

A Framework for Reconciliation: The 94 Calls to Action and Redress for Canada's Residential School Genocide

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Preface

1996: The Cowessess First Nation of the Qu'Appelle River Valley in Saskatchewan, Canada exhales as the second-to-last Canadian residential school for Indigenous children is closed.¹ The school, Marieval Indian Residential School, opened in 1898 by the Roman Catholic Church and was operated until the near the end of the millennium.² Funding for the school came from the federal government after they "purchased the [residential school] property for \$70,000 in January 1926."³



Marieval Indian Residential School, 1923

This is a recurring theme in Canadian history. The Church and the State worked in tandem to run and operate residential schools in a move to assimilate Indigenous Canadians into a culture foreign to them.⁴ Residential school survivor Marcell Ellery ran away from Marieval 27 times, and each time he was retrieved and brought back by the Royal Canadian Mounted Police (RCMP).⁵ Ellery refers to the school as a "jail," and the lasting effects from the abuse he experienced cultivated the anger, pain, and substance abuse in his life.⁶

There are thousands of stories like Marcell's, each story a carceral, dehumanizing experience deeply affecting the victim, their family, and their friends.

1996: At Port Arthur Regional Hospital in Thunder Bay, Ontario, the second child of a young Canadian couple is born. Years later, that very hospital would be abandoned and demolished after having merged with two other local hospitals, including the Fort William Sanatorium, the

¹ Cowessess First Nation says 751 unmarked graves found near former Sask. Residential school, Brooke Taylor and Brooklyn Neustaeter, CTV News, June 24, 2021, <https://www.ctvnews.ca/canada/cowessess-first-nation-says-751-unmarked-graves-found-near-former-sask-residential-school-1.5483858> (the final school, Kivalliq Hall in Rankin Inlet, Nunavut, was recognized in 2019 as a residential school).

² *Id.*

³ Marieval (Cowessess) Indian Residential, *Shattering the Silence: The Hidden History of Indian Residential Schools in Saskatchewan* eBook, University of Regina: Faculty of Education, 2021, <https://www2.uregina.ca/education/saskindianresidentialschools/marieval-cowesses-indian-residential/>

⁴ *Id.*

⁵ See: Marcell Ellery's photograph and story. *Id.*

⁶ *Id.*

site of a now-disputed residential school in the 1950s.⁷ The child grows up in a home that is accepting but in a community that is profoundly divided. Deep into law school, 25 years later, his world is put into perspective. He realizes that those same 25 years he has lived – years so joyous and fleeting for him and his family – are long, painful, and deeply saddening to those Indigenous Canadians who last left Marieval Residential School in 1996. Perspective is everything. It has only been 25 years.

Introduction

In 2015, the Truth and Reconciliation Commission of Canada (TRC) recommended 94 Calls to Action to “redress the legacy of residential schools and advance the process of Canadian reconciliation.”⁸ The Calls to Action range in topic, including but not limited to health, welfare, language and cultural preservation, education, reconciliation, church apologies, archives, missing children burial information, and commemoration.⁹ The TRC was established in June 2008, and “[its] mandate is to learn the truth about what happened in the residential schools and inform all Canadians of these findings.”¹⁰ The TRC was created in hopes of fostering a relationship with the government of Canada to redress the pain and suffering caused by the Indigenous residential school system.¹¹ The TRC was a necessity built out of the largest class-action lawsuit in Canadian history, a lawsuit negotiated by several different parties representing Aboriginal organizations, religious orders, Indian residential school survivors, and the federal government.¹²

The Indian Residential School Settlement Agreement was officially issued on March 8, 2006 and included five key components: (1) Common Experience Payment (CEP) for all survivors of recognized schools; (2) Independent Assessment Processes (IAP) for survivors of sexual and physical abuse, psychological traumas, and other wrongful acts committed by government or church agents; (3) the Aboriginal Healing Foundation (AHF) receiving increased funding;¹³ (4) the establishment of the TRC; and (5) Commemoration processes to educate, memorialize, and pay tribute to former students.¹⁴

This paper examines the Truth and Reconciliation Commission, the Calls to Action as a method of redress for residential school survivors, and the progress the Canadian government has made on selected Calls to Action. More specifically, this paper focuses on current and future actions

⁷ Ontario judge rules Fort William Sanatorium not a residential school, Matt Prokopchuk, CBC News, 2018, <https://www.cbc.ca/news/canada/thunder-bay/fort-william-sanatorium-decision-1.4490000>

⁸ Calls to Action, Truth and Reconciliation Commission of Canada, 2015, https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf at 1

⁹ *Id.*

¹⁰ Canada, No Author, International Center for Transitional Justice, 2021, <https://www.ictj.org/our-work/regions-and-countries/canada>

¹¹ An Overview of the Indian Residential School System, Karen Restoule et al, Anishinabek.ca, 2013, <https://www.anishinabek.ca/wp-content/uploads/2016/07/An-Overview-of-the-IRS-System-Booklet.pdf> at 7.

