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The Three R's of Seeking Transitional Justice: Reparation, Responsibility, and Reframing in Canada and Argentina

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The Three R's of Seeking Transitional Justice: Reparation, Responsibility, and Reframing in Canada and Argentina

Abstract
In Canada an officially mandated truth commission inquiring into the forced assimilation and abuse of Indigenous children in state-organized and funded residential schools raises profound and in many ways quite novel questions about transitional justice concerning Indigenous peoples in advanced capitalist societies. This article compares the Canadian case with that of a quintessential transitional justice pioneer: Argentina. Focusing on the efforts of justice-seekers in each country, it reveals similarities in their respective pursuits of what the article identifies as three important transitional justice goals: reparation, responsibility and reframing. However, the article also finds a crucial difference between the two cases. This difference is that justice seekers in Argentina have placed a heavy emphasis on social and political accountability, a goal that, in various ways, has received much less attention in the Canadian case. We conclude that this absence raises broader issues about transitional justice processes in countries marked by ongoing legacies of anti-Indigenous colonialism—issues that Canadians from the settler society, in particular, must begin urgently to address.

Keywords
transitional justice; reparations; Indigenous peoples; truth commissions; colonialism; Argentina; Canada

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Introduction

As is well known, practices of transitional justice aim to democratize, build cultures of accountability, and promote respect for human rights in countries emerging from authoritarian rule, dictatorship, or mass atrocity. Less certain, however, is the applicability of transitional justice, as either a family of mechanisms or as an overarching conceptual framework, beyond the more familiar contexts of regime change or collapse seen most typically in countries of the global South. This question of applicability is central to a development addressed directly in this article: the advent in Canada of an officially mandated truth commission inquiring into the forced assimilation and abuse of Indigenous children in state-organized and funded residential schools.

For more than a century, successive Canadian federal governments operated a policy that took over 100,000 Native children from their families and placed them in boarding schools operated by the country's major Christian denominations. The schools were established with the specific goal of eradicating Indigenous languages and cultures, a goal they sought to achieve by separating children from their families and communities, denigrating Native traditions and ways, and practicing ruthlessly punitive forms of quasi-military discipline (Miller, 1996). Physical and sexual abuse were rampant in the schools and shockingly high mortality rates from disease and neglect were common (Hackett, 2005). Furthermore, and contrary to the Canadian Prime Minister's recent assertion that his country has no history of colonialism (Simard, 2009), the residential schools also advanced a broader agenda of settler colonization; by attempting to eliminate Native capacities for cultural and community reproduction, the schools aimed to ensure that distinct self-governing Indigenous communities would no longer exist.

The emergence of a Canadian truth commission into these outrages raises novel questions about the prospects for "transitional justice in a non-transitional society" (Jung, 2009), particularly given the tendency in the literature to equate transitional justice with liberalization processes in the post-communist world or Global South (e.g. Hayner, 2002; Phelps, 2004). But as Eric Posner and Adrian Vermeule (2003-2004) have pointed out, this view ignores the importance of quintessentially transitional questions of retroactivity, compensation, and historical inquiry in so-called "consolidated democracies" wrestling with their own abuses, injustices, and inequalities. Indeed, the legal scholar Jeremy Webber concludes more specifically that Canada's colonial domination of Indigenous peoples makes imperative what he describes as the quintessentially transitional task of developing legal cultures and institutions that respect rather than seek to smother cultural, normative, and legal diversity (Webber, 2009). This article agrees with these latter arguments and views. At the same time, it takes a slightly different path. Rather than asking broadly about the applicability of transitional justice in the global North or mounting a particular argument about what kind of legal or institutional innovations Canadian circumstances may require, we undertake a comparative study of transitional justice struggles themselves. Our goal is

to highlight the similarities, analyze the differences, and move beyond the assumption that the North has nothing to learn from the South.

In terms of comparison, we seek critically to understand the character of Canada's initial engagement with transitional justice mechanisms and notions by considering the transition-related struggles of social movements in Argentina, a country whose significant and well documented role as a transitional justice pioneer provides a useful baseline of assessment. At the same time, we wish to underscore our recognition of Indigenous communities in Canada as distinct political communities with the inherent right of self-determination; by focusing on social movement struggles, we do not mean to assimilate Indigenous nations to prevailing scholarly conceptions of "social movements" (cf. Woolford, 2005). Instead, we mean only to highlight our overarching empirical focus on the key demands and themes of justice-seekers in the two countries. That is, we ask: what does a comparison of the two cases reveal about the transitional nature of the demands and themes of justice-seekers in Canada?

The justification for this kind of "bottom-up" approach is in fact strong, particularly in the Canadian case. The point is simple. The circumstances of regime change or concerted international pressure typically associated with transitional justice are glaringly absent in Canada. Instead, the limited moves seen so far, such as the 2006 Indian Residential Schools Settlement Agreement compensation package for former students, the official 2008 state apology for the residential schools policy, and the formal establishment in 2009 of the Truth and Reconciliation Commission of Canada, reflect Indigenous mobilization and pressure in the face of official obfuscation and denial. Thus, attention to these kinds of society-level struggles is arguably even more crucial in the Canadian case than it might be in situations where the pressures for transition are more varied and multiple.

The difficulties of an Argentina-Canada comparison must be acknowledged. In Canada, the justice-seekers are Indigenous communities addressing wrongs (in particular, brutally assimilationist residential schools) that occurred within a so-called liberal democracy over many decades; some of the very worst wrongdoing occurred more than thirty years ago and many of the perpetrators and architects of those abuses are no longer alive. In Argentina, by contrast, the justice-seekers belong primarily to the dominant (non-Indigenous) ethnic group and focus on the injustices of an authoritarian military regime which lasted only seven years; the injustices are also of sufficiently recent vintage that many of the direct perpetrators are still alive, with some even continuing to occupy positions of public power.

These differences are significant. Yet we contend that there is something to be learned from bringing together what the comparative political science literature would call these two, "most different" cases (Przeworski & Teune, 1998). Argentina, a dramatic case of democratizing transition involving a move from classic authoritarianism to trials of senior regime figures in just a matter of years, offers an important vantage point of clarity on Canada's more diffuse processes of historical reckoning. Precisely because of the vaster scale and shorter time-frame involved, the Argentine case serves to

foreground important considerations about its Canadian counterpart that might otherwise go unnoticed. Our comparison also has a mildly subversive bent. While so-called "modernization" approaches have often sought paternalistically to apply theories and ideas constructed from the study of so-called established democracies to issues of political and economic development in the global South (see e.g. Rostow, 1960; Huntington, 1968), this article tries to reverse the modernization logic by asking what the so-called third world might teach the first.

The conclusions emerging from our comparison are as follows. We argue that there is much to be gained from viewing the Canadian case through a transitional justice lens and that the Argentine comparison raises important considerations for projects of reconstruction in settler societies that, like Canada, are marked by ongoing legacies of colonialism. More specifically, we emphasize the issue of accountability, a goal that, while central for justice seekers in Argentina, is in many ways eerily absent in the Canadian case.[1] To be sure, there are sound reasons why Indigenous justice-seekers in Canada have not prioritized accountability to the same degree or in the same way as have their Argentine counterparts; this article explores some of the most important explanations. But a focus on Argentine struggles for legal, political, and social accountability as a prerequisite for the transitional goal of 'Nunca Más' (Never Again) forces us to ask a question seldom heard in the Canadian settler society. The question is this: in the interest of promoting a transition from the colonial authoritarianism manifested so glaringly in the residential schools, how might accountability—by which we mean not necessarily criminal trials but, perhaps more importantly, the full public disclosure of relevant facts and documents and, where possible, the identification and public answerability of architects and perpetrators of injustices—be pursued in a manner appropriate to the Canadian context?

This emphasis on accountability follows in part from our consideration of the Argentine case, which, as will be seen, stands as something of an exemplar to Canada in this regard. But it also reflects what our analysis shows about the politics of reparation and truth-seeking in relation to the residential schools. In essence, the impact of colonialism on Native communities means that Indigenous priorities in the Canadian context tend to involve projects of individual reparation, community healing, and political regeneration and rebuilding. These priorities leave Indigenous peoples little opportunity and perhaps even little inclination to pursue a host of important forensic considerations pertaining to the identification and possible sanction of Canadian individuals and institutions responsible for gross injustices and abuses of human rights. Indeed, from the standpoint of Indigenous emphases on decolonization and internal community rebuilding, a concern with accountability in the interest of improving and perhaps morally regenerating the structures of the settler state might seem beside the point; groups seeking to exercise their self-determination rights may simply have bigger

[1] For more on the various forms of accountability see for example Peruzzotti and Smulovitz (2006).

fish to fry. But this does not mean that accountability for Canadian institutions and actors should simply be sacrificed.

