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**An Analysis of Canada's
Indian Residential Schools
Truth and Reconciliation Commission**

Melanie Laing

Both domestically and internationally, Canada is perceived as a nation of tolerance, upholding a high respect for human rights. However, what this account fails to consider are the gross inequalities and prejudices that exist within Canadian society regarding Aboriginal peoples. Presently, the injustices suffered by Aboriginal peoples due to the Indian Residential Schools (IRS) system is being addressed through a Truth and Reconciliation Commission (TRC) aimed at “establishing new relationships embedded in mutual recognition and respect that will forge a brighter future.”¹ While this and the other aims of the TRC are noble, the extent to which they are feasible and truly desired throughout Canadian society remains questionable at best. This essay explores the various facets of the TRC in order to demonstrate that much more needs to be done if Canada wishes to improve its relationship with Aboriginal peoples. Specifically, issues surrounding the TRC's focus, the process by which it came about, and the overall lack of public knowledge is examined in order to show how Canada's TRC on residential schools is failing to live up to its potential.

The IRS system has created a long-lasting, negative impact on Aboriginal peoples and their communities. Residential schools came about as the Canadian government's policy of assimilation by which children were forcibly removed from their homes and

¹Truth and Reconciliation Commission of Canada, Schedule “N” *Truth and Reconciliation Mandate*, retrieved March 2013.

<http://www.trc.ca/websites/trcinstitution/index.php?p=7>

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communities to attend these federally funded institutions.² In partnership with the Roman Catholic, Anglican, Presbyterian, and United Churches the government sought to “kill the Indian in the child” by forbidding children to speak their native language and observe any of their cultural practices, values or beliefs.³ Such aims, in and of themselves, are enough to constitute cultural genocide. And yet, these facts are not the end of the horror story.⁴ While being forced to accept and practice the values and beliefs of ‘mainstream’ Canadian society, the children in residential schools fell victim to rampant physical, mental, and sexual abuse by those in charge of running the institutions.⁵ This environment of violence and abuse coupled with the elimination of one’s culture was further compounded by the substandard living conditions these children had to endure. Clothing, food, and healthcare were beyond inadequate which ultimately contributed to the death of thousands of children while attending residential schools.⁶

The abuses endured by individuals at residential schools have affected Aboriginal communities in indescribable ways as it has become commonplace for Survivors and their communities to inherit and internalize a belief in their inferiority that was so forcefully ingrained into one’s sense of self in the IRS.⁷ Flisfeder refers to this idea as a sort of communal embodiment of post-traumatic stress disorder whereby ripple effects of the IRS system is felt, to some extent, by all in a community.⁸ Alternatively, a Cree scholar by the

²Carole Blackburn, “Culture Loss and Crumbling Skulls: The Problematic of Injury in Residential School Litigation,” *Political and Legal Anthropological Review* 35.2 (2012): 291.

³Naomi Angel, “Before Truth: The Labors of Testimony and the Canadian Truth and Reconciliation Commission,” *Culture, Theory, and Critique* 53, no. 2 (2012): 200.

⁴Robyn Green, “Unsettling Cures: Exploring the Limits of the Indian Residential School Settlement Agreement,” *Canadian Journal of Law and Society* 27.1 (2012): 133.

⁵Blackburn, “Culture Loss and Crumbling Skulls,” 292.

⁶Angel, “Before Truth,” 200.

⁷Marc A. Flisfeder, “A Bridge to Reconciliation: A Critique of the Indian Residential School Truth Commission,” *The International Indigenous Policy Journal* 1.1 (2010): 15.

⁸Ibid., 16.

name of Gregory Younging refers to this idea as “blood memory” in order to represent the ways in which the experiences of IRS Survivors are embedded in communities physical and psychological being.⁹ What is clear from these accounts is the fact that the typical understanding of Aboriginal communities by non-Aboriginal Canadians is a shallow and largely misunderstood one.