¹² *Id.* at 7.

¹³ Note: the AHF last received funding in 2014.

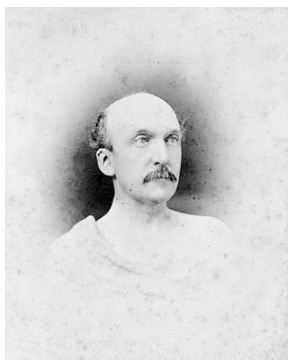
¹⁴ Restoule, *supra* note 11 at 7-8.

the Canadian government, along with the Church, can take to initiate redress of the genocide of Indigenous Canadians. There is not one fix-all step, nor is there a dollar amount.¹⁵ Instead, there are – at minimum – the 94 Calls to Action constructed and developed as methods of redress by Indigenous community members and leaders. While not all 94 Calls to Action will be covered, this paper will address a collection of Calls that have been implemented or can be implemented in order to advance redress.

The Architects of Canada's Genocide

The world watched in 2021 as Canada's Indigenous genocide was exposed through the discovery of mass unmarked graves underneath residential school sites.¹⁶ For many people outside of Canada, these discoveries were a shock; for many inside the nation, the discoveries bared an ugly history of a hidden genocide. The predecessor facilities to Residential schools are evident in Canadian history, beginning with French Catholic Jesuit missionaries in the territory of New France in the early 1600s.¹⁷ The original "Native boarding schools" were operated by the Jesuit missionaries, along with the Recollet and Ursuline religious orders, to convert the Indigenous population to Christianity.¹⁸ It was not until the consolidation of multiple legislative acts into the *Indian Act of 1876* (and, again, into the *Indian Act of 1894*) that the residential school system become the standard system of assimilation and colonization for Indigenous Canadians.¹⁹

A. The Origins of Residential Schools



Nicholas Flood Davin

One of the central propagandists of the residential school system was Nicholas Flood Davin, who, after investigating the American reservations and industrial schools for indigenous children, concluded that a boarding-style school would be more impactful in assimilation.²⁰ Davin was commissioned by the first Prime Minister, Sir John A. MacDonald, to propose how to educate "Indians."²¹ This boarding method was chosen over traditional "day schools" where Indigenous children returned to their homes after a day's education and were still under traditional Indigenous cultural influence, which was deemed dangerous by White colonizers.²² Further, Davin believed the residential boarding school to be the only option for Indigenous

¹⁵ See: More than \$3B paid to 28,000 victims of residential school abuse: report, The Canadian Press, CBC News, <https://www.cbc.ca/news/indigenous/iap-final-report-residential-schools-1.5946103> (The estimated number is more than \$3.23 Billion in compensations and costs).

¹⁶ Taylor and Neustaeter, *supra* note 1.

¹⁷ A Legacy of Assimilation: Abuse in Canadian Native Residential Schools, Julie Cassidy, 7 S. Cross U. L. REV. 154 (2003) at 159.

¹⁸ *Id.* at 160.

¹⁹ The Indian Act, Faculty, University of British Columbia, https://indigenousfoundations.arts.ubc.ca/the_indian_act/

²⁰ Genocidal Carcerality and Indian Residential Schools in Canada, Andrew Woolford & James Gacek, 18 Punishment & Soc'y 400 (2016) at 403.

²¹ Indian Residential Schools: A Chronology, John Redmond, 38 LAWNOW [207] (2014) at PDF 3.

²² See: Flood Davin qtd. in *Id.* at 403.

children to grow and become “merged and lost” within the rest of Canada.²³ Davin also suggested that building the schools would be expensive and inefficient, so Canada should repurpose the existing network of religious missions for the residential schooling systems. A few years later, in the 1880s, the residential school system would become federally-funded as the “final solution” for Indigenous colonization and assimilation.²⁴ The debate about boarding schools was originally spawned from the *Industrial Schools Act* of 1874 – the legislation that brought on Davin’s investigations into the American system.