Finally, our comparison of the two cases shows profound similarities between the Argentine dictatorship's approach to its so-called subversives, on the one hand, and the treatment of Indigenous peoples under the residential schools policy, on the other—similarities that many Canadians, smugly confident in their country's status as a "first world" liberal democracy, may be loath to acknowledge. Thus, by highlighting the authoritarianism within Canadian liberal democracy and by emphasizing what Canada can learn from the role of justice-seekers in Argentina's democratizing transition, we hope ultimately to see at home what transitional justice aims to promote in other corners of the globe: political introspection in the service of political change.

Our analysis begins with Argentina, an indisputable example of transitional justice; it then explores the Canadian case. Striving to ground the ensuing comparison in those local projects and aspirations that appear most pertinent to tasks of transition, the article compares the two cases by focusing on how justice-seekers in each country have approached three key areas of concern for groups promoting change in the wake of massive and systematic violations of human rights: reparation, responsibility, and re-framing. Reparation looks forward, signalling not only the concern of victims and survivors with monetary compensation but, just as importantly—as the word's root, "repair," indicates—with upholding dignity and recovering health in the wake of gross violations of human rights. By responsibility, we mean to emphasize the key backward-looking tasks on which groups seeking reparation and political transition must focus: affixing causal responsibility and assigning moral blame for the relevant injustices (cf. James, 2009). Finally, as students of social movements might suspect, our emphasis on reframing is meant more specifically to direct attention towards the quintessential justice-seekers' imperative: to transform prevailing understandings about both the sources and the elimination of unnecessary suffering.[2]

Argentina

Argentina is a classic case study of transitional justice. From 1976 to 1983 the country experienced a brutal military regime. As many as 30,000 people disappeared, thousands were killed, and thousands more were imprisoned for political reasons and tortured. During this period a vocal human rights movement emerged. The most

[2] Readers may wonder why we do not emphasize a "fourth 'r', reconciliation, given its prominence in both the title of the Truth and Reconciliation Commission of Canada and in transitional justice discourses worldwide. Our reasoning is simple. Reconciliation is not a primary goal of most politically engaged victims and survivors in the wake of massive injustice. It seems rather a prudential consideration raised by the need to live alongside former tormentors and antagonists and thus more often a priority for state actors. For a critique of the notion of reconciliation in the Canadian context, see Alfred, *Wasase*.

famous Argentine human rights organization, the Mothers of the Plaza de Mayo, drew international attention that contributed to the end of the military regime. Today, the human rights movement remains prominent and influential in Argentina. Beginning in 1983, the newly elected government ended the military's self-amnesty, freed political prisoners, sought to find the disappeared, established a truth commission, and initiated trials against those involved in the military regime's abuses. Subsequent governments have provided monetary reparations to victims and victims' families, as well as assistance in finding missing grandchildren who were illegally adopted under the military regime. Thus, Argentina has used a wide spectrum of transitional justice mechanisms, some of which Argentine human rights organizations have preferred over others. Let us now look at the Argentine pursuit of transitional justice through our lenses of reparation, responsibility, and reframing.

Reparation

Although the relevant scholarly literature often treats reparation as a relatively narrow matter of compensating victims materially for serious injuries or losses, it is useful to draw here on the broader definition adopted by the United Nations General Assembly (2006), which describes reparation as an ensemble of responses encompassing the following possible measures: "restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition" (for a helpful discussion on the different notions of reparation, see de Greiff, 2007). Because justice-seekers are likely to pursue and emphasize different aspects of reparation in different historical situations and different cultural contexts, this broader definition is useful in a "most different" cases comparison as a means of ensuring that important aspects of reparation are not missed.

Indeed, it is evident that Argentine human rights organizations and activists have pursued a wide range of reparative goals corresponding to what the UN calls restitution, satisfaction, and guarantees of non-repetition. Restitution involves, "whenever possible, restor[ing] the victim to the original situation before the gross violations of international human rights law or serious violations of humanitarian law occurred"; relevant examples range from the restoration of liberty to the re-establishment of family life. Satisfaction tends to encompass still more specific instances of restitution, such as "the search for the whereabouts of the disappeared … for the identities of the children abducted …for the bodies of those killed [and] assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims" (United Nations, 2006). Collectively, these were the initial priorities of Argentine human rights organizations; they remain priorities for some groups today, most notably, the Grandmothers of the Plaza de Mayo. Crucial about these restitution priorities in Argentina is that their prominence reflected

the fact that there were indeed key aspects of past wrongdoing that could, in some form, be undone.

Goals pertaining to restitution and satisfaction in relation to the family are particularly central in the work of Argentine human rights organizations. Families were torn apart by the dictatorship and they now need to be rebuilt; this reality informed the creation of many of the most famous Argentine human rights organizations, such as the Mothers of the Plaza de Mayo.[3] The Mothers met and organized as a result of their individual struggles to find out from the military regime the location of their disappeared children and grandchildren and to have them returned. For years, from the time of the dictatorship until after its demise, the movement's slogan was "Return them Alive." When electoral democracy re-emerged, the Mothers of the Plaza de Mayo met with newly elected President Raúl Alfonsín to discuss the return of the disappeared. Alfonsín embraced this goal until it became clear that it would not be possible; the disappeared were gone and assumed dead.

While the disappeared could not be returned alive other people could. After lobbying successfully the government to free political prisoners, human rights organizations turned their attention to the fate of children who had been adopted into homes considered "acceptable" by the military regime, which believed that the children were innocent victims of their parents' subversion and could therefore be "re-educated" through adoption. The Grandmothers of the Plaza de Mayo demanded that these children be given the truth about their identity and returned to their families (often grandparents). In 1992 President Menem responded to these demands by establishing the National Commission for the Right to Identity (CONADI) whose mandate was to work with the Grandmothers and the National Bank of Genetics Data to assist in locating the missing grandchildren (Bonner, 2007). As of September 10, 2008, ninety-five grandchildren had been located (Abuelas de Plaza de Mayo, 2010).

There have also been at least two further, more controversial attempts by Argentine governments to make reparation. The first relates to that aspect of reparation corresponding to what the UN calls "satisfaction." Some human rights organizations, most notably the Argentine Forensic Anthropology Team, but also the Mothers of the Plaza de Mayo – Founding Line and others, argue that it is important to locate the bodies of the disappeared and to ascertain the truth about their identity; their argument is that recovering the bodies will allow families to confirm and mourn their losses. Other Argentine human rights organizations, such as the Mothers of the Plaza de Mayo Association, disagree, insisting that confirmation of death and date of death can lead to the imposition of statutes of limitations, thus shielding those who committed the crime. These latter groups have also argued that recovering bodies may suggest that the struggle for justice is over; from their perspective, locating bodies

[3] Other well-known family-based Argentine human rights organizations include the Grandmothers of the Plaza de Mayo, H.I.J.O.S. (children of the disappeared), and Families of the Disappeared and Imprisoned for Political Reasons.

impedes judicial sanction (another aspect of satisfaction) and could even thereby hamper retributively-focused efforts to "guarantee non-repetition."

The second government attempt to make reparation was a response to pressure from the Inter-American Court on Human Rights rather than from human rights organizations themselves. In this case the Argentine state began in 1991 to provide financial reparation to political prisoners and family members of the disappeared who came forward, thus initiating the UN's "compensation" aspect of reparation. If claimed, ex-political prisoners are compensated $76.66 per day in jail, while families of the disappeared can receive $240,000 for each loved one who is recognized by the state as disappeared (Bonner, 2007). Most human rights organizations have accepted that these reparations represent the state's partial recognition of the truth about what happened, while also noting the importance of financial compensation to families that had suffered great losses; for example, in some cases grandparents on pensions have been raising grandchildren, whose parents were disappeared. However, the Mothers of the Plaza de Mayo Association have made a forceful counterargument: that financial reparation is, in their words, "prostitution"; it involves the state buying the bodies of the disappeared and indeed buying its way out of responsibility. Such criticisms may reflect hostility to the appearance of monetary compensation as a possible alternative to more thoroughgoing measures of accountability when military and authoritarian forces appear to threaten the goal of transition (Cf. Teitel, 2000).

These concerns may indeed have been well-founded in Argentina. A series of amnesty laws and pardons enacted between 1986 and 1990 freed or excused all military officers initially charged in national courts for human rights abuses (Bonner, 2007); financial reparation in 1991 came immediately after these amnesty laws and pardons, possibly appearing to replace judicial sanctions. In such instances, therefore, human rights organizations may well have perceived that one aspect of reparation—financial compensation—was being used unreasonably to substitute for another, namely, the goal of satisfaction. Thus, victims and justice-seekers in the Argentine case have been concerned to prevent financial compensation from becoming a narrow substitute for more capacious and ambitious assignments of state responsibility. The article's next section develops and expands upon this crucial point.

