Gang, 1996); Suzack, Cheryl et al editors. *Indigenous Women and Feminism: Politics, Activism and Culture* (Vancouver: UBC Press, 2011); Green, Joyce ed, *Making Space for Indigenous Feminism*, 2nd Edition (Winnipeg: Fernwood Publishing, 2017).

⁷¹⁸ Kuokkanen, 217.

⁷¹⁹ Augustine S.J. Park, “Settler Colonialism and the Politics of Grief: Theorising a Decolonising Transitional Justice for Indian Residential Schools.” *Human Rights Review* 16.3 (2015).

Justice for our communities rests instead in the place-based resurgence work our nations have been engaging in. This can be seen in the work of Maine Wabanaki REACH,⁷²⁰ or in community responsive projects that are designed and implemented by Indigenous nations that seek to (re)vitalize our traditions. The hard work of decolonization is embodied in these various initiatives, such as Maine-Wabanaki REACH's annual Healing Workshop, which began in 2014; language learning projects in nuučaañuł communities on the west coast of Vancouver Island; and many other projects within communities across what is now referred to as North America. These projects are grounded in our relationality with all life in our territories, and built on the knowledge that we know better than outsider 'experts' what is best for us. As such, there is a no prescriptive pan-Indigenous pathway to justice and our freedom from oppressive structures; the strength to heal our respective communities comes from within. Our stories illuminate the path to justice for our respective nations and that is the vision we must commit to.

wikin qayaačič – let us not drift (from our path).

Čuuč

łeekoo łeekoo

⁷²⁰ For more information see: <http://www.mainewabanakireach.org>

Epilogue

Almost six years after the closing ceremony of the Truth and Reconciliation Commission of Canada, Residential Schools made national news once again. Tk'emlúps te Secwépemc had hired a specialist to utilize ground-penetrating radar to survey the grounds of Kamloops Indian Residential School while its Language and Culture Department oversaw the project to ensure the work was carried out in an appropriate and respectful way.⁷²¹ In completing this work, Tk'emlúps te Secwépemc announced that preliminary findings indicated that the bodies of 215 children had been found representing undocumented deaths beyond the 50 reported to the Truth and Reconciliation Commission.⁷²² The recovery of these children, whose deaths had been invisibilized, rocked Indigenous nations across the country, and in the weeks that followed, reports of more bodies found in unmarked graves continued to be documented by the media.⁷²³

⁷²¹ Courtney Dickson & Bridgette Watson, “Remains of 215 children found buried at former BC Residential School, First Nation says,” *CBC News*, May 27, 2021: <https://www.cbc.ca/news/canada/british-columbia/tk-eml%C3%BAps-te-secw%C3%A9pemc-215-children-former-kamloops-indian-residential-school-1.6043778>

⁷²² Mary Ellen Turpel-Lafond cited in Courtney Dickson & Bridgette Watson, “Remains of 215 children found buried at former BC Residential School, First Nation says,” *CBC News*, May 27, 2021: <https://www.cbc.ca/news/canada/british-columbia/tk-eml%C3%BAps-te-secw%C3%A9pemc-215-children-former-kamloops-indian-residential-school-1.6043778>

⁷²³ Most recently, on June 24, 2021 Cowessess First Nation in Saskatchewan announced that ground-penetrating radar work had begun earlier in the month and preliminary findings has recovered the bodies of 751 near Marieval Residential School. See: Bryan Eneas, “Sask. First nation announces discovery of 751 unmarked graves near former residential school,” *CBC News*, June 24, 2021: <https://www.cbc.ca/news/canada/saskatchewan/cowessess-marieval-indian-residential-school-news-1.6078375>

Indigenous peoples have long spoken of the violence of settler colonialism, and in particular the violence which occurred in residential schools. Within our communities, we have often heard stories of children who never returned home, of children ripped from the arms of their mothers, stolen from their homelands, and left in cold “schools” designed to eradicate Indigenous peoples under the guise of education. In any given moment, hearing that the remains of children have been recovered is devastating. Innocent lives who never had a chance to grow, to heal, and to bring their light to the world. My heart aches for their families. It aches my family members, who in hearing this news are brought back to their own painful experiences in residential schools, yet who were lucky enough to return home. We mourn the loss of these children, gifts from the creator. The ache of loss runs deep. For me, this news hit particularly heavy as I carry my own child, and prepare to bring her earthside. A heavy pit sinks in my stomach as I think of families who did everything they could to protect their children, and lost their precious souls to the violence of settler colonialism. It has been a stark reminder of the ways settler colonial power continues to attempt to erase Indigenous nations, of the continued rates of removal carried out through the child welfare system, of the erasure of Indigenous stories, and the continued elusive nature of justice.

Shock seemed to reverberate through the country at the news of the Indigenous children found in unmarked graves; a violent reminder that Indigenous lives were and, in many cases, still are viewed as unimportant. While this shock makes sense since the news challenges preconceived notions of Canada’s benevolence and status as a defender of

While it is currently unknown if all of the unmarked graves belonged to children, there are many stories within Indigenous nations of children who never returned home from residential schools, as well as stories of adults who may have been buried at these unmarked grave sites.

human rights, it also stokes anger for Indigenous peoples when accompanied by settler statements that “I didn’t know.” Not only has this news reverberated through Indigenous nations calling back deep wounds, it and the public response is a firm reminder that Indigenous stories have not been listened to. We are hit with doubled grief as we mourn the lives of these children, alongside the realization that we have not been listened to, that our stories have been disregarded. Despite being centered in the national forum of the Truth and Reconciliation Commission of Canada, which noted the existence of unmarked graves and dedicated an entire volume of their final report to Missing Children and Unmarked Burials⁷²⁴, the shock felt by many in Canadian society also seems to indicate that Indigenous stories—even when centered in a national forum—have fallen on deaf ears. This is further confirmed by the continued statements of the “good” that occurred within these schools.⁷²⁵

This remains a strong reminder that there is still much work that needs to be done to work towards the justice envisioned by Indigenous nations. It is time for action, not empty words and hollow gestures of reconciliation. Indigenous stories illuminate the path to justice for our respective nations; that is the vision we must commit to. It is time to listen seriously to these stories, and to act as they guide us too. It is urgent. It is time.

⁷²⁴ See, Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: Missing Children and Unmarked Burials*, volume 4 (Montreal: McGill-Queens University Press, 2015).

⁷²⁵ While I previously noted the controversy of political leaders in Canada touting this rhetoric, after the remains of 215 children had been found news spread of a Mississauga, Ontario Catholic Priest noting the “good done” by the Roman Catholic Church in Residential Schools during a sermon. See: Samantha Beattie, “Priest under fire after sermon on the ‘good done’ by Catholic Church on residential schools,” *CBC News*, June 24, 2021: <https://www.cbc.ca/news/canada/toronto/mississauga-pastor-catholic-church-residential-schools-1.6077248>

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