Pre-dating Nicholas Flood Davin by multiple decades was Egerton Ryerson, the man universally associated with the creation of residential schools in Canada. Ryerson, as a chief education officer in pre-Confederation Ontario, believed education to be a cure for crime in Upper Canada.²⁵ Ryerson is the reason there is free education in Canada, but his vision for free education was accompanied by compulsory attendance by all children in Upper Canada, and Ryerson was adamantly opposed to integrated schooling.²⁶ Ryerson abused his power as an education minister to force religion into the free, compulsory school system, as his “Christian principles” were “disingenuous” because by perpetuating the beliefs of his religion, he could systemically destroy the beliefs of other religious and cultural communities, including the traditional beliefs of Indigenous peoples.²⁷ The Bagot Commission report written by the British Columbian Governor General (and touted by Ryerson) detailed federally-run residential schools with the goal of “completely erasing tribal identity and nationality” by way of separating Indigenous children from their families and signing them away to the schools as wards.²⁸

Ryerson embraced the idea of “industrial schools” for Indigenous children. He believed the children were unable to be civilized as “established by numerous experiments.”²⁹ Ryerson believed a structured school system with superintendents and a heavy religious influence would assimilate, train, and educate Indigenous youth – specifically in the trades and agriculture.³⁰ Ryerson planned and documented all aspects of daily life at the schools, scheduling the amount of time to be dedicated to working, sleeping, eating, praying, and punishment.³¹ In 1848, the first federally-funded residential school opened in Alderville, Ontario, under Ryerson’s jurisdiction.³² The distinction between “industrial schools” (typically, well-funded and larger) and “boarding schools” (smaller, feeder schools for industrial schools)

²³ *Id.* at 403-404.

²⁴ Cassidy, *supra* note 17 at 160.

²⁵ See: The Ontario Industrial Schools Act of 1874, Charlotte Neff, 12 CAN. J. FAM. L. 171 (1994) at 175. (“Upper Canada” was a territory encompassing the now-Toronto region of southern Ontario).

²⁶ *Id.* at 179-80.

²⁷ Adler v. Ontario: The Troubling Legacy of a Compromise, S. M. Corbett, 8 Const. F. 64 (1997) at 67.

²⁸ D’Arcy Rheault, Solving the “Indian Problem,” Ontario Métis Family Records Center, 2011, <https://www.omfrc.org/wp-content/uploads/2016/06/specialedition8.pdf> at 1, 3.

²⁹ Report of Dr. Ryerson on Industrial Schools, Egerton Ryerson, 1847, <https://collections.irshdc.ubc.ca/index.php/Detail/objects/9435> (accessed via download) at 73-74.

³⁰ *Id.* at 74.

³¹ *Id.* at 75-76.

³² Rheault, *supra* note 28 at 1.

disappeared by 1923, when the federal government and the amended *Indian Act* began referring to all institutions as “Indian residential school[s].”³³

B. The Act of Genocide

There is a lack of clarity as to which institution was the first residential school. Some say it was the 1831 Mohawk Indian Residential School in Brantford, Ontario, while others believe the federally-run residential school at Alderville is the first “official” school.³⁴ However, what is becoming clearer is what actually happened to Indigenous Canadians in residential schools across Canada and the legacy of abuse, violence, pain, and sadness that was left behind.

Raphael Lemkin originated the modern definition of genocide and advocated for universal recognition of the crime of genocide. Lemkin, “in his own thinking on genocide, [said the] physical, cultural, and biological techniques of destruction overlapped and were not separate forms of destruction ... [and that each technique] contributed in combination to the demise of groups as groups.”³⁵ This is exactly what happened through the boarding school system.

At the behest of Ryerson, free public schooling in Canada had the caveat of being mandatory for youth, which meant Indigenous students were mandated to attend the residential school system. Indigenous parents who refused to send their children to school were threatened by jail time or fines, while “truant officers” were simultaneously empowered to take Indigenous children into custody as a means of forcing attendance.³⁶ The 1920 *Indian Act* amendment required that “all First Nations children attend a residential school for at least ten months a year.”³⁷ The Indigenous children were “viewed as *homo sacer* and subject to physical, sexual, emotional, and other forms of abuse ... [because they] entered the schools perceived to already be available to be harmed or killed with impunity – the unmarked graves and high, often unrecorded, death tolls” illustrate this.³⁸

Because of provincial and federal policies such as forced attendance, it is estimated that at least 150,000 First Nation, Inuit, and Métis (of mixed Indigenous and European-Canadian ancestry, typically in western Canada) children attended residential schools during the 19th and 20th centuries.³⁹ The curriculum at the school was not standardized mathematics, language, and arts, but rather trades for Indigenous boys and domestic tasks for Indigenous girls.⁴⁰

³³Troubled Legacy: A History of Native Residential Schools, J.R. Miller, 66 Sask. L. REV. 357 (2003) at 364-65.

³⁴ Rheault, *supra* note 28 at 1.

³⁵ Woolford and Gacek, *supra* note 20 at 405.