Responsibility

In transitional justice, as with the notion of reparation itself, questions of responsibility are central; the relevant claims and debates revolve inevitably around issues of causation, moral blame, and contemporary reparative duty (James, 2009). Of course, different campaigns and contexts will weigh and arrange these three elements differently, as the previous discussion of the controversies around reparative obligation in the Argentine case has shown. Now it is appropriate to ask: in what other ways have the groups struggling for justice in the aftermath of the Argentine dictatorship

addressed the crucial transitional matters of determining causal responsibility and affixing moral blame? Of paramount importance for Argentine human rights organizations, these matters of responsibility have been pursued in relation to three quintessential instruments of transitional justice: the truth commission, criminal trials, and processes of lustration.

The Argentine truth commission was established five days after the newly elected government took office in 1983, and its best-seller report, *Nunca Más*, was published the following year. Yet, like monetary reparations, the truth commission proved controversial within the Argentine human rights movement. Neither human rights organizations nor their representatives were included among the members of the commission, although the commission did meet with some of the human rights organizations and solicited information from all of them.

Most of the human rights organizations save one were willing to work with the truth commission, but for none was the "truth" ascertained and produced by the commission sufficient. For example, the number of people recognized in the truth commission report as disappeared by the dictatorship is 8,960; the number claimed by rights organizations is 30,000. Indeed, full truth is still an important objective for Argentine human rights organizations. During the 2008 demonstration commemorating the March 24, 1976 coup, a speaker stated to a supportive audience: "We call for the opening of the Armed Forces archives in order to know the entire truth. Without this impunity persists, the perpetrators of the genocide maintain their pact of silence" (Madres de Plaza de Mayo – Línea Fundadora, 2008). Thus, critics—hoping both to know the truth for its own sake and to better apportion moral blame—have lamented the failure of the truth commission to establish the full scope and nature of the state's causal responsibility.

Argentine human rights groups have also emphasized criminal trials as a means of ascertaining and apportioning responsibility. Since the return of electoral democracy, trials and the related fight against amnesties and pardons have been central to the agenda of Argentine rights organizations (Bonner, 2005). In almost every year since 1984 the slogan for the yearly March of Resistance, organized by many of the most prominent relevant groups, has included explicit references to "trial and punishment," proclaimed "no" to amnesties and pardons (such as the Due Obedience and Final Point amnesty laws), and declared "no" to "impunity" (Madres de Plaza de Mayo – Línea Fundadora, 2008). In 1989, the slogan of the event emphasized the link between trials and truth: "Because we are not resigned to the lack of Justice. Because we are not resigned to the lack of Truth. We say: No to Final Point. No to Due Obedience. No to the pardon. No to impunity" (Madres de Plaza de Mayo – Línea Fundadora, 2008b). Throughout, the argument has been that criminal trials will furnish truths hitherto missing, ensure the end of impunity, and thus force the state to take more fulsome responsibility for its wrongdoing.

Lustration, that is, the screening and dismissal of actual or potential office-holders for gross past misdeeds, has been associated with similar objectives. There are

countless examples of Argentine human rights organizations demanding lustration or simply opposing electoral candidates with records of abuses; in some cases these organizations have been successful (Elster, 2004). For example, in 2006 pressure from human rights organizations combined with other factors led then Governor of the Province of Buenos Aires, Felipe Solá, to retire thirty-seven Buenos Aires Provincial Police officers for having actively participated in clandestine detention centers during the last dictatorship (CELS, 2007). Lustration is not only punishment for the wrongdoer; it requires public knowledge of the name of the individual and of which among their deeds merit lustration. Lustration thus makes the state take contemporary responsibility for past wrongdoing by removing known abuse perpetrators from its power structures. Like incarceration, it removes human rights violators from powerful positions in public life, again helping to assure victims that state institutions can be trusted.

Thus, Argentine activists and rights groups have struggled almost continually to go beyond the apportionment of causal responsibility and moral blame offered by the truth commission, demanding the removal of abusers from the government and state apparatus through jailing, lustration, or, where applicable, both. They argue that the conduct of numerous, determinate individuals demands the removal of said individuals from public life. Their aim is not simply retributive in the classic criminal justice sense. Instead, rights groups insist more specifically that what these individuals represent, and perhaps continue to value and believe, cannot be part of the new, post-transitional society that Argentina must create. Thus, the project of determining causal responsibility and affixing moral blame is also very much linked to the processes of political reframing that these groups promote.

Reframing

As many authors have pointed out (Teitel, 2000; Payne, 2008; Phelps, 2004), effective transitional justice involves changing the terms, discourses, and symbols used to explain past events in order to change the future. These processes are designated by the term, reframing (see Gamson, 1985). The symbolic, ideational, and discursive efforts associated with processes of reframing are crucial to enterprises of transition because, over the long term, effective and meaningful transition tends to require replacing the conceptualizations of citizenship, belonging, and community that underpinned the violator regime with more satisfactory understandings and notions (Barahona de Brito, Gonzaléí-Enriquez, & Aguilar). Thus, because victims of the dictatorship were excluded from the regime's definition of citizen and nation, activists seek reframed definitions that include themselves—the former so-called subversives—and their loved ones. At the same time, they have struggled to reframe understandings of the dictatorship from an allegedly necessary fight against subversion to a "genocide"

that assaulted and indeed nearly destroyed values essential to an even minimally just society. These aims have been articulated in two important ways.

The first concerns the family. During the dictatorship the military regime called on mothers to defend the family and the nation by denouncing their children if they suspected them of being subversives. If their loved ones disappeared, families were expected to mourn in silence; not to do so was considered equivalent to supporting terrorism (Bonner, 2007). Accordingly, reclaiming citizenship and nation has involved concerted efforts to reframe the nation-as-family. The frame proposed by human rights organizations stresses that the causes of democratization and human rights require precisely the sort of respect for and protection of families that the dictatorship so manifestly failed to provide.

For example, in 1983 a member of the Grandmothers of the Plaza de Mayo explained, "What can one hope for from someone who thinks that destroying the family, hiding children, negating their identity, will lead to a democracy, an ideal family" (SERPAJ, 1983). Not limiting human rights violations to the past, the Mothers of the Plaza de Mayo Association responded to the 2001 Argentine economic crisis by explaining in an open letter to the government: "The Mothers of the Plaza de Mayo put the responsibility of the crime of our children's hunger on all those who govern. We cannot accept that our children eat stuffed toads, rats, rotten food, sick horses in order to survive. These are the future citizens we are raising?" (Asociación Madres de Plaza de Mayo, 2002). This reframing insists that defending human rights protects the family and in turn promotes a more appropriate and more democratic understanding of citizenship and nation.

The second major reframing effort directly contests the idea, so central to the former dictatorship, that the disappeared deserved their fates because they threatened the nation. Rights groups have argued in contrast that the disappeared were in fact heroes struggling for a better world and a more just Argentina. From this standpoint, the continuation of the struggle of the disappeared is in fact a contribution to Argentine democracy.

Consider, for example part of the lengthy slogan used in the annual March of Resistance in 2006:

> Because we defend the principles of the 30,000 detained-disappeared, their objectives, their struggle, their solidarity and their commitment to build a just and free country, with social laws that protect all of the People. Because our children left their example of how to live. The Mothers, we continue forward with them: in the defence of human rights, the right to freedom, the right to equality and against discrimination, to health, education and culture, to housing, work, just salaries, a dignified pension. (MPM-LF, 2008)

Particularly interesting about this reframing is its view on matters of social and economic rights. Whereas social and economic rights are often presented in reparative

struggles as matters of rehabilitating individual victims, in the Argentine conception the target is the entire society; that is, not only the living victims of the dictatorship (the ex-disappeared, ex-political prisoners, and their families) need social services to heal, but all Argentines.

Understanding this point requires grasping the importance to the dictatorship of neo-liberal economic policies, which, among other things, involved funding cuts to important social services. Accordingly, many Argentine human rights organizations frame the dictatorship as an "economic genocide," stressing in particular that the broader end served by the disappearances and deaths was to impose on Argentines an economic system that they did not want and from which they continue to suffer (Bonner, 2007). Reframing the dictatorship in this manner, human rights organizations aim to place health, education, and the economic well-being of all Argentines—the goals pursued by the victims of the dictatorship—as central aspects of the new democratic Argentina.

In addition, many human rights organizations also address issues such as the rights of Indigenous peoples and immigrants. For example, CELS, a prominent Argentine human rights organization, covers these topics in its yearly human rights reports, and APDH and SERPAJ-Argentina have working groups dedicated to addressing human rights issues as they relate to Indigenous communities. The new vision of the nation promoted by human rights organizations is of one that protects human rights for everyone in Argentina regardless of political views, class, ethnicity, or citizenship. In this sense, justice is about understanding the past in such a way that the new nation includes those who were forcefully excluded.

