

Gender, Women, and Truth Commissions: The Canadian and South African Truth and
Reconciliation Commissions

by

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BA, Queens University, 2011

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Supervisory Committee

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Abstract

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Truth and reconciliation commissions vary across geo-political context, depending on the social, economic, and political landscapes. In this thesis I compare how the truth and reconciliation commissions in Canada and South Africa vary in their approach to gender. If truth and reconciliation commissions (TRC) are venues to address past injustices, then the different gendered experiences of injustice need to be centred in the work of commissions. Yet, as I argue, the Canadian TRC has only minimally incorporated gender differences into its work, and while the South African TRC made women's experiences more central, it too did not fully address the impact of gendered forms of domination.

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Dedication

This Thesis is dedicated to my grandmothers, Norma Reid and Elaine Pidutti, who continue to guide me through all of my days.

CHAPTER 1

Introduction: Gender and Truth Commissions

Truth commissions have emerged globally as a strategy for societies responding to gross violations of human rights and major injustices. Whether a society has undergone a period of authoritarianism, dictatorship, civil war, apartheid, or colonialism, truth commissions have become an increasingly popular and receptive tool for addressing such atrocities (Sooka, 2009; Dal Secco, 2008; Valji, 2010; Nagy, 2008). Truth commissions also vary across geo-political context, depending on social, economic and political landscapes. In this thesis I compare how the truth and reconciliation commissions in Canada and South Africa vary in their approach to gender. If truth and reconciliation commissions (TRC) are venues to address past injustices, then the different gendered experiences of injustice need to be centred in the work of commissions. Yet, as I argue, the Canadian TRC has only minimally incorporated gender differences into its work, and while the South African TRC made women's experiences more central it too did not fully address the impact of gendered forms of domination.

The Canadian truth and reconciliation commission (TRC) was part of the Indian Residential School Settlement Agreement (IRSSA), which came into effect in 2006. Its aim was to address Canada's history of residential schooling, a system designed to "introduce Eurocentric culture and religion as a way to kill the Indian in the child" (Green, 2012, p. 133). The TRC of Canada has received an extensive amount of scholarly attention worldwide, emerging as a subject of interest and scrutiny in academic and policy-making environments (Flisfeder, 2010; Hughes, 2012; James, 2012; Jung, 2011; Nagy, 2012). While extensive criticism has been waged against the TRC, it has raised significant awareness across Canada about the residential school system as well as

its impacts on Aboriginal peoples. The TRC has brought together thousands of people, both Aboriginal and non-Aboriginal Canadians, uncovering countless stories, providing public education, displaying traditional ceremonies, among others, that has opened the doors to healing and reconciliation.

Yet, Robyn Green (2012) critiques the top-down approach to reconciliation adopted in Canada, because it frames the TRC as a “cure” to the Indian residential school (IRS) system and places unrealistic time constraints on achieving the TRC’s mandate. Courtney Jung (2011) argues that the precise problem of the Canadian TRC is “its conceptualization by the Canadian state as an instrument that draws a line through history, in effect finalizing or perfecting the colonial project rather than being part of a transformation and decolonization” (cited in Hughes, 2012, p. 102). Marc Flisfeder (2010) argues that the Canadian TRC’s mandate focuses “too much on truth and not enough on reconciliation” and therefore fails to build a bridge to reconciliation because “it does not address the many ripples that have flowed from the IRS system” (pp. 1-2). On a similar note, the South African TRC has been widely critiqued for expecting the ‘achievement’ of reconciliation, without actually determining what ‘reconciliation’ means (Hayner, 2011). In the final report of the South African TRC, respondents from the community of Duduza stated

Reconciliation is not an event. People cannot simply one day decide that they want to forgive and forget. Victims are not ready to engage in a reconciliation process unless they know more about what happened. They often say they are willing to forgive, but they need to know who to forgive and what they are forgiving them for (Hayner, 2011, p.185).

Across commissions, debates have arisen concerning how much focus ought to be on the truth, reconciliation, forgiving, and perpetrator accountability. Where the commission allocates its resources and priorities is a distinguishing factor in every truth commission. Central to the Canadian TRC's mandate is uncovering truths about what happened in the residential school system, whereas the South African TRCs focus swayed more heavily on reconciliation.

Much has been critiqued and studied about the Canadian TRC, but one arena of investigation still emerging is the gendered dimension of the TRC (Green, 2012; Jacobs and Williams, 2008; Smith, 2005; NWAC, 2010). In my investigation of the Canadian TRC, I use the South African truth and reconciliation commission (SATRC) as a comparative example of how another truth commission has attempted to mainstream gender throughout its workings, and draw out the lessons that can be learned for the Canadian TRC as well as future commissions. As a result of Canada's 'post-colonial' context, a number of unique factors are apparent relative to countries emerging from dictatorships, war, or apartheid, as we witness in the South African case. Of particular interest is the sheer difference in the political, economic, social, and cultural landscapes of Canada and South Africa. Canada's TRC is not tasked with establishing democratic institutions and foundations for society because, arguably, its policies and structures are already seen as democratic, whereas in the South African case, the push to establish democracy was central to all of their transitional justice mechanisms. As a result, the South African TRC approached its processes with a different set of goals, and therefore outcomes, than the Canadian TRC. Despite the burgeoning literature on Canada's TRC, the gendered dimensions of this institution of 'reconciliation' have remained under-

examined. The goal of this research is to fill this gap through a comparison between the Canadian and the South African TRC which has attempted to include within its mandate the gendered effects of apartheid.

This chapter provides a preliminary outline of the Canadian and South African truth and reconciliation commissions. I argue that both TRC's have failed to adequately address and challenge gender human rights abuse in a systematic way. This chapter highlights the literature more broadly on truth commissions, and considers contestations about the concepts of reconciliation, truth, and gender mainstreaming as the central organizing concepts of this research.

The Canadian TRC

The Government of Canada established the Indian Residential Schools (IRS) TRC in 2006, part of the court approved agreement between the parties that settled the class action lawsuit put in motion by survivors. Currently the TRC is preparing for its final National Event in Edmonton at the end of March 2014, with just over one year remaining in the mandate. The purpose of the TRC is to address the devastating effects that the IRS system had on Aboriginal communities across the country as well as to promote "continued healing" through an ongoing, individual and collective process (Flisfeder, 2010, p.1). The Canadian TRC is tasked with investigating and revealing past wrongdoing by the government in hopes of fostering healing and reconciliation. Conceptually, reconciliation is highly contested and debated among scholars (Coulthard, 2003; James, 2012; Dal Secco, 2008; Manjoo, 2008; Sooka, 2009; Green, 2007; Chrisjohn and Wasacase, 2009). I will devote specific attention to outlining how I intend to employ this concept under my literature review, but for now I approach reconciliation

as “developing a mutual conciliatory accommodation between antagonistic or formerly antagonistic persons or groups”(Hayner, 2011, p. 182).