³⁶ Cassidy, *supra* note 17 at 161 (see citation in Cassidy: M(FS) v Clarke [1999] 11 WWR 301 (*Mowatt*) at 305)

³⁷ Canadian Residential Schools - The Demands for Reparations, Antonio Buti, 5 Flinders J. L. REFORM 225 (2001) at 232.

³⁸ Woolford and Gacek, *supra* note 20 at 408 (see: *homo sacer* is the one who may not be sacrificed, yet may be murdered with impunity).

³⁹ Report, The Residential School System National Historic Event, Parks Canada, July 2021, <https://www.pc.gc.ca/en/culture/clmhc-hsmbc/res/information-backgrounder/sys-pensionnats-residential-school-sys>

⁴⁰ *Id.*

The experience at residential schools, however, is not reflected accurately by what was learned. Rather, the experience that thousands of Indigenous Canadians endured was rife with abuse. Researchers from Nuu-chah-nuulth First Nation in Port Alberni, British Columbia “group the types of abuses as follows: separation from family; physical conditions at the schools; loss of native language; abuse (emotional, physical, sexual, spiritual); and child labor.”⁴¹ Sexual abuse of the children was a common experience (as a Canadian ministerial adviser commented, in 1990) that “closer scrutiny of treatment of children at residential schools would show that all children in some schools were sexually abused.”⁴² The administrators of the school were federal employees, Church workers, or a combination of both, as by the 1920s there were eighty institutions run by Christian denominations with at least 60% of those run by the Roman Catholic Church.⁴³ The most common type of abuse, however, was emotional abuse by way of “emotional deprivation.”⁴⁴ Miller goes on to describe the process of emotional abuse, with an emphasis on the victims being children:

“Harried, over-worked staff had no time to comfort a crying child or persuade awkward youths to perform certain duties. Instead, they subjected the students to rules and routines, and enforced these institutional practices with widespread corporal punishment that too often became physical abuse [...] People who attended residential schools have explained that being raised in an institutional rather than a familial setting permanently scarred them in later life.”⁴⁵

The evangelical colonization was evident, too, as these institutions were designed to eradicate Indigenous culture and erase the traditions of peoples that long preceded the white man in North America.⁴⁶ By systemically destroying the traditions sacred to each child, the greater cultures of each race of Indigenous peoples would slowly be erased. Duncan Campbell Scott, a superintendent in the Department of Indian Affairs, said in 1920 that the government’s “object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question, and no Indian department.”⁴⁷ Scott was also responsible for abolishing the post of Medical Inspectors for Indian Agencies in 1919, while in 1910, he had



Cree students and teacher at All Saints Indian Residential School, Saskatchewan, March 1945

⁴¹ Buti, *supra* note 37 at 233.

⁴² *Id.* (See: RCAP Report, above n 2, vol 1, 372-73).

⁴³ Miller, *supra* note 33 at 362.

⁴⁴ *Id.* at 376.

⁴⁵ *Id.*

⁴⁶ Cassidy, *supra* note 17 at 174.

⁴⁷ Rheault, *supra* note 28 at 3.

previously likened the rate at which Indigenous children died in residential schools to a “Final Solution of [Canada’s] Indian Problem.”⁴⁸ The way Scott viewed Indigenous peoples in residential schools is an unsettling precursor to the Nazis’ use of concentration, death, and labor camps as a carceral space to carry out the act of genocide.⁴⁹ The chair of the Truth and Reconciliation Commission estimates the Indigenous death toll as being around 6,000.⁵⁰ However, the actual number of deaths may be between 10,000 and 15,000, which experts like archaeologist Kisha Supernant believe accurately represents the number of children who went missing from residential schools.⁵¹

Ninety-Four Calls to Action

The TRC “is convinced that genuine reconciliation will not be possible until the complex legacy of the schools is understood, acknowledged, and addressed.”⁵² The TRC, in the introduction of its Final Report, concludes that Canada committed physical genocide (“the mass killing of the members of a targeted group”), biological genocide (“the destruction of the group’s reproductive capacity”), and cultural genocide (“the destruction of those structures and practices that allow the group to continue as a group”).⁵³ The TRC’s 94 Calls to Action represent the steps determined to establish a path reconciliation when each call to action is acted upon.

When the TRC released its Final Report in 2015, the Calls to Action were categorized within the following classifications: (1) Child Welfare; (2) Education; (3) Language and Culture; (4) Health; (5) Justice; (6) Reconciliation Measures; (7) Equity in the Legal System; (8) Church Apologies; (9) Youth Programs and Sports; (10) Museum/Archival Measures; (11) Addressing the Missing Children and Burial Information; (12) Commemoration; (12) Media; (13) Business Reconciliation; and, (14) Education for New Canadians.⁵⁴ The Calls are designed to touch on the wide array of reconciliation areas, as well as offering the Canadian government and other organizations, such as the Church, a blueprint for redress.⁵⁵ There are a sample of Calls to Action below that include the meaning of the Call and the level of action taken by the Canadian government on the Call.⁵⁶ The Trudeau Administration, which has been in power since 2015, promised to “take immediate action on the 94 Calls to Action of the TRC report” when it was

⁴⁸ *Id.*

⁴⁹ Woolford and Gacek, *supra* note 20 at 407.