To summarize, the transitional justice work of Argentine human rights activists and organizations has been analyzed here along three, interrelated planes of activity: reparation, responsibility, and reframing. Within each category there is an array of possible means for achieving the relevant goals. The path to reparation pursued by Argentine justice-seekers has emphasized undoing the wrongs of the dictatorship to the fullest extent possible; at the same time, it has de-emphasized the importance of monetary compensation. Efforts to determine and apportion state responsibility have focused primarily on criminal trials and lustration; while certainly of considerable import, the official truth commission was seen by activists as somewhat disappointing in this respect. Finally, Argentine justice-seekers have sought to reframe past abuses in ways congenial to pursuing the broader and quintessentially transitional goal of forging a new, inclusive, democratic, and just—socially, economically, and politically—nationhood and citizenship.

As the analysis of the Canadian case now hopes to show, the efforts of justice-seekers concerned with the impact and legacy of the country's system of residential schools for Aboriginal, Métis, and Inuit peoples can also be usefully understood by focusing on matters of reparation, responsibility, and reframing. The following account indicates that the means pursued for achieving these goals, as well as the relative weighting among them, differ significantly from what has just been seen in the

Argentine case. Notwithstanding these differences, however, the article's conclusion argues for more important overriding similarities, lessons, and linkages. First, it holds that the contrasts and comparisons offered here suggest the general applicability of transitional justice as a conceptual framework for understanding the recent Canadian struggles over the residential schools. Second, it maintains that these contrasts and comparisons also highlight important lessons for both Canadians in particular and for those concerned with the prospects for transition from settler colonialism in general. Specifically, we aim to draw the reader's attention to the issue of accountability.

Canada

Canada's century-long residential-schools policy separated, often permanently and violently, over 100,000 Native children from their families, cultures, communities, and languages (Miller, 1999; Milloy, 1999). A former federal government advisory body, the Law Commission of Canada, concluded that the schools reflected "genocidal intent" in deliberately exposing Aboriginal and Métis children to "abuses perpetrated with the explicit goal of eradicating Native ways." (Claes & Clifton, 1998, p. 18). By attacking their capacity to resist settler domination and encroachment and thus their capacities to exist as distinct self-governing communities, the residential schools policy was central to the larger Canadian goal of colonizing Indigenous peoples. Physical and sexual abuse was also rampant in the schools. Some researchers estimate that between 48 and 70 per cent of students were sexually abused (Feldthusen, 2007, p. 62), while a leading account concludes that "a reign of disciplinary terror, punctuated by incidents of stark abuse, continued to be the ordinary tenor of life in many schools" well into the 1970s (Milloy, 1999, p. 290). More recent scholarly and community work suggests that the schools are responsible for ongoing, intergenerational legacies of family and community dysfunction that affect negatively the health, happiness, and economic conditions of Aboriginal, Inuit, and Métis communities (see Chrisjohn, 2006). Canada's last residential school closed in 1986.

From this brief account a Canadian-Argentine parallel immediately emerges. In both cases, authoritarian policies aimed to destroy families and communities whose existence was deemed ideologically or culturally incompatible with goals essential to the regime. Furthermore, in both cases the brutal and long-term intergenerational effects of authoritarian policies have kept alive movements of families and survivors seeking both immediate reparation and long-term political change. Therefore, both cases feature precisely the kinds of phenomena that serve to awaken and keep alive in victims a long-term thirst for transitional justice: "communication among the victims of wrongdoing … visible physical reminders of the wrongdoing, and perpetuation of the state of affairs caused by the wrongdoing" (Elster, 2004, p. 223).

Reparation

As has already been seen, reparation was conceived initially in Argentina as a question of restoring, to the maximum extent possible, the pre-dictatorship status quo. As it became apparent that the "disappeared" were in fact dead, reparative efforts turned quickly to matters of satisfaction. Affected families sought information about the fate of the disappeared and official acknowledgment of the state's role in their disappearance; reparation's compensatory aspect was a distant and even controversial aim. In Canada, by contrast, the evolution and dominant focus of reparatory efforts has been quite different.

Although the Indigenous and Métis communities affected by Canada's system of Indian residential schools have emphasized a number of important reparative considerations, for a brief initial period their major focus was indeed on retributive justice traditionally conceived. The cruelty and suffering that constitute the schools' main legacy gained significant Canadian attention in the mid-1990s as survivors of sexual abuse persuaded authorities to begin laying criminal charges against individual school personnel who had committed acts of physical or sexual abuse (Milloy, 1999). However, this retributive focus began quickly to shade into a reparative one.

The first such indication came with a raft of civil actions, which, while continuing the classic retributive aim of affixing legal responsibility to and imposing punishment on individual wrongdoers, sought financial compensation for not only harms of physical and sexual abuse, but for losses of language and culture as well (Buti, 2001). While complainants in the criminal trials and plaintiffs in the civil suits were clearly seeking to impose classic, Western-style legal accountability on abusers and on the state and church authorities responsible for running the schools, they were, perhaps more importantly, seeking rehabilitation. Often left destitute and with significant unmet medical and counselling needs, many former residential schools students stressed that the compensation potentially furnished by their legal suits was their best means of furthering personal recoveries amidst a prevailing climate of state and societal indifference (O'Neil, 1998). The Assembly of First Nations, the body representing the leadership of the reserve communities created under Canada's Indian Act system, summarized the prevailing mood of this initial phase of response: "people [wanted] to work on themselves first, help family next, and then their communities" (Assembly of First Nations, 1994). Most of the civil suits eventually coalesced into the landmark 2002 *Baxter* class action, in which over 10,000 former students sought approximately $12 billion in damages for physical and sexual abuse, loss of language and culture, inadequate education and living conditions, family separation, and ongoing emotional and psychological harm (Miller, 2003, p. 382).

The focus on compensation and rehabilitation was not confined to the legal arena. Following the 1996 recommendations of the Royal Commission on Aboriginal Peoples, numerous Aboriginal, Inuit, and Métis organizations began to demand that the Canadian federal government take direct responsibility for the harm it had caused by

implementing a multi-pronged program of financial, health care, and counselling assistance for all former residential school students (James, 1999). The affected communities also began to emphasize satisfaction and guarantees of non-repetition; they demanded that the state take responsibility for its wrongdoing by acknowledging and apologizing both for the harm caused by the schools and for the brutal aims of the residential schools policy (see Assembly of First Nations, 2005). By pressing for an official inquiry or truth commission they also urged that the intent and impact of the residential schools be conveyed to the wider Canadian public as well (Claes & Clifton, 1998).

Thus, in the case of the residential schools, survivors and affected communities settled fairly quickly on a comprehensive reparative agenda emphasizing financial compensation, rehabilitation, and various aspects of satisfaction and guarantees of non-repetition, particularly an official apology and truth commission. This predominant emphasis on compensation contrasts significantly with the Argentine case. More subtly, the two cases differ in their reparative emphases on satisfaction and non-repetition. While Argentine human rights campaigners have often focused on the forensic pursuit of information long denied, their Indigenous and Métis counterparts—only too familiar with the schools and their shameful legacies—have sought rather to bring to wider societal audiences information already in their possession.[4]

Responsibility

Having discussed the forms of reparation pursued in the two cases, the comparison here proceeds by taking up matters of responsibility. Again, the question is asked: in the wake of these gross violations of human rights, how have the victims and affected communities sought to determine causal responsibility and affix moral blame?

In contrast to the quite targeted and specific Argentine focus on determining the roles and culpability of individual wrongdoers and on holding those individual wrongdoers criminally and politically accountable for their actions, the situation in Canada has been quite different. For example, whereas critics of the Argentine truth commission worried that "truth" was being promoted as an alternative to justice, in the Canadian residential schools debates the "truth versus justice" dilemma—once a staple in the world of transitional justice (Hayner, 2002)—has thus far gone virtually undiscussed. Of course, the transitional justice literature as a whole has replaced an

[4] A partial exception is the very recent and as yet unfulfilled focus in the Canadian case on the related questions of the whereabouts of children who disappeared from residential schools and the locations on or near former school sites of unmarked graves containing the remains of children who died or were killed while attending a residential school. *See,* Canada, Indian Residential Schools Truth and Reconciliation Commission, *Missing Children and Unmarked Burials: Research Recommendations* (2009), http://www.trc-cvr.ca/pdfs/Working_group_on_Missing_Children_E.pdf.

earlier view of "truth" and "justice" as polar alternatives with a more nuanced recognition that the two objectives are mutually intertwined (cf. Rotberg and Thompson, 2000 and Roht-Arriaza and Mariezcurrena, 2006). But in the Canadian context, the kinds of forensic and retributive considerations typically associated as key elements of transitional justice have, in many cases, simply been ignored. Notwithstanding the admittedly important case of the early focus on criminal prosecutions of sex abusers, there has been no Argentinean-style effort to affix causal responsibility and moral blame to determinate individuals—or even in many cases to particular institutions. One important reason for this difference is that, in contrast to the Argentine case, where most of the major primary victims are deceased, the residential schools have left behind tens of thousands of living survivors with significant, present-day reparative needs.[5] This simple fact has meant that the justice struggles in Canada have been shaped predominantly by the imperative to address the financial, health care, and counselling needs of the individual living survivors, their families, and their communities (see e.g. Assembly of First Nations, 2010). It has meant in addition that the suspicion of reparations that has figured so prominently in Argentina, while not entirely absent, has been a relatively minor theme in the struggles around the residential schools.