Indian residential schools were part of a federal education system that "was a cooperative effort between the Canadian government and Christian church organizations" that reflected "genocidal intent" in deliberately exposing Aboriginal and Métis children to "abuse perpetrated with the explicit goal of eradicating Native ways"(Walker, 2009, p. 1; Bonner and James, 2011, p. 12). Originating as early as the 1830's, IRS were part of the Canadian government's larger colonial project which forcibly removed children from their homes and placed them in residential schools where students were subject to intensive assimilationist practices. Documented across the school system, Aboriginal children were prohibited from speaking their native languages, punished for practicing their traditional faiths, and exposed to extensive physical, mental and sexual abuse. Furthermore, the physical infrastructure and environment were "overcrowded and critically underfunded, leading to poor heating, sanitation and clothing, as well as high levels of malnutrition and exposure to contagious disease"(Walker, 2009, p. 7).

Due to the very complex nature of the IRS system and historical relationships between settler society and Aboriginal peoples, the Canadian TRC has been widely criticized for its narrow approach to the residential school 'problem', isolating the IRS system as a monolithic issue rather than approaching it holistically, consequently perpetuating a colonial relationship whereby settler society continues to dictate and shape the lives of Aboriginal peoples (Walker, 2009; Flisfeder, 2010). Although it remains too early to make any conclusive claims, the TRC's exclusive focus on the residential school system fails to stress the deeds, decisions and "forms of agency involved in operating it"

(James, 2012, p. 190). Several authors (Flisfeder 2010; Stanton, 2011; Jung, 2011), and Indigenous organizations including the Aboriginal Healing Foundation and the Native Women's Association of Canada, have put forward critiques concerning the TRC as an institution that has either focused too much on truth and not enough on reconciliation, or over-emphasized only symbolic forms of reconciliation without material changes in the unequal power relations between Aboriginal and non-Aboriginal peoples (Coulthard, 2007). In addition, Indian residential school survivor experiences are only one piece of the larger puzzle (Flisfeder, 2010). James argues the residential school experience moves beyond the individual experience and is about "specific Canadian acts and decisions, one made, in many cases, by still-living individuals and established, ongoing institutions" (James, 2012, p. 202). The Canadian settler majority "remains today as the overarching collective to whom the relevant institutions are answerable and responsible" (James, 2012, p. 202). Contrary to traditional Aboriginal teachings that *everything is interconnected and interdependent*, the TRC has, arguably, helped to define truth yet has failed to address the many ripple effects that have flowed from the IRS system, and therefore cannot build a bridge to reconciliation (Flisfeder, 2010; NWAC, 2010).

Building on these critiques, I consider how truth and reconciliation operates through, and has effects on, gender differences. I specifically examine how gender and the experiences of women are made both present and absent in the Canadian TRC. While discussions about gender appear in some aspects of the TRC, gender considerations are not widespread throughout all aspects of the commission, and as a result the commission does not provide the opportunity for persistent structural disadvantages to be challenged in a broader context. In exploring the gendered dimensions of the IRS system and

apartheid, I critique both commissions for failing to make gender and women central concerns to their work.

The South African TRC

The South African truth and reconciliation commission (SATRC) was established in 1995 in response to the atrocities that occurred throughout the apartheid regime during the period of 1960-1994 (Sriram and Pillay, 2009). The SATRC was mandated to focus on the “causes, nature and extent of the gross violations of human rights” committed throughout the regime in order to confront its painful history premised on extreme forms of racial and sexist abuse, killings, torture, and disappearances. The SATRC was also mandated to provide an environment where truths could be exposed, where victims could unburden their grief publicly, and “to receive from the new nation the collective recognition that they had been wronged” (Sriram and Pillay, 2009, p. 31). The SATRC completed its mandate in 1998, publishing five volumes and a substantial report with two additional volumes filed in 2002.

In South Africa, various policies were implemented before and during the apartheid to delegitimize Black people, including the creation of segregated residential enclaves and “influx control” and “pass” laws (Gurd and Manjoo, 2008, p. 80). These laws ensured the curtailment of all Black people, but further disadvantaged Black women as they were not seen as providers of cheap labor for the industrial sector, and therefore did not have the 'right' to live in urban areas, hence forcing them to live separately from their spouses and partners. These isolated reserves were overcrowded, with poor access to health and social services. The physical separation between husbands and wives

complicated the situation further, as women were almost always left with all of the domestic responsibilities while men living in urban centres often sought out new partners which led to fewer financial resources being sent back to wives living on reserves (Gurd and Manjoo, 2008). Those women who managed to live in urban areas also faced economic hardships, channeled into low-paying domestic work, or farm labor, or “the better paying but illegal activity of prostitution” (Graybill, 2001, p. 3). These two policies, along with a myriad of other discriminatory laws, functioned to normalize social, economic and political inequalities. The gendered dimensions of apartheid were widespread and continue to pose serious forms of abuse and inequality in contemporary South African society (CBC Mandela’s Legacy, 2013). While the SATRC raises issues around gender and gender specific violence in its final report, the gendered legacy of apartheid was not taken up substantively within the commission’s work and remains an issue to be examined.

Central Research Questions

In my investigation of the Canadian and the South African truth and reconciliation commissions I examine how each commission has approached gender and the experiences of women, and attempted to mainstream gender throughout their respective mandates, processes, and findings. My research will entail a textual discourse analysis of the mandates, the structure of the hearings and testimonials, Special hearings in the case of the SATRC, the Interim Report in the Canadian case, and the summary of the final report in the South African case. My hypothesis is that there is a lack of attention paid to gender and women as analytical focal points in both of the commissions, and that this

limits the likelihood of reconciliation, even on the terms of each TRC. Reconciliation attuned to gender is important as a strategy (among other strategies) to address and tackle underlying social inequalities. Truth commissions often have an impossible task, and in the face of resource limitations, time restrictions, and the immediacy of its work, it is an extremely difficult process to uncover the 'truth' and promote healing and reconciliation, inevitably becoming a selective process (Nagy, 2008). Despite these limitations, it remains integral to any commission's work to address the gendered nature of violence and human rights abuse in order to challenge underlying structures and institutions that continue to perpetuate gender inequalities.

I contend that in the Canadian context, the failure to adequately address the gendered dimensions of the colonial residential school history fails to capture and address the depth and complexity of the historical wrongs committed by perpetrators, and furthermore contributes to ongoing gender inequality, therefore providing no 'true break' from gender discrimination experienced both before and during the Indian residential school system. Because part of a truth commission's purpose is to expose and acknowledge the 'truth' of what occurred throughout the time period under question, a gendered lens is critical to exposing how the cultural genocide has disproportionately and differently affected Aboriginal females (women and girls) and Aboriginal males (men and boys), in order to open the doors to greater gender parity in the future (Manjoo, 2008; Woolford, 2009).

In my investigation I use the SATRC as a comparative example of how another truth commission has attempted to mainstream gender throughout its workings and draw out the lessons that can be learned for the Canadian TRC. One of the basic differences

between the Canadian and South African commission is the South African TRC explicitly attempted to focus on gender, whereas attention to gender in the Canadian TRC has been minimal thus far. Looking specifically at the Special Hearings for women established in SATRC, my preliminary investigation suggests that the SATRC has implemented a gendered lens within a truth commission's work in ways that actually exacerbate gender inequalities further. I conclude my project with recommendations relevant to the Canadian TRC and future truth commissions, with the goal of demonstrating the importance of centering gender equality within the work of such commissions. This gendering of TRCs, I contend, is critical because the Canadian TRC ultimately has the potential of shifting mainstream gendered-colonial perspectives deeply internalised in society. In summary, my central research questions are:

1. How does the Canadian truth and reconciliation commission approach gender in comparison to the South African truth and reconciliation commission?
2. Drawing on lessons from the SATRC, how might the Canadian TRC integrate a gendered lens to truth and reconciliation?