⁵⁰ Residential schools findings point to ‘cultural genocide,’ commission chair says, John Paul Tasker, CBC News, May 2021, <https://www.cbc.ca/news/politics/residential-schools-findings-point-to-cultural-genocide-commission-chair-says-1.3093580>

⁵¹ The Indigenous Archaeologist Tracking Down the Missing Residential Children, Ian Austen, NY Times, July 2021, <https://www.nytimes.com/2021/07/30/world/canada/indigenous-archaeologist-graves-school-children.html>

⁵² *Id.* at 184.

⁵³ *Id.* at 1.

⁵⁴ *See*: Truth and Reconciliation, *supra* note 8.

⁵⁵ Truth and Reconciliation Commission of Canada, *supra* note 55 at 183-85.

⁵⁶ *See*: Beyond 94, CBC News, October 4, 2021, <https://newsinteractives.cbc.ca/longform-single/beyond-94?cta=1> (this is an interactive service that demonstrates the Trudeau government’s progress on each of the 94 Calls to Action).

released in December 2015.⁵⁷ Because the Prime Minister and his administration made this promise to Indigenous Canadians, it is important to track the level of honesty that each promise was made as the Canadian government agrees with this, and as they restate their “commitment to implement the recommendations of the [TRC]” on the federal website.⁵⁸

A. Redress Measures Via Selected Calls to Action

Residential schools undeniably failed at practicing child welfare, so it makes sense that the first category for the Calls to Action is Child Welfare. Call to Action 4 asks the federal government to “enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases.”⁵⁹ The TRC emphasized the “human dimension” of improving outcomes for Indigenous children because the intergenerational impact of residential schools left many families without strong role models for parenting.⁶⁰ Call 4 embraces investment in “culturally appropriate programs” in Indigenous communities enabling more children to grow up safely in their own communities.⁶¹ The federal government has taken advanced steps toward Call 4 as they have utilised Indigenous Services Canada to engage with First Nations, Inuit, and Métis across Canada while co-developing federal legislation on Indigenous child welfare reform.⁶²

On June 21, 2019, Bill C-92 was introduced. It “affirms the rights of [Indigenous Canadians] to exercise jurisdiction over child and family services and establish national principles, such as best interests of the child, cultural continuity and substantive equality to guide the interpretation and administration of the bill.”⁶³ Call 4 is one of the few Calls to Action that have been fully acted on by the federal government.

Call to Action 11 asks upon the federal government to “provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.”⁶⁴ As of 2018, nearly 30% of non-Indigenous Canadians aged 25 to 64 had university degrees versus only 10% of Indigenous persons in the same age group.⁶⁵ Geraldine Bob, a residential school survivor, cited poor education and negative experiences at residential school leading to her delay in attending

⁵⁷ Trudeau promises full federal action on final TRC report, Elizabeth McSheffery, National Observer, December 15th, 2015, <https://www.nationalobserver.com/2015/12/15/news/trudeau-promises-immediate-action-final-trc-report>

⁵⁸ See: Delivering on Truth and Reconciliation Commission Calls to Action, Government of Canada, 2021, <https://www.rcaanc-cirnac.gc.ca/eng/1524494530110/1557511412801> (similar to *Beyond 94*, this government website tracks the progress of each individual call to action).

⁵⁹ See: Truth and Reconciliation, *supra* note 8 at 1.

⁶⁰ Truth and Reconciliation Commission of Canada, *supra* note 55 at 191.

⁶¹ *Id.*

⁶² Government of Canada, *supra* note 62 (see: Child Welfare).

⁶³ *Id.*

⁶⁴ See: Truth and Reconciliation, *supra* note 8 at 2.

⁶⁵ Advancing reconciliation through postsecondary education, Paul Davidson, Universities Canada, November 19, 2018, <https://www.univcan.ca/media-room/media-releases/advancing-reconciliation-through-postsecondary-education/>

university, ultimately delaying her career as a teacher and diminishing her retirement fund.⁶⁶ The TRC reports a backlog of 10,000 First Nations students waiting for post-secondary funding.⁶⁷ The 2019 federal budget allocated \$327.5 million over five years to the Post-Secondary Student Support Program and development of regional strategies, which was a \$10 million decrease at \$81.5 million per annum from the 2017 budget (which allocated \$90 million per annum).⁶⁸ The 2019 pledge numbers precede knowledge of the 2020 Pandemic, as well, so the decrease in financial support for post-secondary education cannot be pinned on the Pandemic.