This is not to say that issues of causation and blame have been ignored. The point is instead twofold: first, the dominant focus in the wake of the residential schools has been on forcing the Canadian state to embrace its reparative responsibilities; second, this focus has shaped the approach taken by the victims and affected communities to matters of causation and blame. In the early years of mobilization, Indigenous and Métis communities were forced to devote the bulk of their political energies towards establishing in law the simple fact of the Canadian state's overall policy and control responsibility for the schools. For instance, in the civil suits seeking damages from the state for individual abuse victims, claimants had to engage in a protracted but ultimately successful effort to establish that, despite the role of the main church denominations in the day-to-day running of the schools, the Canadian federal government—as the initiator of the residential schools policy and the funder of the schools—was in fact the entity bearing the primary legal responsibility for the harms suffered by residential schools students (Assembly of First Nations, 2004). In short, they sought to establish causal responsibility as a means of affixing moral blame in order to authoritatively assign contemporary reparative duties.

More broadly, an emphasis on reparative considerations also led communities and survivors to wage what turned out to be an at least partially successful effort to convince the Canadian federal government and public that the harm caused by the schools extends far beyond individual cases of physical or sexual abuse. Two major

[5] As of 2007, it was estimated that there were approximately 80,000 living former residential schools students. Bradford W. Morse, "The Indigenous Peoples of Canada and Their Efforts to Achieve True Reparations," in *Reparations for Indigenous Peoples: International and Comparative Perspectives*, ed. Federico Lenzerini (Oxford: Oxford University Press, 2008), 281.

instances of this effort should be noted here. One is the mobilization against Ottawa's Alternative Dispute Resolution process, a process that offered compensation only in specific individual proved instances of physical or sexual abuse. Critics demanded, and eventually succeeded in winning, a global compensation regime that provides compensation not only for specific incidents of abuse but for each year that every former living student spent in a residential school.[6] The second relevant instance is the campaign to persuade the federal government to develop a comprehensive, Marshall-plan style approach to tackling the profound social welfare needs—income support, education, counselling, job training, and health care—stemming from the intergenerational impact of the schools (see e.g. Assembly of First Nations, 1990). Although this campaign appeared to have borne fruit when the Liberal government agreed to the 2005 Kelowna Accord, the accord was repudiated by the incoming Conservative regime in early 2006.

The point in discussing these efforts is to underscore that a dominant focus on responsibility for reparative needs has led to a corresponding neglect of the emphasis on the responsibility to be accountable—to hold trials, to initiate processes of lustration, to make public pertinent official documents and information—that has proved so prominent in the Argentine case. Consider, for example, the results of a search and content analysis using the Canadian Newsstand (Proquest) database, covering the period between January 1992 and September 2009. Using the keyword, "residential schools," and focusing on mainstream media stories quoting Indigenous sources, we discovered the following:

- 29 pieces containing calls for federal financial compensation
- 27 stories about lawsuits seeking civil damages from government, churches, administrators, and abusers
- 19 pieces with individuals or organizations demanding a federal government apology
- 15 items containing calls for a truth commission
- 11 reports featuring calls for federal government rehabilitative assistance
- 7 stories including demands for church apologies
- 5 items with voices urging the federal government to recognize the schools as sites of cultural harm
- 2 reports with demands for information on the location of graves of students who died while at residential school

[6] For evidence of the mobilization's impact, see the reaction of the Standing Committee on Aboriginal Affairs and Northern Development (Canada, Standing Committee on Aboriginal Affairs and Northern Development, 38th Parliament, 1st Session, *Study on the Effectiveness of the Government Alternative Dispute Resolution Process for the Resolution of Indian Residential School Claims* (2005), http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=1707109andLanguage=EandMode=1andParl=38andSes=1.).

While the filters and biases of Canada's corporate news media are notorious, this schematic accounting at least gives a rough sense of the prevailing emphases that Indigenous and Métis struggles for justice have managed to convey to the wider society. In short, the federal government's reparative responsibilities have been foregrounded; direct calls for Argentine-style accountability have been seldom heard. Indeed, as will be soon seen, this point even applies to the struggles for a Canadian truth commission.

This is not to say that the reparative emphasis on federal government responsibilities has been narrow. On the contrary: it has involved extensive efforts aimed at convincing the Canadian political community that the harm caused by the schools goes past individualized instances of abuse, and instead encompasses the collective, intergenerational trauma—including family separation, substance abuse, and loss of language and culture—caused by a policy whose goal was to exterminate Aboriginal, Inuit, and Métis as distinct peoples. Throughout, justice-seekers have sought to establish the federal government's present-day reparative duty to address the needs of not only former residential schools students but those of their families and communities as well.

These efforts bore some fruit in 2006 when the federal government abandoned its ill-conceived ADR process and agreed instead, with the main churches, to establish the new, global compensation regime for all former residential schools students (Residential School Settlement, 2009). More diffusely, a growing acceptance by the Canadian federal government and public that Canada has been collectively responsible for the devastating intergenerational impact of a systematic assault on Indigenous cultures was manifested symbolically in Prime Minister Harper's official apology (Canada, 2008), which acknowledged the broader range of harms associated with the schools and the brutal assimilative impulse underlying the policy. At the time of writing, whether this acknowledgment would in fact lead to the desired results remained to be seen.

The distinctiveness of this focus on responsibility has also shaped the Indian Residential Schools Truth and Reconciliation Commission, which was established in 2009 with a five-year mandate. With so far only minimal complaint from victims, and with the full participation of the Assembly of First Nations and other Aboriginal, Inuit, and Métis organizations, the Canadian truth commission has been conceived as what Theresa Godwin Phelps (2004) would identify as a victim- and narrative-focused commission, that is, one concerned primarily to collect and publicize survivor viewpoints and experiences (Canada, 2009). Despite being barred by its mandate from inquiring into specific questions of fault and blame, the Canadian truth commission, beyond academic circles (see e.g. de Costa, 2009; James, 2009), has attracted no controversies even remotely comparable to the Argentine demonstrations against notions of amnesty and pardon.

Many of the initial proponents of the idea of a truth commission hoped that a commission would focus on achieving greater "public recognition and awareness" of the

effects of the schools in the hopes that such awareness would ultimately help to prompt appropriate reparative action.[7] Other supporters continue to emphasize the potential of such recognition and awareness to help promote social and political reconciliation between Indigenous and non-Indigenous peoples in Canada (see e.g. Flamand, 2009; Wagamese, 2009). For their part, critics worry that the commission is a distraction exercise turning attention away from the issues of stolen land and self-determination for Indigenous peoples (see e.g. Alfred, 2009; Waziyatawin, 2009). By contrast, the forensic weaknesses of the Commission's mandate are seldom noted; for example, only one chapter in the 400-plus page volume on the truth commission produced by the Aboriginal Healing Foundation directly addresses this issue (Chrisjohn & Wasacase, 2009).