Methodology

A comparison of the Canadian and South African truth and reconciliation commissions will require a combination of primary and secondary sources. Rosemary Nagy (2008), Kim Stanton (2011), Jennifer L. Llewellyn (2008), Joan Fairweather (2006), Matt James (2010) among others, have all undertaken work which seeks to uncover similarities and differences across the Canadian and South African truth and reconciliation commissions. While there are inherent problems with the comparative

method in its capacity to sort out rival explanations, specifically, the problem of many variables, the comparative method presents strong analysis for a small number of cases (Collier, 1991).

A comparison between the Canadian and South African truth and reconciliation commissions is fruitful because both are distinct and compelling projects. The Canadian TRC was established in order to confront past atrocities, create a social space where all experiences can be shared and validated, and pave the way for a path towards reconciliation and healing (Dal Secco, 2008; Flisfeder, 2010). The South African TRC has been seen as a “model against which to measure, adjust, and improve transitional justice mechanisms around the world” (Villa Vicencio, 2009, p. 44). The SATRC continues to receive widespread attention by researchers globally, for its path breaking approach to its commission’s workings, including its public trials, granting amnesties, Special hearings for women, among others (Manjoo, 2008). Certainly, because of the sheer complexity of the apartheid regime and its multiple and interdependent layers of conflict, using its truth commission as a comparative case study to that of the Canadian TRC can be difficult. The Canadian TRC presents a unique case because it is an established ‘democracy’ where systematic abuse remains unresolved. In “Uncomfortable Comparisons: The Canadian Truth and Reconciliation Commission in International Context”, Matt James argues that although there are inevitable questions of appropriateness of comparing Canada, a developed G8 country, “with countries that, on factors such as GDP, economic structure, legal developments, and constitutional history, are so marketably different”, the Canadian case presents similar obstacles in its

commission's work to those less developed countries emerging out of civil war or authoritarianism (James, 2010, p.24).

In all cases, far too often transitional justice mechanisms, including truth commissions, are implemented with little regard for the “distinct and complex injuries women have suffered” (Nesiah, 2006, p. 1). But despite obvious differences between the Canadian and South African truth and reconciliation commissions, these commissions share similarities and intersections that when analyzed together have the potential to provide lessons for future truth commissions on how to adequately encompass gender informed 'truth and reconciliation'. Gender “refers to the socially constructed differences between men and women and the unequal power relationships that result”(Nesiah, 2006, p. 3). According to the International Centre for Transitional Justice “gender indicates that the differences between men and women are not essential or inevitable products of biological sex differences” (Nesiah, 2006, p. 3). The politics of gender also takes into consideration relational aspects, specifically how the gendering of men affects the gendering of women, and vice versa. According to Goldblatt and Meintjes (1996) “the purpose of emphasizing gender relationships is to highlight the particular manner in which women have been subordinated and oppressed through socially constructed differences”(Goldblatt and Meintjes, 1996).

In making a comparison, I review the current literature concerning feminist perspectives within Canada and South Africa, including scholarly research by Aboriginal women and South African women (Stanton, 2011; Smith, 2007; Jacobs and Williams, 2008; Mercer, 2011; Russell, 2010; Borer, 2006; Graybill, 2001; Driver, 2005; Nagy, 2008). In my examination of the Canadian and South African TRCs I deploy textual and

discourse analysis of relevant primary sources. According to Foucault's *The History of Sexuality*, "discourses are tactical elements or blocks operating in the field of force relations; there can exist different and even contradictory discourses within the same strategy; they can on the contrary, circulate without changing their form from one strategy to another, opposing strategy" (1990, p. 101-2). Discourses will vary according to "who is speaking, his[sic] position of power and the institutional context in which he happens to be situated" (Foucault, 1990, p. 100). In this project, discursive elements should be conceived as a series of "discontinuous segments whose tactical function is neither uniform nor stable" (Foucault, 1990, p. 100). Texts can be seen as parts of social events; one of the ways in which individuals can "act or interact in the course of social events is to speak or to write"(Foucault, 1990, p. 100). Bodily performance, linguistic performance, physical movements can all shape a text. Norman Fairclough argues "texts themselves have causes-factors which cause a particular text or type of text to have the features it has" (2003, p. 22). Furthermore, 'power' can shape texts, those "social structures, social practices and social agents; the people involved in social events" (Fairclough, 2003, p.22). Because of the work of power, my discourse and textual analysis is neither neutral or objective, but interpretative of primary and secondary sources. In this project I specifically examine both TRCs websites, material collected in the testimonies and/or hearings, and the Interim Report (in the Canadian case) and the summary of final report (in the South African case), as texts, in order to assess how women's perspectives were present or omitted from each of these major components of the TRCs. As well, since the Canadian TRC is still in progress, I will draw on texts by the Native Women's Association of Canada and Aboriginal Healing Foundation, which have

been instrumental in highlighting the concerns of Aboriginal women in the truth and reconciliation commissions work, and have produced numerous reports and scholarly research, which I will examine in this project.

Theoretical approach

I am mindful that as a young white female in Canada, and with a Western education, I am speaking to issues without situated knowledge; rather, I am discussing issues through the analytical tools developed by intersectionality scholars and Indigenous feminists. My interpretations of feminism are shaped by my identity and, therefore Aboriginal women and South African women will reflect different interpretations and produce different findings. I attempt to be sensitive to the complexities of my personal biases, recognizing that I do not wish to speak for or be representative of Aboriginal women in Canada or Black women of South Africa.

In this study, my work aligns with the principles and values offered by an Indigenous feminist theoretical lens and feminist theories of intersectionality. In a broad sense, feminist scholars and advocates have highlighted how women's identities and status as 'wife/mother/daughter/chattel' and so on, are entrenched in patriarchal societies, informing dominant beliefs and expectations in society, as well as legal and political systems (Manjoo, 2008). Rashida Manjoo (2008) contends that gender roles are designated to men and women through traditional practice, social constructions of difference, power dynamics, and sexual stereotypes; the result is that women are not seen as individual human beings and instead reduced to embodiments of another's identity, and tend to be vulnerable targets in conflict or a cultural genocide (Manjoo, 2008; Nagy,

2002). In a similar vein, Aboriginal feminist scholars (Jacobs and Williams, 2008; Green, 2012) argue that “patriarchy is inherently connected with colonialism which forcibly regulated and attempted to eradicate Indigenous women's bodies and knowledge and dispossessed all Aboriginal peoples from their land” (Dhamoon, 2013, p. 96). In settler societies, like Canada, Indigenous feminists have “identified the impact of genocide and continuing forms of colonialism by addressing such issues as the disproportionate rates of violence against Indigenous women, Indigenous methodologies, and Indigenous women's resistance” (Dhamoon, 2013, p. 96).