Call to Action 14 asks for an Aboriginal Languages Act in order to preserve, revitalize, and strengthen Aboriginal people and communities while also preserving a “fundamental and valued element of Canadian culture and society.”⁶⁹ The government would be able to draw on resources within the Indigenous community across Canada, creating jobs for Aboriginal speakers and strengthening education, especially for non-Aboriginal language speakers.⁷⁰ Bill C-91 was introduced in 2019 to “support the meaningful implementation” of Calls 13-15.⁷¹ The actual implementation doesn’t address the entirety of Call 14, rather amalgamating multiple language-based methods of redress while also excluding any Inuit-specific content.⁷² The residential school genocide targeted Indigenous Peoples as a collective, but individual groups within the collective have varying desires when it comes to redress. Here, an organization known as Inuit Tapiriit Kanatami withdrew its support of Bill C-91 because of the absence of any Inuit-specific content.⁷³ Redress cannot be a half-measure.

Call to Action 24 is a healthcare declaration that asks the federal government to require all medical and nursing students to take a course dealing with Aboriginal health care.⁷⁴ The TRC believes that these courses would deal with both the historical aspects of Aboriginal health issues, including residential schools, but also “require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”⁷⁵ Canada has not offered a response measure for Call to Action 24, and while universities across Canada offer Aboriginal Health courses, the vast majority of schools have no mandated class for healthcare students.⁷⁶ In pushing for redress, part of the process is educating non-Indigenous Canadians about the history of Indigenous people in Canada. In this instance, mandating an Indigenous healthcare course may expose students and future medical professionals to a history they may otherwise not have understood.

⁶⁶ Truth and Reconciliation Commission of Canada, *supra* note 55 at 198-99 (see: Bob speaking about her experience in residential school in Kamloops, BC to TRC in Fort Simpson, NWT).

⁶⁷ *Id.* at 199.

⁶⁸ Beyond 94, *supra* note 60 (see: Call to Action 11).

⁶⁹ Truth and Reconciliation Commission of Canada, *supra* note 55 at 204.

⁷⁰ *Id.* at 205.

⁷¹ Government of Canada, *supra* note 62 (see: Language and culture).

⁷² Beyond 94, *supra* note 60 (see: Call to Action 14).

⁷³ Beyond 94, *supra* note 60 (See Call to Action 14).

⁷⁴ See: Truth and Reconciliation, *supra* note 8 at 3.

⁷⁵ Truth and Reconciliation Commission of Canada, *supra* note 55 at 211.

⁷⁶ Beyond 94, *supra* note 60 (See Call to Action 24); Government of Canada, *supra* note 62 (see: Healthcare).

As a measure in pursuit of justice, Call to Action 39 requires Canada to “develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.”⁷⁷ In Canada, Aboriginal people are 58% more likely to be victimized by crime, while a 2014 study by the Royal Canadian Mounted Police revealed that nearly 1,200 Indigenous women were murdered or went missing between 1980 and 2012.⁷⁸ This long history of victimization parallels (and is a direct outgrowth of) the residential school experience. Less than one-third of victims of crime report their experience to the police and any victim compensation schemes in place often “fail to recognize the distinct needs of Aboriginal victims of crime.”⁷⁹ The federal government has completed this Call, and Statistics Canada collects data on victimization through the General Social Survey every five years, as well as collecting and releasing police-reported homicide data.⁸⁰ Statistics Canada and Status of Women Canada are developing a “gender-based violence survey covering First Nations people living off reserve and Inuit and Métis populations.”⁸¹

As part of the reconciliation process, Call to Action 50 recommends “the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.”⁸² The 2019 federal budget proposed to provide \$9.1 million over three years, beginning in 2019-20, to support the construction of the Indigenous Legal Lodge as part of the Faculty of Law at the University of Victoria.⁸³ A further \$918,000 over three years has been invested in the Association of Iroquois and Allied Indians for Lakehead University’s Bora Laskin Faculty of Law with the goal of supporting “Indigenous law-making research” while laying the foundation for an Indigenous legal institute in Thunder Bay, Ontario.⁸⁴ Indigenous legal traditions are not only prescriptive; they are also descriptive in how they “ascribe meaning to human events, challenges, and aspirations” by serving as reparations for the “immense damages from colonialism.”⁸⁵

Call to Action 68 is a now-defunct call that asked the federal government to “mark the 150th anniversary of Confederation with a funding program for commemoration projects on the theme of reconciliation.”⁸⁶ A national funding program geared toward reconciliation at the time

⁷⁷ Truth and Reconciliation Commission of Canada, *supra* note 55 at 226.