Thus, while an emphasis on the state's overall causal responsibility and moral blame for gross human rights abuses has characterized both the Argentine and Canadian cases, there has also been an important difference. In the Argentine case, there has been a strong emphasis on using criminal trials and lustration to hold accountable those individuals who were responsible not only for perpetrating abuses but also for conceiving and directing the overall policy context in which abuses were carried out. In the Canadian case, by contrast, there has been a comparable neglect of the actual conduct of residential schools personnel, save in the cases of particular incidents of actual direct abuse. Indeed, there has been a general overall neglect of the command and policy roles played by individual Canadian bureaucrats and officials working not only in the federal Indian Affairs ministry, but also—and this is important, given the serious allegations about inhumane and racist medical treatment, surreptitious burials, and systemic failure to address in-school deaths—in Canada's federal police force (the Royal Canadian Mounted Police), Health Ministry, medical profession, and various provincial police forces and coroners' services (for a lurid, yet largely unrefuted, account see Annett, 2005). This apparent lack of interest appears to reflect the relatively greater priority placed by justice-seekers in the Canadian case on establishing the federal government's overall reparative responsibilities to former students and their communities: a standpoint from which the potential contribution of mechanisms such as criminal trials and lustration, processes whose primary focus is on visiting retribution on individuals rather than on securing reparation from a political community, would seem fairly minimal. Thus, the dominant reparative focus has meant that questions of responsibility in relation to the residential schools have been simultaneously cathected and diffused. When the initial emphasis on individual cases of sexual and physical abuse formed the dominant prism for viewing the residential schools experience, understandings of causal responsibility and moral blame for gross injustice were cathected, that is, channelled directly onto the figures of extraordinary individual abusers. As attention moved to the issue of Ottawa's contemporary reparative

[7] This was the motivation cited by many of the respondents calling for a truth commission surveyed in Claes and Clifton, "Needs and Expectations," 61.

responsibilities, the focus then reversed, with truth commission supporters and critics alike taking a relatively diffuse approach to questions of casual responsibility and moral blame, stressing the reparative duties of the Canadian government and political community.

However, this is not to say that Indigenous and Métis communities have ignored other, quintessentially political concerns of the sort commonly associated with notions of transitional justice. Grasping this point requires moving to our third and final "R."

Reframing

In the Argentine case, reframing efforts have involved multifaceted discursive and symbolic attempts to transform the meaning, nature, and conduct of an entire political community. Activists have sought to reframe previous understandings of citizenship and nation that excluded so-called subversives; to reframe the military dictatorship from an anti-communist bulwark to cruel offender against values ranging from conventional human rights to the very notion of family; and to reframe those formerly stigmatized as subversives into heroes who struggled for democracy. The overall aim has been to build a democratic political community that observes human rights and rule of law norms and that promotes social equality and healthy families.

In Canada, by contrast, and as the preceding discussion of responsibility has suggested, many of the early reframing efforts were driven primarily by reparative needs. Struggling to address financial, health care, and counselling needs amidst shameful conditions of "fourth world" impoverishment, activists and community leaders sought to transform Canadian understandings of the schools from institutions plagued by individual rogue abusers into repugnant manifestations of a devastating agenda of cultural assimilation.

However, reframing efforts have also focused on fundamental matters of political reconstruction; over time these efforts have become increasingly central. For example, at the first ever Canadian conference on the residential schools, then AFN leader Ovide Mercredi concluded, "Our fundamental problem is the nature of our relationship with Canada. Structural change in laws and policies is essential" (quoted in: Claes & Clifton, 1998, p. 97). In the succeeding years, First Nation, Métis, and Inuit communities have worked to turn the residential schools into a "condensation symbol" (Edelman, 1964) which encapsulates in pithy and powerfully accessible ways both the colonial injustices visited by Canada upon Indigenous and Métis peoples and the steps that need to be taken to create more just political relationships today.

An early example of this focus occurred when Indigenous critics blasted Ottawa's 1998 "Statement of Reconciliation" (Canada, 1998) on the residential schools for confining its words of apology only to the matter of abuse and for neglecting to admit that the main purpose of the schools was cultural genocide. In the succeeding years, numerous conferences, pamphlets, survivor testimonials, and academic works

have established the residential schools as the concrete reflections of a policy, which, by removing children from their communities and languages and by teaching them to despise and forget their heritages and cultures, aimed fundamentally to destroy Indigenous and Métis communities as distinct self-determining entities (see e.g. Assembly of First Nations, 1994; Assembly of First Nations, 2005; Chrisjohn, 2006; Claes & Clifton, 2009; Indian Residential Schools Survivors' Society, 2009). Furthermore, justice-seekers have noted, the intergenerational result has been not only a litany of counselling, financial, and health care needs, but, more profoundly, culture and language loss in Indigenous communities and a diminished, though far from extinguished, capacity for political resistance.

This, more explicitly political, reframing project has buttressed a range of aspirations for political transformation that tend to fall under the rubric of what Indigenous leaders and advocates call decolonization (Alfred & Corntassel, 2005). A good overall sense of the aspirations can be garnered from the landmark study of the Law Commission of Canada (Claes & Clifton, 1998), which drew on numerous books, documents, and conference reports produced by Indigenous and Métis organizations and researchers, and consulted extensively with former residential school students.

The main themes as gathered and articulated by the Law Commission study (Claes & Clifton, 1998) are as follows. First, the profound and continuing harms created by the schools constitute damning and final evidence that assimilation is a failed policy that needs to be replaced by new governing frameworks based on the pluralisation of Canadian horizons and cultural respect. Second, recognizing this fact also requires rejecting the mistaken notion that the contemporary health and welfare needs of Aboriginal and Inuit peoples can be adequately or indeed appropriately met via some sort of benevolent humanitarianism that simply recreates in gentler, paternalistic form the basic cultural arrogance underpinning the schools. Simply put, while Ottawa's responsibility for running the schools means that it has profound and ongoing reparative responsibilities in terms of funding, community needs must be determined and met by the communities themselves. Third, the intergenerational weakening caused by the residential schools needs urgently to be reversed by processes of internal revitalization that restore significant measures of cultural autonomy to First Nation, Métis, and Inuit communities. Fourth, and finally, both federal government responsibilities and the importance of recovery and revitalization demand that sufficient control over lands, governance, and resources be transferred to Indigenous and Inuit communities to meet these diverse objectives.

In short, therefore, addressing the legacy of the residential schools has been reframed as an enterprise of decolonization that demands from non-Indigenous Canadians profound attitudinal change, a new sensitivity and openness to Indigenous cultures, a renunciation of paternalism, and a willingness to surrender some of the economic and political power unjustly seized through the colonizing process in which the residential schools policy played a central and longstanding part. The following utterances from Indigenous and Métis organizations concerned with the legacy of the

schools, as quoted in the Claes and Clifton volume (1998, p. 121, 99, 114), should give the reader a sense of the valence and texture of these reframing efforts:

- "A fundamental focus for reform needs to be on the development of a true economy … sustainable in its methods and outcomes and [that] ensures equitable distribution to all within Aboriginal communities" (Four Worlds International Institute).
- [A healing model must draw] on traditional understandings of interconnectedness and wholeness … the revival and maintenance of First Nations languages [and] the development of policing and judicial systems culturally appropriate to First Nations" (Assembly of First Nations).
- "The only moral response to a crime of this magnitude is that it be undone. … We recommend the fair, just, and immediate settlement of land and resource claims … an open-ended fund to be used by Aboriginal Nations to … reconstitute their societies [and] the replacement [of the Department of Indian and Northern Affairs] by institutions reflecting Aboriginal philosophies and under Aboriginal controls" (Roland Chrisjohn, Sherri Young, and Michael Maraun).

In summary, while Canadian and Argentine justice-seekers have both focused perhaps most fundamentally on far-reaching questions of political reconstruction, the former have tended to stress as their ultimate aim not democratizing the existing regime and including the previously excluded, but rather, effecting new relationships oriented towards the return of stolen land and socio-political decolonization. Although the existing literature on transitional justice has tended to ignore this sort of decolonizing effort, it merits viewing from within a transitional justice lens. As the more familiar Argentine case reminds us, transitional justice is fundamentally about the reconstruction of political community. And as Webber has recently explained, although the theme has been given insufficient attention in the transitional justice literature, such reconstruction in fact tends to require the "adjustment of contending legal and political orders," an enterprise that includes not only issues of constitutional reform based on responsiveness to the perspectives of the marginalized and oppressed, but also intensive struggles over what languages, idioms, and traditions ought themselves to inform the debates over transition (2010, p. 9-12). The reframing efforts surrounding the residential schools demonstrate the applicability of this fundamental transitional justice concern in the Canadian case.

Conclusion

A comparison of Argentina and Canada in terms of transitional justice is a comparison of "most different" cases. However, as this article has shown, the similarities between the two countries when analyzed through a transitional justice lens

are actually quite striking. In both cases large scale human rights abuses took place, affecting victims, their families, and the generations that followed. Like Argentine justice-seekers, Canadian justice-seekers are engaged in pursuing reparation, assigning responsibility, and reframing political community.

The comparison of the two cases reveals that, while initial concerns might have suggested the fanciful nature of a Canada-Argentina comparison, it is seen immediately that in fact the incidents at issue in the two countries have remarkable similarities. Both the Argentine dictatorship and the Canadian residential schools policy involved the deliberate targeting of communities, networks, and families for, if not outright destruction, certainly severe intergenerational disruption. In both cases, this targeting manifested the attempt of an abusive regime to solidify its rule and its peculiarly unjust version of the ideal community by eliminating competitor views of how properly to arrange the political. Thus, comparing the Canadian and Argentine cases helps to show that Canada's treatment of Aboriginal peoples is indeed "authoritarian" in the classical political science sense of that term. Furthermore, in both cases the intergenerational effects of policies of family and community destruction have kept alive in the affected communities a thirst for truth and justice—a thirst of precisely the sort seen in cases of transitional justice around the world.