The abuses and the continuing effects that residential schools have had on Aboriginal peoples and communities today have not been recognized as wrong until recently by the Canadian government.¹⁰ Despite the fact that the last residential school did not close until 1990s, in 1996 the *Royal Commission on Aboriginal Peoples* (RCAP) released a report, which exposed the “contours of a Canadian settler society, revealing severe socio-economic stratification as well as pervasive racist attitudes that compromised employment and educational opportunities, economic and political self-determination, and equitable levels of services for Indigenous peoples.”¹¹ While the RCAP was not the enforcing legislation of the TRC, its recommendations, research, and willingness to promulgate the true relationship between Indigenous and non-Indigenous persons was tantamount to the establishment of the TRC and the *Indian Residential Schools Settlement Agreement* (IRSSA) that were to follow.¹²

The IRSSA came about through the realization that the mounting litigation against the Canadian government for abuses suffered in residential schools was unsustainable, as it was the largest class action lawsuit in Canadian history. At the time of IRSSA inception, the Canadian government was facing charges from thirteen thousand residential school survivors for charges of physical and

⁹ Angel, “Before Truth,” 207.

¹⁰ Neil Funk-Unrau and Anna Snyder, “Indian Residential School Survivors and State-Designed ADR: A Strategy for Co-Optation?” *Conflict Resolution Quarterly* 24.3 (2007): 287.

¹¹ Green, “Unsettling Cures,” 133.

¹² David B. MacDonald and Graham Hudson, “The Genocide Question and Indian Residential Schools in Canada,” *Canadian Journal of Political Science* 45.2 (2012): 428.

sexual abuse.¹³ The IRSSA was signed in 2006 by the Canadian government and representatives of residential school Survivors, whereby the terms of the compensation scheme and the TRC are outlined.¹⁴ Agreement to the IRSSA by the representatives of the Aboriginal communities was contingent upon the government fulfilling some very important promises. Not only did the Canadian government have to commit to a compensation plan, commemorative projects, healing projects, and a TRC for residential school Survivors, but a national apology was part of the deal as well.¹⁵ Despite the original signing of the IRSSA in 2006, it was not until 2008 that the Prime Minister of Canada, Stephen Harper, stood in the House of Commons and offered an apology on behalf of the government for the Indian Residential School system and its continuing legacy.¹⁶ Generally speaking, many scholars within the restorative justice paradigm agree that a national apology is important in restorative contexts it should be thought of as marking the beginning of a process, not the end.¹⁷ Just as truth is a necessary, but not sufficient condition for reconciliation to happen, so too is an apology.

The creation of the residential schools TRC is unique in that it is the only truth and reconciliation commission that has been brought about through class-action litigation.¹⁸ Scholars have noted that the unusual way in which the TRC was conceptualized in the Canadian case is troubling for a variety of reasons. Perhaps most troubling regards the facts that the TRC was not a society initiated project and it is one that would likely not exist if it were not for the large financial costs to the government in having to defend against

¹³ Flisfeder, "A Bridge to Reconciliation," 7.

¹⁴ Kim Stanton, "Canada's Truth and Reconciliation Commission: Settling the Past?" *The International Indigenous Policy Journal* 2.3 (2011): 4.

¹⁵ *Ibid.*, 4.

¹⁶ Flisfeder, "A Bridge to Reconciliation," 4.

¹⁷ *Ibid.*, 5.

¹⁸ *Ibid.*, 4.

ongoing class-action lawsuits.¹⁹ While it may be that the establishment of a TRC, albeit begrudgingly, is enough to push the process of societal transformation along, but such optimistic aims appear shallow upon further understanding of the IRSTRC and its workings.

Before delving into the specifics of the Canadian TRC it is important to understand what truth and reconciliation commissions aim to do generally. This next section will look at what TRCs are and how they differ from other forms of justice. Subsequently some important aspects of the Canadian TRC will be outlined in order to contextualize the following critiques.