⁷⁸ ‘Genocide’ Has Been Committed Against Indigenous Women And Girls, Canadian Panel Says, Merrit Kennedy, NPR, June 2019, <https://www.npr.org/2019/06/03/729258906/genocide-has-been-committed-against-indigenous-women-and-girls-canadian-panel-sa>

⁷⁹ Truth and Reconciliation Commission of Canada, *supra* note 55 at 225-26.

⁸⁰ Beyond 94, *supra* note 60 (See Call to Action 39).

⁸¹ Government of Canada, *supra* note 62 (*see*: Justice).

⁸² The Indigenous Legal Lodge at uVic Law: An Invitation, Faculty of Law, University of Victoria, 2019, <https://www.uvic.ca/law/assets/docs/UVic%20Law%20Indigenous%20Legal%20Lodge.pdf> at PDF pg. 2.

⁸³ Beyond 94, *supra* note 60 (See Call to Action 50).

⁸⁴ Federal government funding Indigenous law centre in Ontario, Canadian Press, CBC News, July 2021, <https://www.cbc.ca/news/politics/federal-government-indigenous-law-funding-1.6111239>

⁸⁵ *See*: Val Napoleon and Hadley Friedland in Truth and Reconciliation Commission of Canada, *supra* note 55 at 259-60.

⁸⁶ Truth and Reconciliation Commission of Canada, *supra* note 55 at 302.

of the 150th anniversary in July 2017 would have raised widespread awareness for non-Indigenous Canadians who may be involved in the festivities but unaware of the history.⁸⁷ The TRC is adamant about the existence of an urgent need in Canada to develop historically literate citizens who understand how and why the past is relevant to their own lives and the future of the country.⁸⁸ There is an opportunity beyond the failed Canada 150 inclusion for museums to foster national reconciliation by representing the history of residential schools in ways that “invite multiple, sometimes conflicting, perspectives, yet ultimately facilitate empathy, mutual respect, and a desire for reconciliation that is rooted in justice.”⁸⁹ Call to Action 68 can never be acted upon, but the messaging surrounding it stands, in that museums have a duty to preserve and educate true accounts of Canadian history. Museum exhibits, events, and programs across Canada, especially in tourist areas such as Ottawa, Toronto, and Vancouver, may have a profound influence on non-Indigenous visitors by presenting historical injustices in a non-confrontational form of public dialogue.

B. The Stolen Generation

Calls to Action 71-76 address the children who never returned home from residential school, as well as the lack of effort throughout history to record the number of students who died while attending residential schools.⁹⁰ The “forced assimilation, distortion, and destruction of Indigenous culture” resulted in missing or escaped children, as well as death.⁹¹ The international discourse about the Stolen Generation’s missing children arose in May 2021 when “Tk’emlúps te Secwépemc Chief Rosanne Casimir announced that the remains of 215 children had been found” at a former residential school site near Kamloops, British Columbia.⁹² The Kamloops Indian Residential School was the largest of all Canada’s schools, it ran from 1890 to 1969, and it held up to 500 Indigenous students at any one time.⁹³ Of the 250 remains found, only 50 had been identified through records from 1900-1971, which bared the long history of unrecorded deaths at residential schools.⁹⁴ The 215 graves sparked an international outcry and alerted the world to what the TRC had established years earlier: the events that transpired at residential schools amounted to genocide.⁹⁵ These 215 graves, however, would not be only discoveries in 2021. The grounds at Marieval Indian Residential School were surveyed with the same ground-penetrating radar that unveiled the devastation at Kamloops, with 751 graves being discovered.⁹⁶ The number of unmarked graves discovered across five different residential

⁸⁷ Beyond 94, *supra* note 60 (See Call to Action 68).

⁸⁸ Truth and Reconciliation Commission, *supra* note 55 at 302.

⁸⁹ *Id.*

⁹⁰ *Id.* at 309

⁹¹ Law, Justice, and Reconciliation in Post-TRC Canada, Catherine Bell & Hadley Friedland, 56 ALTA. L. REV. 659 (2019) at 660.

⁹² Why Canada is mourning the deaths of hundreds of children, Holly Honderich, BBC News Washington, July 15, 2021, <https://www.bbc.com/news/world-us-canada-57325653>

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Truth and Reconciliation Commission, *supra* note 55 at 1.