However, as is common in comparisons between countries in transition from gross human rights abuses, let alone in comparisons involving "most different" cases, there are important differences in the choices made by justice-seekers and in the weight assigned by justice-seekers to various transitional justice mechanisms (Roht-Arriaza & Mariezcurrena, 2006). These differences do not suggest that the conceptual framework of transitional justice and its corresponding mechanisms are irrelevant to Canada. Rather, our understanding of the Canadian case, and indeed of the options available to justice-seekers, policymakers, and academics concerned with Canada-First Nation relations, is enriched by viewing Canada through a transitional justice lens. It would seem in turn that the literature on transitional justice could benefit from further consideration of the relevant issues and debates in settler liberal democracies in the global North.

The comparison offered here has also identified important differences: in particular, the relative neglect of various accountability outcomes and goals in the residential schools case. But this finding, in particular, suggests the value of this kind of comparative work, highlighting a potential issue of Canadian concern that has thus far received relatively little attention from scholars or practitioners. Indeed, by prompting consideration of the possible reasons behind the relative neglect of important accountability outcomes and goals in the residential schools case, this article's comparison helps us to consider the Canadian case in a new and revealing light.

Of course, any adequate understanding of what Canadian accountability might involve would require not only further research but also processes of normative argument and political struggle that have in many ways scarcely begun. As a first tentative step, we are suggesting that concerned groups and individuals from the non-

Indigenous Canadian settler society need to begin focusing on questions of political and social accountability, in both the backward- and forward-looking senses. For example, at the most general level, what do we need to know about the individuals and institutions that allowed the residential schools and their attendant atrocities to persist over four generations in order to break Canada's longstanding colonial pattern? This kind of political accountability could include abolishing or, at least in the short term, significantly reconstructing institutions associated with grievous past wrongs relating to the schools, such as Canada's Department of Indian and Northern Affairs. Social accountability might involve making key political figures and wrongdoers answerable to the public by forcing them, or at least somehow inducing them, to testify before the TRC. It might also involve making public and, indeed, widely disseminating, key official documents and communications pertaining to the planning, execution, and ongoing mechanics of the wrongdoing. As this article has shown, these issues of political and social accountability have been little discussed in Canada. We have suggested that the relative neglect of the kind of political and social accountability of which we are speaking reflects at least in part the choices and priorities of Indigenous and Métis communities. Considering these choices and priorities in the context of this article's Canada-Argentina comparison highlights the following important considerations about historic justice and political transformation in Canada. First, the decisions to prioritize the financial and health care needs of residential school survivors and their communities reflect both the intergenerational devastation caused by the residential schools and the poverty and political marginalization faced by so many Canadian Indigenous and Métis communities. Second, reparative priorities aside, the more explicitly transitional or reconstructive goals of Canada's Aboriginal, Métis, and Inuit peoples have not generally shared the concern of their Argentine counterparts on transforming the internal workings and machinations of existing, mainstream political institutions. Instead, their dominant transitional focus has been on reconstructing Indigenous-Canadian relationships and strengthening Indigenous institutions.

Some may still insist that the long delay of transitional justice in Canada means that our preoccupation with accountability is impractical, even moot. But it needs also to be understood—and this point raises the article's third and final point about what the relative neglect of political accountability projects familiar from the Argentine context reveals about the Canadian case—what lies behind the delay. That is, it was precisely the political marginalization and oppression of Canadian Indigenous and Métis peoples that prevented the injustices of the residential schools from being considered in a more timely fashion. Indeed, and as this article has shown, residential schools survivors and their communities had to wage arduous, long-term battles to bring even the most elementary concerns about the schools onto the Canadian public agenda. For example, whereas a truth commission was implemented almost as soon as the Argentine military's regime ended—the commission report then became an instant bestseller—it was two decades after the majority of residential schools had closed before the idea of a Canadian truth commission was even publicly discussed. It then took a further decade's

worth of political struggle before the notion received an even minimal degree of acceptance by the Canadian federal government. In short, therefore, these findings and considerations do not suggest that transitional justice is an irrelevant conceptual category or practical goal in the Canadian case. On the contrary: they indicate instead the extent to which the enormity of Canada's injustices have made the barriers to pursuing and even discussing notions of transitional justice in this country so much greater.

The authors therefore reject the assumption that transitional justice is only for the global South or only for countries dealing promptly with extremely recent histories of egregious violation. Instead, it appears that the relative neglect of both forensic, backward-looking accountability and forward-looking, politically transformative accountability by justice-seekers in the Canadian case reflects the enormity of the subjugation and marginalization of Canadian Indigenous peoples. It also suggests that there may be an important role, currently missing, in Canada for the mobilization of settler solidarity organizations to work for this accountability. Thus, far from suggesting irrelevancy, this article's enterprise of comparison has underscored not only the less propitious conditions for transitional justice in the Canadian case but, more importantly, its correspondingly heightened importance.

References

Abuelas de Plaza de Mayo. (2008, September 10). Áreas de Abuelas, Difusión. Retrieved from http://www.abuelas.org.ar/areas.php?area=difusion.php&der1=der1_dif.php&der2=der2_areas

Alfred, T., & Corntassel, J. (2005). Being Indigenous: Resurgences against contemporary colonialism. *Government and Opposition*, *4*, 597-614.

Alfred, T. (2009). Restitution is the real pathway to justice for Indigenous peoples. In G. Younging, J. Dewar, & M. DeGagné (Eds.), *Response, responsibility, and renewal.* Ottawa: Aboriginal Healing Foundation.

Annett, K. D. (2005). *Hidden from history: The Canadian Holocaust (*2nd.). Vancouver: N.P.

Asociación Madres de Plaza de Mayo (AMPM) (2005, June 5). Carta abierta al Presidente Eduardo Duhalde, los ministros, senadores y diputados de la Nación. Retrieved from http://www.madres.org/asp/contenido.asp?clave=754

Assembly of First Nations. (1990). Redress for the harms inflicted upon First Nations by the residential schools policy. Resolution No. 25/90. Retrieved from http://www.afn.ca/resolutions/1990/sca/res25.htm

Assembly of First Nations. (1994). Breaking the silence: An interpretive study of residential school impact and healing as illustrated by the stories of First Nations individuals.

Assembly of First Nations. (2004). Report on Canada's dispute resolution plan to compensate foraAbuses in Indian residential schools. Retrieved from http://www.afn.ca/residentialschools/PDF/ADR-reportFinal_english.pdf

Assembly of First Nations. (2005, July 19). *National conference on residential schools: A fair and just resolution of the residential schools legacy*. Final Conference Report, Vancouver, B.C. Retrieved from http://www.afn.ca/residentialschools/PDF/IRS-Conference_Report.pdf

Barahona de Brito, A. (2001). Truth, justice, memory, and democratization in the Southern Cone. In A. Barahona de Brito, C. Gonzaléí-Enriquez, & P. Aguilar (Eds.), *The politics of memory: Transitional justice in democratizing Societies*. Oxford: Oxford University Press.

Barahona de Brito, A., Gonzaléí-Enriquez, C., & Aguilar, P. (2001). *The politics of memory: Transitional justice in democratizing societies.* Oxford: Oxford University Press.

Bonner, M. D. (2005). Defining rights in democratization: The Argentine government and Human Rights organizations, 1983-2003. *Latin American Politics and Society, 47* (4), 55-76.

Bonner, M. D. (2007). *Sustaining human rights: Women and Argentine human rights organizations*. University Park, P.A.: Penn State University Press.

Buti, A. (2001). Canadian residential schools: The demands for reparations. *Flinders Journal of Law Reform, 225*, 225-245.