Generally speaking, truth and reconciliation commissions are established after mass violence or atrocity plagues a society and the traditional legal system is either unwilling or unable to deliver justice in any complete sort of way.²⁰ TRCs are implemented in order to foster justice according to the restorative model whereby the goal is a realization of “an ideal human relationship” based on a mutual respect that reflects and recognizes our “equal moral worth.”²¹ Restorative justice then, is unlike justice in the retributive sense of the word whereby individuals are punished for a transgression. Restorative justice operates according to principles of equality, humanity, and natural connectedness in order to restore relationships of social equality between individuals, communities, and groups in a

¹⁹ Funk-Unrau and Snyder, “State-Designed ADR: A Strategy for Co-Optation?” 286.

²⁰ Brian Rice and Anna Snyder, “Reconciliation in the Context of a Settler Society: Healing the Legacy of Colonialism in Canada,” in *From Truth to Reconciliation: Transforming the Legacy of Residential Schools*, ed. Marlene Brant Castellano, Linda Archibald, and Mike DeGagne (Ottawa: Aboriginal Healing Foundation, 2008), 45.

²¹ Jennifer Llewellyn, “Bridging the Gap between Truth and Reconciliation: Restorative Justice and the Indian Residential Schools Truth and Reconciliation Commission,” in *From Truth to Reconciliation: Transforming the Legacy of Residential Schools*, ed. Marlene Brant Castellano, Linda Archibald, and Mike DeGagne (Ottawa: Aboriginal Healing Foundation, 2008), 189.

society.²² In striving to obtain such goals Rice and Snyder concisely outline a TRC's general goals as:

“(1) to discover, clarify, and formally acknowledge past abuses; (2) to respond to specific needs of victims; (3) to contribute to justice and accountability; (4) to outline institutional responsibility and recommend reforms; and (5) to promote reconciliation and reduce conflict over the past.”²³

This description of what, ideally, is expected of a TRC clearly shows that beyond establishing a narrative, any process of reconciliation needs to effectively address psychosocial factors in ways that are content and context specific.²⁴

According to the aims outlined above, one must analyze and assess how the Canadian TRC has, effectively or not, implemented mechanisms to achieve these goals. As previously mentioned, the success of a truth and reconciliation commission is overwhelmingly characterized by its ability to aid in the process of reconciliation. In other words, the establishment of truth is a necessary but not sufficient condition for reconciliation to occur at the societal level. The truth that is established through the work of the TRC must effectively engage the wider public for the utility of such actions is null and void if the extensive historical account is left to gather dust on library shelves.²⁵

The focus on reconciliation in the Canadian context must be about remembering in order to change the present and future relationship between Indigenous and non-Indigenous peoples.²⁶ What has become clear however is that currently the TRC has failed to move beyond establishing truth and towards a process of promoting reconciliation.²⁷ The focus on truth is evident for the way

²² Jennifer Llewellyn and Robert Howse, *Restorative Justice: A Conceptual Framework* (Ottawa: Law Commission of Canada, 1999), 15.

²³ Rice and Snyder, “Healing the Legacy of Colonialism in Canada,” 46.

²⁴ *Ibid.*, 45.

²⁵ Stanton, “Settling the Past?” 6.

²⁶ Rice and Snyder, “Healing the Legacy of Colonialism in Canada,” 46.

²⁷ Flisfeder, “A Bridge to Reconciliation,” 1.

in which the TRC is concerned with residential schools and their legacy as an isolated issue.²⁸ Not only does such a conceptualization go against traditional ways of conceiving relationships within Aboriginal communities, but it also fails to recognize Canada's colonial past. While it is imperative that the truth about IRS is established and disseminated throughout the Canadian public, the fact that it is only the truth being established regarding residential schools allows Canadians to claim a certain brand of ignorance regarding the role they play in daily perpetuating systemic inequalities.²⁹ In other words, the narrow focus on establishing the truth on only residential schools fails to recognize the many other ways in which political and social structures are set up and maintained to disadvantage Aboriginal peoples. It is not that the implementation of and ongoing legacy of residential schools is the *only* shameful era of Canadian history. Rather, while the IRS system was an especially disgusting culmination of widespread racist attitudes and assimilationist policies, the fact of the matter remains that we continue to treat and interact with Aboriginal peoples as if they are less than human.