These intersections of gender and colonialism can be theorized through intersectionality. Ange-Marie Hancock (2007, p. 64) specifies that intersectionality is based on the idea that “more than one category should be analyzed, that categories matter equally and that the relationship between categories is an open empirical question” (Dhamoon, 2013, p. 103). Furthermore, as noted by Dhamoon, intersectionality scholar Kimberle Crenshaw (1989, 1991) analyses how a “combination of various oppressions work together to produce something unique and distinct from any one form of discrimination standing alone” (Dhamoon, 2013, p. 103). Through the examination of colonialism, racism and sexism, intersectionality and Indigenous feminisms can expose how women and girls experience varied and variable effects in their relationship(s) to colonialism and therefore work towards the eradication of patriarchy. The ideological position, the analysis and the process of Indigenous feminism explores the “unpleasant synergy” of colonialism, sexism, and racism; three violations of human rights” (Green, 2007, p. 20).

An Indigenous feminist theoretical approach would foreground their analysis on the impacts of Western colonial patriarchy. Intersectionality scholars acknowledge that more than one aspect of power matters. In keeping with these two perspectives, I frame my analysis by assessing how designated gender roles make women and girls “vulnerable targets, both in times of peace and during armed conflict” (Manjoo, 2008, p. 137). The resulting effects include invisibility and underrating harms suffered by women, and girls obscuring justice, accountability, and healing. In utilizing some of the tools found in a feminist approach in my research, I seek to shed light on the experiences of Aboriginal women and girls during times of struggle, conflict or where human rights have been compromised, so as to contribute to the work done by women in illuminating a broader, more inclusive picture of the atrocities experienced by Aboriginal communities. Bringing gender justice to the core of national and international struggles through the implementation and practices of truth and reconciliation commissions can open the door for more transformative events for women and affected communities, reconceptualising dominantly held gendered roles and experiences both within Aboriginal communities and mainstream societies. Rosemary Nagy argues "truth commissions generally operate on the basic assumption that reconciliation is dependent upon the full knowledge and acknowledgement of atrocities on both sides of the conflict" (2008, pg. 324). In order for reconciliation to be more realizable, an inclusive environment for all voices and experiences to be heard must be provided.

In a broad sense, a feminist perspective includes the idea that truth is multifaceted in nature, rather than starting from the notion that there is a 'universal truth' (Kashyap, 2009). A feminist perspective is based on the premise that “the experience of all human

beings is valid and must not be excluded from our understandings”, something that most TRCs adopt in their principle objectives (Kashyap, 2009, p. 459). Feminism does not have one singular definition, but instead should be considered a body of work, a set of theoretical perspectives, and a set of political positions that allows for women to consider political and social conditions differently than dominant malestream perspectives (Kashyap, 2009). Feminisms do not always find agreement amongst each other, and further will not always examine the same issues. For example Indigenous feminists will examine racism and anti-colonialism, whereas western euro-centric or mainstream feminisms may not be so inclined to examine issues of race or colonialism, rather focus on issues of workplace equality. Grace Ouellette (2002) examines specifically the differences between Aboriginal women’s concerns and euro-Canadian/American feminist theories. Ouellette reinforces Aboriginals women’s emphasis on spirituality with regard to womanhood, and givers of life, as necessary for future generations, whereas feminist theories “tend to degrade women’s roles in societies, especially reproductive roles” (Ouellette, 2002, p. 87). Therefore feminism should be seen as an ongoing process, shifting and responding to changing social, political and economic conditions (Green, 2007).

Indigenous feminism more specifically, “contests the myths and justifications of the economic and political status quo of settler states and demands restitution, self determination and participation in political and economic activity”(Green, 2007, p. 22). Furthermore, Green argues that Indigenous feminism “provides analysis of Aboriginal women’s particular experiences of oppression, and it offers some prescriptions for a post-colonial future”(Green, 2007, p. 26). Indigenous feminism looks both at “the genesis of

colonialism and its consequences, and at the internalization and perpetuation of colonial practices within Aboriginal communities, especially male dominance over women and children” (Green, 2007, p. 23). Indigenous feminism examines “how the state is fully implicated in the violence that continues to persist in Indian communities today, through its construction and implementation of the Indian Act that continues to strip Indigenous women and children of basic rights” (Monture-Angus, 1995, p. 178).

Although a feminist lens may be valid for many Aboriginal communities, some Aboriginal women such as Monture-Angus (2005) and Turpel (1993) contest a core foundation of feminism: the claim that “male domination is universal” (Denis, 2007, p. 37). As cited by Denis (2007, p. 37), Monture-Angus (2005) argues that not all Aboriginal communities have a history of gender inequality, and in fact, Aboriginal women occupied and continue to occupy positions of “authority, autonomy, and high status” in their communities. Although there are various critiques of Indigenous feminist perspectives by Aboriginal women themselves, and this lens may not be applicable to all Aboriginal communities, this theoretical lens offers an alternative way of understanding how “inequality and unequal social, political and economic relations have been justified, rationalized, and practiced within European institutions,” and continue to shape and position the lives of Aboriginal peoples (Denis, 2007, p. 43). I do not wish to homogenize all Aboriginal women and their experiences into a single group, however, for the purpose of this project I utilize the tools offered by an Indigenous feminist perspective in framing my arguments in order to examine that although not all, an overwhelming majority of Aboriginal people have historically experienced some degree of socialization into Christianity as well as “incorporation into the patriarchal capitalist political economy and

education system” and therefore are subject to “western ideologies of gender identities and relations” (Denis, 2007, p. 41).

Feminism is distinct from several other theoretical and practical approaches in that “it highlights the significance of personal narratives, lived experienced, subjectivity and political praxis” (Dhamoon, 2013, p. 89). In relation to the study of truth and reconciliation commissions, revealing the diversity of experiences and voices is central to understanding what happened within the time period under examination, ensuring non-repetition, and paving the way for a nation to move forward peacefully and harmoniously. Through the exposure of individual and group experiences, a commission is capable of witnessing how relationships have changed and intersected across time and space with the objective to produce an inclusive history and provide a list of recommendations that challenge where inequalities and disadvantage are rooted. In the absence of including a range of diverse experiences, issues of sexist-colonialism will go unaddressed.

Literature Review

Truth and Reconciliation Commissions

"Truth commissions have over the past two decades expanded from limited institutional origins just a step beyond commissions of inquiry, to bodies that today are expected to deliver a range of social goods not just for victims, but for post-conflict societies as a whole: documenting history, encouraging reconciliation, providing public acknowledgement for victims, social sanction for perpetrators", and "providing a blueprint for legislation, policy and practice which address the root causes of the conflict

and give impetus to the transition towards democracy and good governance"(Valji, 2010, p. 15). I will argue that this blueprint requires critical attention on the gendered dimensions of the colonial forces that are relevant to the IRS as well as the apartheid regime in South Africa.