Canada. Indian and Northern Affairs Canada. (1998, January). *Notes for an address by the Honourable Jane Stewart, Minister of Indian Affairs and Northern Development, on*

theoOccasion of the unveiling of Gathering Strength—Canada's Aboriginal action plan, Ottawa, Ontario. Retrieved from http://www.ainc-inac.gc.ca/ai/rqpi/apo/js_spea-eng.asp

Canada. Indian and Northern Affairs Canada. (2008, June). *Statement of apology: To former students of residential schools.* Delivered by the Prime Minister of Canada, The Right Honourable Stephen Harper,Ottawa, Ontario). Retrieved from http://www.ainc-inac.gc.ca/ai/rqpi/apo/index-eng.asp

Canada. Indian Residential Schools Truth and Reconciliation Commission. (2009a). Missing children and unmarked burials: Research recommendations. Retrieved from http://www.trc-cvr.ca/pdfs/Working_group_on_Missing_Children_E.pdf

Canada. Indian Residential Schools Truth and Reconciliation Commission. (2009b). Our mandate. Retrieved from http://www.trc-cvr.ca/overview.html

Canada. Royal Commission on Aboriginal Peoples. (1996). Residential School. In *Looking forward, looking back: Vol. 1 of the Report of the Royal Commission on Aboriginal Peoples.* Retrieved from http://www.collectionscanada.gc.ca/webarchives/20071124130216/http://www.ainc-inac.gc.ca/ch/rcap/sg/sgm10_e.html

Canada. Standing Committee on Aboriginal Affairs and Northern Development. (2005, October). 38th Parliament, 1st Session. *Study on the effectiveness of the government alternative dispute resolution process for the resolution of Indian residential school claims*. Retrieved from http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=1707109&Language=E&Mode=1&Parl=38&Ses=1

CELS (2007). *Derechos Humanos en Argentina: Informe 2007.* Buenos Aires: Siglo XXI.

Chrisjohn, R., Young, S., & Maraun, M. (2006). *The circle game: Shadows and substance in the Indian residential school experience in Canada*. Penticton, B.C.: Theytus Books.

Claes, R., & Clifton, D. (1998*). Needs and expectations for redress of victims of abuse at Native residential schools.* Paper prepared for the Law Commission of Canada. Retrieved from http://collection.collectionscanada.ca/100/200/301/lcc-cdc/needs_expectations_redres-e/pdf/sage-e.pdf

Corntassel, J., & Holder, C. (2008). Who's sorry now? Government apologies, truth commissions, and Indigenous self-determination in Australia, Canada, Guatemala, and Peru. *Human Rights Review, 9* (4), 465-489.

de Costa, R.(2009, May). *Reconciliation and neoliberalism.* Paper presented at the annual meetings of the Canadian Political Science Association, Ottawa, Ontario. Retrieved from http://74.125.155.132/scholar?q=cache:CAy6WRE4U_kJ:scholar.google.com/+de+costa+residential+schools+matt+james&hl=en

Dos Santos, T. (1970). The structure of dependence. *American Economic Review, 60,* 231-236.

Edelman, M. (1964). *The symbolic uses of politics.* Urbana, IL: University of Illinois Press.

Elster, J. (1990). *Closing the books: Transitional justice in historical perspective*. Cambridge: Cambridge University Press.

Escobar, A. (1995). *Encountering development: The making and unmaking of the Third World*. Princeton, N.J.: Princeton University Press.

Feldthusen, B. (2007). Civil liability for sexual assault in Aboriginal residential schools: 'The Baker Did It'. *Canadian Journal of Law and Society, 1*, 61-91.

Ferguson, J. (1994). *The anti-politics machine: 'Development,' depoliticization, and bureaucratic power in Lesotho.* Cambridge: Cambridge University Press.

Flamand, R. (2009). Truth about residential schools and reconciliing thishHistory: A Michif view. In G. Younging, J. Dewar, & M. DeGagné (Eds.), *Response, responsibility, and renewal*. Ottawa: Aboriginal Healing Foundation.

Frank, A. G. (1967). *Capitalism and underdevelopment in Latin America: Historical studies of Chile and Brazil.* New York: Monthly Review Press.

Gamson, W. A. (1985). Goffman'slLegacy to political sociology. *Theory, Culture, and Society, 5*, 605-622.

de Greiff, P. (2007). Justice and reparations. In *Reparations: Interdisciplinary inquiries*. Oxford: Oxford University Press.

Hayner, P. B. (2002). *Unspeakable truths: Facing the challenge of Truth Commissions*. New York: Routledge.

Huntington, S. P. (1968). *Political order in changing societies*. New Haven: Yale University Press.

Indian Residential Schools Survivors' Society. (2009). History. Retrieved from http://www.irsss.ca/history.html

James, M. (1999). Redress politics and Canadian citizenship. In H. Lazar, & T. McIntosh (Eds.), *The state of the Federation 1998/99.* Montreal and Kingston: McGill-Queen's University Press.

James, M. (2009a). Scaling memory: Reparation displacement and the case of BC. *Canadian Journal of Political Science*, *42*, 363-386.

James, M. (2009b, May 27). *Uncomfortable comparisons: The Canadian Truth and Reconciliation Commission in international context.* Paper presented at the annual meetings of the Canadian Political Science Association, Ottawa, Ontario. (Available from author by request).

Jung, C. (2009, April). Canada and the legacy of the Indian residential schools: Transitional justice for Indigenous Peoples in a non-transitional society. *Social Science Research Network*. Retrieved from http://ssrn.com/abstract=1374950

Madres de Plaza de Mayo – Línea Fundadora (MPM-LF) (2008a, November 13). 24 de marzo 2008. Retrieved from http://www.madresfundadoras.org.ar/pagina/24 demarzo2008/53

Madres de Plaza de Mayo – Línea Fundadora (2008b, November 13). Marcha de la Resistencia: Cronología Histórico. Retrieved from

http://www.madresfundadoras.org.ar/pagina/marchadelaresistenciacronologahistrica/47

Miller, J. R. (1996). *Shingwauk's vision: A history of Native residential schools*. Toronto: University of Toronto Press.

Miller, J. R. (2003). Troubled legacy: A history of Indian residential schools. *Saskatchewan Law Review, 66*, 357-382.

Milloy, J. S. (1999). *A national crime: The Canadian government and the residential school system—1879 to 1986.* Winnipeg: University of Manitoba Press.

O'Neil, Peter (1998, January 8). Natives say Ottawa's apology may sway judges in civil suits. *The Vancouver Sun*, A1.

Organization of United Reborn Survivors. (2009). Documents. Retrieved from http://www.kza.qc.ca/OURS/doc_list.htm

Payne, L. A. (2008). *Unsettling accounts: Neither truth nor reconciliation in confessions of state violence*. Durham and London: Duke University Press.

Peruzzotti, E., & Smulovitz, C. (Eds.). (2006). *Enforcing the rule of law: Social accountability in the new Latin American democracies*. Pittsburgh: University of Pennsylvania Press.

Peters, B. G. (1998). *Comparative politics: Theory and methods*. London: Macmillan.

Phelps, T. G. (2004). *Shattered voices: Language, violence, and the work of truth commissions*. Philadelphia: University of Pennsylvania Press.

Posner, E. A., & Vermeule, A. (2003-2004). Transitional justice as ordinary justice. *Harvard Law Review, 117*, 762-825.

Przeworski, A., & Teune, H. (1970). *The logic of comparative inquiry*. New York: Wiley.

Residential Schools Settlement. (2009). Residential schools settlement: Official court notice. Retrieved from http://www.residentialschoolsettlement.ca/english_index.html

Roht-Arriaza, N., & Mariezcurrena, J. (2006). *Transitional justice in the twenty-first century: Beyond truth versus justice*. Cambridge: Cambridge University Press.

Rostow, W. W. (1960). *The stages of economic growth : A non-communist manifesto*. Cambridge, England: University Press.

Rotberg, R. I., & Thompson, D. (Eds.). (2000). *Truth v. justice: The morality of truth commissions*. Princeton: Princeton University Press, 2000.

Servicio Paz y Justicia (SERPAJ). (1983). *Paz y justicia*.

Simard, C. (2009, October 3). Harper drops the 'C-bomb' on G20. *Winnipeg Free Press*, p. A19.

Teitel, R. G. (2000). *Transitional justice*. New York: Oxford University Press.

United Nations. Office of the High Commissioner for Human Rights. (2006). Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international Human Rights Law and serious violations of international Humanitarian Law. Retrieved from http://www2.ohchr.org/english/law/remedy.htm

Wagamese, R. (2009). Returning to harmony. In G. Younging, J. Dewar, & M. DeGagné (Eds.), *Response, responsibility, and renewal*. Ottawa: Aboriginal Healing Foundation.

Waziyatawin. (2009). You can't un-ring a bell: Demonstrating contrition through action. In G. Younging, J. Dewar, & M. DeGagné (Eds.), *Response, responsibility, and renewal*. Ottawa: Aboriginal Healing Foundation.

Webber, J. (2010). Forms of transitional justice. In M. Williams, J. Elster, & R. Nagy (Eds.), *NOMOS L: Transitional justice*. New York: New York University Press.

Where Are the Children. (2009). Intergenerational impacts. Retrieved from http://www.wherearethechildren.ca/en/impacts.html

Woolford, A. (2005). *Between justice and certainty: Treaty making in British Columbia*. Vancouver: University of British Columbia Press.