Ostensibly, the establishment of the TRC shows, or recognizes, that the individualist nature of traditional dispute resolution mechanisms are not appropriate, it is unclear as to why the focus of the TRC does not also embody a more holistic approach. Castellano captures how a holistic approach is needed for the IRSTRC to truly be a success in her discussion of cyclical processes of individual and community healing.³⁰ A prominent teaching of First Nations Elders is that everything is related, however such wisdom is missing from the TRC for the way in which the trauma of individual's physical and sexual abuse ignores the decolonization that

²⁸ Marlene Brant Castellano, "A Holistic Approach to Reconciliation: Insights from Research of the Aboriginal Healing Foundation," in *From Truth to Reconciliation: Transforming the Legacy of Residential Schools*, ed. Marlene Brant Castellano, Linda Archibald, and Mike DeGagne (Ottawa: Aboriginal Healing Foundation, 2008), 386.

²⁹ *Ibid.*, 387.

³⁰ *Ibid.*, 386.

must take place within and throughout larger political, educational, and legal institutions.³¹ In other words, in failing to equally consider the issues and viewpoints of all Aboriginal peoples regarding residential schools, assimilation policies, and the like, the TRC may indeed trivialize the experiences of those Aboriginal peoples who are not residential school Survivors. Residential school Survivors undoubtedly endured the worst of conditions, but in only recognizing the validity of Survivors claims, the ripple effect, or legacy, of the entire system is effectively ignored.

Further complicating the extent to which the TRC can embody a holistic approach is the fact that much of the non-Indigenous Canadian public either does not know about the residential school system, or fails to see it in the same injurious light that Aboriginal peoples do.³² Generally speaking, the discourse surrounding Aboriginal issues throughout the media is one dripping with a distinct flavour of prejudicial notions and victim blaming statements. The current representations of Aboriginal peoples and communities throughout popular media are not only problematic because they are morally abhorrent, but it also complicates the extent to which the Canadian public may be included in, or support, the process of reconciliation. If, as currently happens, the plight of Aboriginal people is trivialized in this manner widespread empathy and support is, and will continue to be, hard to come by. These facts are complicated by the fact that Canada is such a large country whereby any governmental or civil society project wholly relies on media coverage and portrayals to garner support.³³

Therefore, the culturally insensitive portrayals of Aboriginal peoples in the media compounded with the fact that an accurate education about Canada's colonizing history is largely absent from public education means that persistent and self-perpetuating stereotypes of Aboriginal peoples are the norm.³⁴ The implications that such widespread prejudice has for the 'reconciling' goals of the

³¹ Green, "Unsettling Cures," 147.

³² Castellano, "A Holistic Approach," 386.

³³ Stanton, "Settling the Past?" 8.

³⁴ Angel, "Before Truth," 204.

TRC are daunting. As was alluded to above, reconciliation in the Canadian context should be thought of as transforming the relationship between Aboriginal and non-Aboriginal peoples to one of mutual recognition and respect.³⁵ A task that seems increasingly difficult if the broader Canadian society is not invested in, or supportive of, changing the status of Aboriginal peoples. If the pervasive 'us' versus 'them' dichotomy existent throughout Canadian society is not addressed, then reconciliation is just a term to which the public and its institutions are paying lip service. Reconciliation requires that the perpetrators relinquish their power and ask for forgiveness, a seemingly difficult task considering the Canadian public does not see how their actions and thoughts continuously contribute to the wrongdoing.³⁶