Nahla Valji (2010) describes the development of truth commissions over the course of the past twenty-five years in order to chart how much this institution has changed since initial implementations or 'first generation' truth commissions in South America (Valji, 2010). Although in the Canadian context 'post-conflict society' does not accurately describe the historical events under examination, and furthermore Canada is not undergoing a transition from a form of authoritarian rule to a democracy, its truth and reconciliation commission remains a vital institution in uncovering past atrocities and constructing ways in which communities and peoples seek to develop new kinds of relationships (Hughes, 2012; Jung, 2011). Truth commissions and truth telling bodies have become increasingly relevant strategies for responding to past human rights abuses, due in part to the judicial system's inability to deliver justice and "their intrinsic limitations in redressing grievances and reconciling social divisions" (Dal Secco, 2008, p. 68). Truth commissions are multi-purpose institutions tasked with individual as well as communal, and nation-wide healing processes, ultimately paving the way for the respective nation to restore relations and move forward peacefully. In the Canadian context, the TRC is seeking to reconcile relationships between Aboriginal communities and settlers/non Aboriginal Canadians. Recognizing and acknowledging the historic and ongoing impacts of the IRS system, the truth and reconciliation commission fosters an environment where Aboriginal peoples and communities can come together and share

how the residential schools have affected them directly or indirectly. In an attempt to construct new pathways forward, the Canadian TRC must recognize and examine the gendered effects of IRS and colonialism. Failing to recognize the forces of gender limits how we understand the establishment, operation, and aftermath of the residential school system providing a narrow window to address the continuities of colonialism.

A truth commission encapsulates various characteristics and purposes that will significantly vary depending on the historical context, political landscape as well as social, economic and cultural factors (Pankhurst, 2008). For example the Canadian truth and reconciliation commissions focus on Indian residential schools is different than the South African truth and reconciliation commissions focus on apartheid. Despite the fact that each respective commission focuses on a struggle and/or conflict, the conditions that defined the struggle distinguish their approach, processes, and findings. Priscilla Hayner, argues truth commissions will have inherent limitations in their work (2011). Truth commissions “cannot put anyone in jail, they cannot independently enforce their recommendations, and most have not had the power even to compel anyone to appear for questioning”(Hayner, 2011, p. 13). In the Canadian case, the power of the truth and reconciliation commission does not include holding formal hearings, subpoena powers, or naming names (Stanton, 2011). In the case of South Africa, the TRC had far more extensive powers, including subpoena and search and seizure powers, but was limited in understanding and including all abusive practices under apartheid, such as forced removals, which forcibly relocated millions of Blacks to barren lands (Hayner, 2011). Conceptual limitations played an instrumental role in the South African TRC that seriously limited the forms of abuse and experiences men and women disclosed in public

hearings. This will be discussed in greater depth in Chapter 3. A truth commission's breadth and flexibility are its strengths and play a fundamental role in distinguishing between the impacts of commissions (Hayner, 2011, p. 13).

Although they often take distinct forms, seeking different types of information, truth commissions are temporary bodies set up by governments, which focus on the past, investigating a pattern of abuses within a given period of time, rather than a narrow focus on a specific event. TRCs are "officially sanctioned, authorized, and empowered by the state" enabling the commission to gain access to often times confidential information, or information that was kept private throughout the period of conflict, as well as ensuring that recommendations and findings submitted in the final report are taken seriously and proceeded with caution and respect (Pankhurst, 2008, p. 11). Furthermore, truth commissions seek to acknowledge and clarify the 'truths', respond to the needs and meet the rights of victims and/or survivors, contribute to and promote justice, accountability, and reconciliation, to moderate tensions resulting from past violence, and outline institutional responsibility and summarize recommended reforms (Pankhurst, 2008; Dal Secco, 2008; Manjoo, 2008). In establishing a truth commission, defining its terms, and decisions about its composition should take into account a broad set of actors, organizations, and public consultation, where the views of victims and survivors are especially sought (Hayner, 2011). The final report produced by the truth commission "reclaims a country's history and opens it up for public review" (Hayner, 2011, p. 20). Chapter 4 will provide a more in depth discussion on how various components of truth commissions can address issues of gender in their work.

Reconciliation

Reconciliation is a major component of a TRC's work. Although conceptually quite complex and multi-layered, reconciliation in the Canadian and South African TRC's share similar approaches (James, 2012). Archbishop Desmond Tutu, chair of the South African Commission conceptualized reconciliation in a non-institutional and interpersonal fashion that emphasizes “understanding between former antagonists and forgiveness of wrongdoers by victims” (James, 2012, p. 194). Tutu's definition differs from the one adopted by the Canadian TRC: the Canadian TRC's vision of reconciliation lends more weight to the political reconciliation of Aboriginal and Canadian governance systems rather than understanding forgiveness (James, 2012). Furthermore Courtney Jung (2011) argues that the precise problem of the Canadian TRC is its “conceptualization by the Canadian states as an instrument that draws a line through history, in effect finalizing or perfecting the colonial project rather than being part of a transformation and decolonization” (cited in Hughes, 2012, p. 102). Chairperson Murray Sinclair for the Canadian TRC consistently sees reconciliation in terms of interpersonal understanding and forgiveness, an approach that reflects a victim centred approach (James 2012, p. 194).

Victim centred approaches “treat truth as a multifaceted and deeply experiential reality that is best approached by hearing the diverse voices of survivors of state inflicted trauma on their own terms” (James, 2012, p. 185). While diversity exists within victim centred approaches, as one could witness in the South African TRC use of public hearings, “victim centred commissions are distinct from perpetrator centred approaches in gathering and conveying truth” (James, 2012, p. 185). Contrary to victim centred

commissions who focus on the voices and experiences of victims, perpetrator centred approaches focus more heavily on “witness testimony to ascertain the deed, conduct and levels of responsibility of perpetrators” (James 2012, p. 186). Perpetrator centered commissions are distinct from victim centred approaches in their emphasis on “determining questions of wrongdoing and responsibility”(James, 2012, p. 186). Reconciliation in victim centred commissions emphasize “first, the emotional need for understanding and support of individual residential school survivors, and, second, the remarkable power of the decision to forgive, which can only come from individual survivors and victims” (James, 2012, pp. 194-5).

The Canadian TRC would be described as a victim centred commission because of its overwhelming emphasis on and respect for the victims’ experiences, health, and safety (Stanton, 2011). A victim centred approach provides fertile grounds for recognizing the differences in the experiences and forms of suffering experienced by men and women, boys and girls, enabling a richer understanding of the gendered nature of colonialism and the IRS system. A victim centred commission tells the stories of the victims, and avoids downplaying individual and group experiences, a common feature in perpetrator centred commissions. On a related note, the overwhelming focus on the knowledge and stories of residential school survivors avoids specific Canadian acts and decisions that led to the establishment and maintenance of a system of ‘cultural genocide’ (James, 2012; Schissel and Wotherspoon, 2003). James argues that “a more widespread understanding of the actions and decisions of Canadian institutions and individuals in relation to the schools- as opposed to a highly individualized focus on specific abusers or a broadly generalized one on faceless ‘past policies’- might promote more informed debates about

contemporary Indigenous-Canadian relationships in such areas as child welfare, and education”(James, 2012, p. 202-3). One must remain cautious in prescribing a victim-centred approach that fails to include the broader institutions and structures that have and continue to impose disadvantages for the victim/survivor group. The victim centred approach in the Canadian context, Stanton argues, acknowledges that “previous legal mechanisms have caused grief and pain to survivors”, and operating in a non-adversarial manner avoids repeating “the perceived difficulties encouraged with public inquires in the past, where adversarial processes overtook the substance of the inquiry”(Stanton, 2011, p.5).