⁹⁶ Residential school survivors reflect on a brutal legacy: ‘That could have been me,’ Brandi Morin, National Geographic, June 28, 2021, <https://www.nationalgeographic.com/history/article/residential-school-survivors-reflect-on-brutal-legacy-that-could-have-been-me>

schools in Canada reached 1,300 by August 2021, with more ground-penetrating radar searches planned for the following years.⁹⁷

Calls to Action 71-76 are plagued not only by the discoveries of the unmarked burial sites, but also by the inability to access historical documents kept by the Catholic Church and other religious affiliates who refuse to release data kept on missing and deceased Indigenous children.⁹⁸ A high-profile story appeared in 2018 about St. Anne's Residential School in Fort Albany, Ontario, on the shores of James Bay.⁹⁹ Ontario Provincial Police (OPP) records from 1993 were obtained, detailing the horrors at St. Anne's, including strappings, whippings, sexual assault, psychological abuse, and violent sexual attacks by both nuns and priests.¹⁰⁰ The school was run by the Catholic Orders of Mary Immaculate and the Grey Sisters of the Cross from 1902-1976.¹⁰¹ OPP investigators identified 74 suspects from 700 victim and witness interviews, charging seven people and convicting five.¹⁰² A great majority of the documents from the investigation were destroyed or sealed by 2013 when survivors of residential schools (in the process of giving testimony) were misled into believing they could not have their statements archived by the National Centre for Truth and Reconciliation, thus resulting in the destruction of many victim, witness, and survivor statements against St. Anne's.¹⁰³

Conclusion

The unmarked graves serve as a heartbreaking physical reminder of the need for increased redress for the residential school genocide. Fulfilling the recommendations that the TRC emphasizes through the Calls to Action serves as a beginning for redress, rather than an end goal. What was stolen from Indigenous Canadians cannot be returned through 94 acts of redress. Individual apologies, efforts, testimonies, and research will go a long way toward redress, as well. The Missionary Oblates of Mary Immaculate operated 48 schools, including Marieval, Kamloops, and St. Anne's, and the Order has made a "formal commitment to transparency" to disclose all historical documents in its possession that are related to the schools in British Columbia and Saskatchewan.¹⁰⁴ This is a critical building block toward destroying the colonizers' version of history, as survivors' stories can now be juxtaposed with the schools' narratives.¹⁰⁵ Redress for the genocide has to include more than the money paid to Indigenous Canadians as restitution. Redress includes revitalization of Indigenous cultures,

⁹⁷ Residential schools were a key tool in America's long history of Native genocide, David A. Love, Washington Post, August 2021, <https://www.washingtonpost.com/outlook/2021/08/10/residential-schools-were-key-tool-americas-long-history-native-genocide/>

⁹⁸ Beyond 94, *supra* note 60 (See Call to Action 71).

⁹⁹ The horrors of St. Anne's, Jorge Barrera, CBC News, March 29, 2018, <https://newsinteractives.cbc.ca/longform/st-anne-residential-school-opp-documents>

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ Truth and Reconciliation Commission, *supra* note 55 at 32.

¹⁰⁴ Catholic group gives 'formal commitment' to disclose all records from B.C. and Sask. residential schools, The Canadian Press, June 2021, <https://www.cbc.ca/news/canada/british-columbia/residential-school-records-missionary-of-oblates-of-mary-immaculate-1.6078260>

¹⁰⁵ Morin, *supra* note 100.

laws, and territory in order to combat the forced assimilation.¹⁰⁶ Redress also includes reconciliation. The TRC states that reconciliation requires “hard work” at all levels of society, “personal action” to ensure the education of the new generations, as well as both “group action” and “community action” to “engage more fully in the dialogue about reconciliation” as a method of redress.¹⁰⁷ The redress process is not fulfilled by reading about the discovery of unmarked graves; it is about educating Canadians on why there are so many unrecorded deaths of children. The Truth and Reconciliation Commission believes that laws must change, policies must change, critical thinking must change, and that it would take “all Canadians” to reconcile the genocide.¹⁰⁸

There can never be enough redress for the Canadian Residential School Genocide, but fulfilling the 94 Calls to Action serves as an admirable beginning.

Image Sources

Marieval Indian Residential School, 1923 -

[https://en.wikipedia.org/wiki/File:Marieval_Mission,_Cowesses_Indian_Residential_School_in_Elcapo_Creek_Valley,_Saskatchewan,_1923_\(cropped\).jpg](https://en.wikipedia.org/wiki/File:Marieval_Mission,_Cowesses_Indian_Residential_School_in_Elcapo_Creek_Valley,_Saskatchewan,_1923_(cropped).jpg)

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Cree students and teacher at All Saints Indian Residential School, Saskatchewan, March 1945 -

<https://www.flickr.com/photos/lac-bac/14185268954>

¹⁰⁶ Bell and Friedman, *supra* note 54 at 665.

¹⁰⁷ Truth and Reconciliation Commission, *supra* note 55 at 364.

¹⁰⁸ *Id.*