The fact that the impetus for changing the relationship between Indigenous and non-Indigenous peoples is largely one-sided is perhaps the result of the unusual nature throughout which the TRC came about. Briefly mentioned above is the fact that the creation of the residential schools TRC was a stipulation of the IRSSA. What remains unclear however, is how the terms of its establishment have, or will, impact the ways in which its goals are implemented and realized. The extreme pressure that had to be put on the Canadian government in order to admit the injurious effects of the IRS system shows how reluctant the government, and by extension, society, is to embody an attitude towards change.³⁷ When viewed from this perspective the IRSSA can be seen as a measure used to placate Survivors and effectively put the legacy of the IRS system in the past.³⁸ Furthermore, the goal of appeasing Aboriginal peoples and their communities is further evidenced by the fact that loss of culture and tradition are not considered valid grounds for complaint under the IRSSA.³⁹ Instead, only Survivors of a residential school are eligible to receive compensation if they can prove that they

³⁵ Llwellyn and Howse, "A Conceptual Framework," 10.

³⁶ Castellano, "A Holistic Approach," 398.

³⁷ Stanton, "Settling the Past?" 1.

³⁸ Rice and Snyder, "Healing the Legacy of Colonialism in Canada," 54.

³⁹ Blackburn, "Culture Loss and Crumbling Skulls, 289.

were victim to physical or sexual abuse.⁴⁰ The fact that the Canadian government resorted to recognizing the wrongdoings of the IRS system as a last resort further demonstrates the lack of political will in truly transforming the lives of Aboriginal peoples and their communities. No doubt there is a pride amongst Aboriginal communities for having the legacy of residential schools addressed, problems remain around the sincerity of this mission when it came about through negotiating a litigation nightmare.⁴¹ In other words, there is something to be said for the genuineness of an apology within a restorative context if it comes about through an independent admission of guilt.

What then, do these problems with the IRSTRC mean for the feasibility of Rice and Snyder's five general aims of a TRC? Despite the fact that the perpetrators of any alleged crimes committed in residential schools are not incorporated into the TRC, the gathering of truth to establish an accurate narrative has largely been a success.⁴² Where the real problems lie is in regards to the abilities of the TRC and Canadian government to: (1) respond efficiently and effectively to the specific needs of Survivors; (2) to contribute to a sense of justice and accountability; and (3) to recommend institutional reforms.⁴³

The needs and views of Survivors and the Aboriginal community have been ignored even in the way in which Survivors goals were interpreted and then implemented. Upon looking at the goals that Survivors and representatives wanted to accomplish throughout negotiations with the Canadian government, the language of the TRC mandate seems to adhere to and embody such ideals.⁴⁴ However, as Funk-Unrau and Snyder rightfully point out, the implementation of these goals has failed to move beyond the West's

⁴⁰ Funk-Unrau and Snyder, "State-Designed ADR: A Strategy for Co-Optation?" 293.

⁴¹ Castellano, "A Holistic Approach," 398.

⁴² Stanton, "Settling the Past?" 6.

⁴³ Rice and Snyder, "Healing the Legacy of Colonialism in Canada," 55.

⁴⁴ Funk-Unrau and Snyder, "State-Designed ADR: A Strategy for Co-Optation?" 295.

traditional interpretation according to financial terms.⁴⁵ In other words, the language with which the TRC is laid out gives the impression of consultation, however the ways in which these goals realistically implemented are done so according to a business-like transaction.⁴⁶ In seeking recognition for the harms they endured it was not about receiving a payment, but more about facilitating an education nation-wide in order to improve their status within Canadian society. Such goals cannot be reduced to financial compensation, therefore demonstrating the way in which the Canadian government is either unwilling or unable to effectively respond to the needs of IRS Survivors.