In “Half-Truths and Whole Lies: Rhetoric in the ‘Apology’ and the Truth and Reconciliation Commission” Chrisjohn and Wasacase (2009) argue that “before two parties can *reconcile* they must, at some earlier time, have been *conciled*; that is, two distinct parties independent and moving in their own directions for their own reasons, meet, share, and decide to make their independent ways forward into a single, combined effort” (p. 199). Chrisjohn and Wasacase (2009) argue that reconciliation is misused in the Canadian and South African cases because it assumes that there was conciliation prior to the struggle between the respective parties that seek to reconcile. Therefore reconciliation, Chrisjohn and Wasacase (2009) argue, “is an attempt to insinuate a revised and bogus history of Indian/non-Indian relations in Canada”(p. 199). Reconciliation, in this light, does not fit the cases under examination because it is presumed that Aboriginal peoples and Black communities were independent in their ways in moving forward as a people and in fact European settlers imposed a very strong agenda of domination upon their arrival.

In “Reconnecting: Women and Reconciliation in Australia”, Julie Matthews and Lucinda Aberdeen conduct several interviews with Australian Indigenous women, whose responses point to the overwhelming demand for the country to reconnect “to kin, to culture, to sharing and learning” (2008, p. 94). The women interviewed approached reconciliation as a form of reconnecting and belonging “to the soul and spirit of this place and this nation”; they also emphasize formal acknowledgment of what happened in the past, and “reconciling Indigenous women with their heritage and reconnecting all women with women issues”(Matthews and Aberdeen, 2008, p. 94). Although Matthews and Aberdeen are focusing on the Australian case, many parallels can be drawn between what reconciliation means to Australian Indigenous women, Canadian Aboriginal women, and Black South African women. Reconciliation ought to be “a way of life” that works at all levels in all enclaves of the nation (Matthews and Aberdeen, 2008, p. 94).

In the chapter ‘Truth and Reconciliation Commissions and Gender Justice’, Alessandra Dal Secco (2008) argues that when reconciliation is conceptualized in terms of restorative justice, “this entails opening up new spaces for identities and values, building new social relationships, based on equality and respect, and laying the foundations for peaceful co-existence” (p. 68). Restoring relationships in accordance with equal dignity, respect and concern is part of the core foundations to reconciling a people or a nation (Dal Secco, 2008; Llewellyn, 2006). Jeong and Lerche (2002) argue truth telling and recognition of harm “do not serve reconciliation in a linear progression as it does not satisfy the demand of the victim for justice”(p. 68). Furthermore, Jeong and Lerche (2002) argue reconciliatory processes must ensure equality in social relationships in addressing structural inequalities and narrowing social divisions (Dal Secco, 2008).

The Canadian TRC has been criticized for its over emphasis on truth, and its failure to consider the breadth of reconciliation that is at stake (Flisfeder, 2010). The Canadian TRC's emphasis on statement gatherings and its lack of clarity in its conceptualization of reconciliation, has brought truth seeking to the center of its project. Critics are skeptical of this approach, due in part to the over emphasis on truth stemming solely from the Aboriginal community, and due in part to the lack of emphasis on holding institutions and perpetrators accountable (James, 2012; Flisfeder, 2010). National events have organized particular events calling individuals, both Aboriginal and non-Aboriginal, to describe what they perceive reconciliation to be. While commendable, it is difficult to imagine what reconciliation would look like in the Canadian context.

Alternatively, the South African TRC encouraged an expectation among the public that "reconciliation could and would actually be reached in the course of the commission's mandate" (Hayner, 2011, p. 183). Posters displaying 'The Road to Reconciliation' were widely used in the TRC hearings, encouraging an environment of forgiveness (Hayner, 2011). Towards the end of the SATRC work in 1998, "the press and public were overtaken by the realization that widespread reconciliation had not in fact been won"(Hayner, 2011, p. 184). The commission was said to have encouraged an atmosphere "that provides a forum for storytelling, for revealing the truths, for holding the perpetrator accountable, for reparations, remorse, and forgiveness"(Hayner, 2011, p. 184-5). In this way, the commission set an expectation of reconciliation throughout its mandate, however, upon criticism changed its slogan to the promotion of reconciliation, rather than its achievement.

Despite the conceptual differences in ‘reconciliation’, a truth commission’s primary task remains driven by uncovering what happened during the period under examination. The reconciliation process should focus on equality in social relationships by addressing structural inequalities (Dal Secco, 2008). Failing to address the diversity of experiences women and girls faced during the period of abuse limits the possibility of understanding, forgiveness, and reconciliation (Dal Secco, 2008; James, 2012). This study examines how the respective truth and reconciliation commissions treated gender and issues of gender equality throughout their work. Through truth telling mechanisms, individuals and groups have the potential of gaining recognition for the harms experienced, for the trauma suffered, and for the pain caused. Recognizing individual or group gendered experiences can begin to pave the way towards building healthy and enduring relationships. Reconciliation becomes possible when victims or survivors are both heard and recognized for their experiences in struggle, and when system processes of gendering are addressed. In addressing various forms of inequalities through individual testimonies, such as those structural inequalities that often fall under the radar, relationships, identities, and institutions have the potential to undergo a re-evaluation and reconstruction in a sustainable fashion towards a greater recognition of gendered human rights abuses.

Truth

Truth seeking projects have been widely criticized for their highly subjective nature (Dal Secco, 2008). Truths will vary from victim to victim, and across the wide spectrum of perpetrators, therefore a truth commission is tasked with unveiling a wide range of 'truths'

and arranging such truths in a fashion that fosters reconciliation and peace. As feminists have noted, 'truths' are not gender-neutral, universal, or unified (Nesiah, 2006). Truth commissions need to be attentive the ways in which power relations marginalize different types of truths, and avoid generating a set of truths that silences other types of truths that have been historically suppressed. While there has to be a system whereby truths are organized in a way that can encapsulate the entirety of the story, 'truths' must also be valued equally in order for reconciliation to be possible. Truths ought to be understood as emerging from a particular context "where some perspectives and experiences have been excluded from the dominant understandings of the historical record" (Nesiah, 2006, p. 7). Making space for new truths that have been historically marginalized in the public sphere, commissions can highlight previously suppressed truths and contest dominant truths (Nesiah, 2006).

Truth and reconciliation are sometimes placed equivalently in a commission's prospective goal. In some commissions, notably the Chilean and South African contexts, reconciliation, arguably, was of greater importance in the "massive economic exigencies in South African and the continued standing of the military in Chile," making it imperative "in both countries to tread carefully around perpetrator concerns" (James, 2010, p. 32). Furthermore in the South African context, the TRC's empowering Act, the Promotion of National Unity and Reconciliation Act of 1995, provided a complex and sophisticated mandate that combined "carefully balanced powers, and an extensive investigative reach"(Hayner, 2011, p. 27). Although extensive powers were at its disposal, including search and seizure powers, the South African TRC was reluctant to use its strong powers due to fear of violent reactions. In the South African case, the

commission's search for truth was constrained. Emphasizing reconciliation can sometimes compromise other central goals of the commission, including its search for truth.

The idea of valuing truths amongst differently situated individuals and groups is crucial to my analysis. Since I specifically focus on gender in my analysis, men and women, as well as boys and girls, must feel that their voices are equally significant to establishing the truth, and constructing an inclusive history which values all of their voices in a meaningful way. A report released in 2006 by the UN Office of the High Commissioner for Human Rights outlines that "victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims' fate"(Hayner, 2011, p. 24). Although truth and reconciliation commissions face inherent limitations, they ought to expose the greatest depth of truth possible, including motivations for the conflict, causes that led to human rights violations, and abuses, in order to not only begin victim and survivor healing, but more broadly "evaluate institutional responsibility of abuses, and to outline the reforms needed to prevent further abuses" (Hayner, 2011, p. 23). Exploring the diversity of truths, especially within historically marginalized and vulnerable groups, enables critical examination into those institutions and root causes that maintain disadvantages.

In *Unspeakable Truths*, Priscilla Hayner examines the development of truth commissions and offers a comparative analysis around the world (2011). Although there is no single definition of what constitutes a truth commission, these institutions all have specific mandates to fulfill within their given time frame. The framework and scope of

the mandate will ultimately define what truth is going to be documented. The commission's powers, investigative reach, timeline, subject matter and geographic scope and information management are all going to shape what 'truth' is produced in the respective truth commission (Hayner, 2011). The Canadian TRC focused heavily on statement gathering in its work. At every event, national or regional, the Canadian TRC provided the opportunity for individuals to come forward to share truths and experiences of the Indian residential school system as well as its impacts. Truth in the Canadian case is of utmost importance in paving any path to reconciliation. Alternatively, the South African commission granted individual amnesties for politically motivated crimes committed during the period of 1960-1994. For gross violations of human rights, "the applicant was required to appear in a public hearing to answer questions from the commission, from legal counsel representing the victims or their families, and directly from victims themselves" (Hayner, 2011, p. 29). In the South African context, some of the truths were motivated by amnesty. In describing their involvement in past crimes, applicants had the potential of gaining amnesty, however, "given the detailed public disclosure that was required to gain amnesty for the most brutal crimes, it was clear that this truth-for-amnesty offer would only be taken up by those who reasonably feared prosecution"(Hayner, 2011, p. 29). The commission received approximately 7, 115 applications for amnesty and 1,167 people were granted amnesty (Hayner, 2011). Similar to the Canadian context, the South African TRC established hearings, both public and private, where individuals could uncover their truths, however, as I have argued elsewhere, the Canadian context focuses more heavily on the search for truth, whereas the South African context is focused more on reconciliation.

In any case, defining the truth will be a contentious endeavour (Hayner, 2011). Although it is inevitable that certain stories, experiences and truths will be omitted in the commission's work, it is important that a truth commission uncover a broad range of abuses and human rights violations in order to move beyond periods of abuse and/or authoritarianism. Acknowledging that truth is multifaceted, partial, contested and a matter of historical struggle is important in the truth commissions search for and understanding of truth (Nesiah, 2006). Flexible truth commissions have begun to examine a broader range of rights, "asking how and whether to address economic, social, and cultural rights" (Hayner, 2011, p.77). Truth commissions provide an environment where historically suppressed truths can be revealed. Through a gender mainstreaming approach, various truths can be highlighted in the national narrative.

Gender Mainstreaming

In 'Gender Mainstreaming: A Five-Country Examination', Olena Hankivsky argues gender mainstreaming "is a globally accepted policy strategy that promotes the assessment of institutions, legislation, policies, and programs to determine their potential or real gendered impacts with the ultimate goal of advancing gender equality"(Hankivsky, 2013, p. 631). Sylvie Walby makes a case for gender mainstreaming "as one of the most successful tools of the last generation for ensuring that gender perspectives and the goal of gender equality are central to all activities within government and organizations" (cited in Hankivsky, 2013, p. 631). One of the central goals of gender mainstreaming is to "transform the mainstream and engender gender

equality- for both women and men- across all policies and programs”(Hankvisky, 2013, p. 632).

Gender mainstreaming becomes challenging in comparative research due to inconsistencies in meanings related to ‘gender’, ‘equality’, and ‘mainstreaming’, how they are used, understood, and contested (Hankvisky, 2013). In addition to conceptual complexity are diverse approaches, trajectories and advances in “recognizing and addressing gender equality, and the various historical, cultural, political, policy, and language contexts in which gender mainstreaming has been operationalized”(Hankvisky, 2013, p. 632). A commitment to gender mainstreaming will depend heavily on the government’s commitment to gender equality, which is highly volatile to changing political landscapes. In relation to truth commissions, a gender informed approach in all stages of the commission’s work allows for the potential to challenge underlying social, economic, and political inequalities. In treating gender as a cross cutting theme throughout the everyday functions and ensuring that “everything it does supports the attainment of equality between the sexes,” a truth commission has the capacity to foster an environment outside of the commission which welcomes gender parity (Whitbread, 2005, p.41). Although the recommendations put forth by truth commissions are not always legally binding, recommendations informed by a gender sensitive approach can foster greater efforts in the state’s commitment towards gender equality.

Following Pankhurst (2008, p. 10), I argue that both the Canadian and South African truth and reconciliation commissions sought to reconcile relationships between the respective dominant and minority cultures and communities, but failed to address gender in a substantive way. Since the Canadian TRC is still underway, I cannot argue

that gender will not be a component of the final report, but all indications of its work thus far suggest it will be a marginal issue. On the other hand the South African TRC did incorporate Special Hearings for women which was significant for acknowledging that the experiences and sufferings of women differed from those of men; however, their implementation and structure of the Special Hearings were not gender sensitive in that they did not uncover the true experiences and roles of women and girls, but rather underrated the gendered and socioeconomic ramifications of apartheid.

I provide a more in depth discussion of gendered violence and its implications, specifically concerning females in a section that follows, however, it is worth noting that because violence is gendered in nature, a nation is incapable of reconciling relationships without focusing on different questions and experiences faced by males and females, both individually and collectively. The IRS and apartheid systems both exhibited gendered violence. Embedded meanings underpinned and governed the South African TRC in a way that naturalized and embedded the continuities of violence against women (Gurd and Manjoo, 2008). In the Canadian context, Aboriginal girls and women experienced destructive violence based on traditional colonial beliefs of gender that perpetuate gender and racial inequalities today. Establishing an accurate record of human rights violations must involve a public forum for all parties to participate, giving voice to a broad range of gendered and racialized actors and identities, and examining patterns of political violence in order to “unveil the root causes of the conflict and the structural socio-economic conditions, cleavages, and tensions which underlay it” (Dal Secco, 2008, p. 68). Rosemary Nagy (2008) examines when, to whom, and for what transitional justice applies. In her examination, Nagy argues that, in truth commissions, violations of human

rights are predominantly framed in terms of civil and political violence, with the effect of placing structural violence and social injustice in the background of truth and reconciliation (Nagy, 2008). It is not until very recently that it has become evident that “women and gender have been glaringly absent from transitional justice programmes. Masculinist determinations of the transitional problem have centred on political violence with an emphasis on ‘extraordinary’ violations of civil and political rights” (Nagy, 2008, p. 285).