Secondly, contributing to a sense of justice and accountability is an endeavour that has been subverted by the way in which the government requires various levels of proof before they will admit to being accountable for instances of physical and sexual abuse.⁴⁷ So, where Survivors can prove their attendance at a residential school they receive a Common Experience Payment of \$10,000 plus an additional \$3,000 for every subsequent year.⁴⁸ However, if a Survivor was victim to instances of physical or sexual abuse then an Independent Assessment Process can be undergone whereby the victim must provide detailed, personal statements of the abuse, which is then investigated for accuracy.⁴⁹ After the abuse is verified, financial compensation is rewarded based on a point's basis whereby various acts equal a certain amount of points when then equals a certain amount of money.⁵⁰ While the problems with this system are many, this specifically goes against contributing to a sense of justice and accountability. Not only do Survivors have to relive excruciating trauma, but also the way in which this system operates adheres more

⁴⁵ Ibid., 296.

⁴⁶ Ibid., 295.

⁴⁷ Ibid., 294.

⁴⁸ Blackburn, "Culture Loss and Crumbling Skulls," 292.

⁴⁹ Ibid., 292.

⁵⁰ Stanton, "Settling the Past?" 4.

to retributive rather than restorative principles.⁵¹ Having to provide proof and having claims thoroughly investigated demonstrates the Canadian government reluctance to just accept responsibility and be accountable for the widespread abuse in residential schools. The fact that this blatantly adversarial process exists effectively demonstrates the inability of the Canadian government to embody and strive for justice for Aboriginal peoples.⁵²

Finally, while the work of the IRSTRC is ongoing, the willingness of the commission to recommend and implement institutional reforms is skeptical. This is because the narrow focus of the TRC and the government's reluctance to take full responsibility demonstrates their unwillingness to the issues of Aboriginal peoples in a more holistic manner, requiring institutional reforms. Recommendations are always going to be of an, 'easier said than done' nature, but this does not say anything to their possibility. Within the Canadian context however, any recommendations for institutional reforms to improve the status of Aboriginal peoples will be especially difficult until the pervasive racism throughout the country is addressed.

It has been the aim of this essay to demonstrate the variety of ways in which the current running of the residential schools TRC in Canada has not done enough to live up to its potential. TRCs are a mechanism of restorative justice whereby atrocities are addressed through a process of truth telling and reconciliation.⁵³ Such commissions aim to restore or transform societal relationships between individuals, communities, and groups in order to establish connections based on mutual respect. In moving towards such a relationship, both victims and perpetrators have to delve into the process of reconciliation with an open mind and an attitude for change.⁵⁴ Despite such lofty goals, in examining the Canadian case it has been shown that the very aspects that will make this case a

⁵¹ Funk-Unrau and Snyder, "State-Designed ADR: A Strategy for Co-Optation?" 297.

⁵² *Ibid.*, 301.

⁵³ Angel, "Before Truth," 200.

⁵⁴ Castellano, "A Holistic Approach," 385.

success are absent. If Canada wants to truly address the legacy of colonialism and residential schools then not only does education need to happen, but a nation-wide empathy for, and support of Aboriginal issues needs to be facilitated. A dialogue surrounding how our connectedness with one another and with the governmental system facilitates racism and prejudice needs to commence.⁵⁵ Just as First Nations Elders teach that everything is related, non-Indigenous persons too, need to embody such a lesson.

In conclusion, the effectiveness of the TRC relies on the willingness of the government and the Canadian public to take ownership of the process of reconciliation. Although the entire process came about through traditional litigation, the adversarial nature of court proceedings does not need to be the determining factor for the IRSTRC's success or failure. Just as Castellano advocates, the process of reconciliation and healing needs to be one of a truly holistic nature.⁵⁶ Indigenous and non-Indigenous people need to decide how to negotiate the road ahead together and work to eliminate the 'us' versus 'them' dichotomy.

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⁵⁵ Stanton, "Settling the Past?" 16.

⁵⁶ Castellano, "A Holistic Approach," 382.

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