Human rights violations involve numerous forms of violence. Most apparent is physical violence. However, other forms of violence including socio-economic, psychological and structural inequalities can disproportionately affect one group more than another. With regards to this project, evidence in both Canada and South Africa points to how structural violence and inequalities often affect women more than men (Pankhurst, 2008; Jacobs and Williams, 2008). For example in Canada, the *Indian Act* imposed laws which enforced patriarchy and coerced Aboriginal women to “conform to the regiments and edicts demanded by local missionaries and Indian agents in present day eastern Canada” (Jacobs and Williams, 2008, pp. 121-2). Indian women were stripped of their legal rights, and subjugated through regulations where women's position and traditional roles were compromised and identities were controlled by their husbands or fathers (Jacobs and Williams, 2008).

Former President of the Native Women’s Association of Canada (NWAC), Beverly Jacobs, and Andrea J. Williams, who have worked in Aboriginal communities and organizations for over twenty years, discuss the “current vulnerability of Aboriginal women and youth” with direct correlation to the impacts of colonization, “including the

residential school system as well as the social environments that created it” (2008, p.121). They note that the residential school system in Canada destroyed “culture, language traditional values, family bonding, life skills, self respect, and for many, respect for others”(Jacobs and Smith, 2008, p.126). As a result, Aboriginal women are confronted with underlying issues of safety and survival in their daily lives (Jacobs and Williams, 2008; Smith, 2003). The residential school experience led to a long series of detrimental effects for students as well as their families affecting family bonding, life skills, parenting skills, self respect among others (Jacobs and Williams, 2008). Jacobs and Williams argue that “family bonds normally created as a result of nurturing and loving relationships were not part of the residential school experience,” and this has altered the relationships between everyone and everything (2008, p. 126). Due to the loss of language, Aboriginal girls who attended residential schools could not communicate with their mothers and grandmothers in their traditional ways, and were deprived of traditional roles as “caregivers, nurturers, teachers, and family decision makers” (Jacobs and Williams, 2008, p. 126). Residential school attendees were specifically deprived of learning through observation and interaction, and as a result emotional bonds between children and mothers were loosened (Jacobs and Williams, 2008). Rosalyn Ing (2006) also notes that residential schools had an adverse impact on Indigenous mothering. Ing argues that due to traumas experienced in residential schools, including “the ways children were forced to watch others’ punishment”, attendees are unable to show affection and more likely to be unemotional towards their children (Ing, 2006, p. 160).

According to *The Report of the Missing Women Commission of Inquiry*, Aboriginal women continue to face “one or more disadvantaging social and economic

factors: violence, poverty, addiction, racism, mental health issues, intergenerational impact of residential schools and so on”(Oppal, 2012, p. 78). While not all Aboriginal women face each one of these conditions, there is a relationship between them and these conditions compound one another. The ‘cycle of distress’ that the report describes are the social factors that contribute “to an individual or group being marginalized or vulnerable including a history of being subjected to abuse and violence, health issues, drug and alcohol abuse....sex discrimination and racism” (Oppal, 2012, p. 79). Compounded on one another, these factors cause increased vulnerability and marginalization (Oppal, 2012). This can be, in part at least, traced back to the residential school system, which instilled different values and behaviors that are foreign to traditional Indigenous cultures, shaping how Aboriginal men and women interact and relate to others. Through residential schools, the roles of Aboriginal women was undermined, and their diversity and contributions in their communities were lost and replaced with a set of roles which limited their identities within a framework of European values. The Report quotes Grand Chief Ed John who emphasizes how the crown “understood the powerful place of women and targeted those women to undermine the legitimacy of the authority of our ancient systems that we inherited from our ancestors. The women became the target and they were marginalized and they were demeaned and they were treated in ways that – that has been totally unbecoming of a free and democratic society” (Oppal, 2012, p. 95). Additionally Kathleen Jameison states that Canadian society at the time of its foundations was “firmly grounded in a patriarchal system in which the ideal woman, “the lady”, was a delicate swooning ornament totally dependent on and subservient to the male”(cited in Carey, 2012, p. 10). Changing the gender power structures, Jameison argues was “part of

the cultural genocide perpetrated historically and presently”(cited in Carey, 2012, p. 10). Truth Commissions have the capacity to uncover the causes of structural inequalities and forms of oppression in their investigation of historical violence, and they can provide a platform or policy options whereby there can be transformation towards greater gender parity. I will examine these aspects of gender difference in my study of the Canadian and South African TRCs.

The experiences of women in conflict and other forms of state violence are often neglected from the dominant narrative found in transitional justice mechanisms (Nesiah, 2006). The International Center for Transitional Justice (ICTJ) argues that far too often, truth commissions as well as other transitional justice mechanisms “have been written, interpreted, and implemented with little regard for the distinct and complex injuries women have suffered” (Nesiah, 2006, Preface). The ICTJ “assists countries pursuing accountability for past mass atrocity or human rights abuse” and helps build local capacity and strength for the community and/or nation to emerge successfully from historical injustice (Nesiah, 2006, p. 1). The ICTJ has developed a gender program that works in conjunction with “the Center’s country programs to integrate gender into the technical assistance provided in diverse contexts”(Nesiah, 2006, preface). While there is no universal approach to comprehending and addressing gender justice issues, the ICTJ’s Gender Program looks specifically at how countries’ programs can integrate gender into the technical assistance provided in numerous contexts and how “gender shapes the ways in which individuals and groups experience human rights abuse, as well as paths for accountability in addressing those legacies”(Nesiah, 2006, p.1-2).

Certain truth commissions have sought to address gender by establishing a special unit that exclusively focuses on gender, such as the Peruvian case. Although the Peruvian gender unit was advantageous in its special attention to trainings, capacity-building programs, investigating gender based guidelines for reparation plans, and conducting background research on gendered patterns of human rights abuses, a specific gender unit is only one arm of the commission. The gender unit in the Peruvian truth commission failed to focus on gender issues on a day-to-day basis, consequently sidelining a gender conscious approach in all of the other functioning's of the commission (Nesiah, 2006, p. 4). The ICTJ refers to this process as 'gender cabineting'. Gender cabineting is documented in the ICTJ Gender Justice Series (Nesiah, 2006), the report on "Gender in Transitional Justice in West Africa: The cases of Ghana and Sierra Leone"(Nesiah, 2006) and "Exploring the Narrative of Truth" (Kashyap, 2009), who sources Nesiah (2006). Nesiah has been one of few authors to develop this concept. In developing this definition Nesiah says that gender cabineting can be defined as a specific focus area in a commission that bears the responsibility of addressing gender issues. A gender unit, as in the Peruvian case, handles the majority of the gender related work. Because a gender unit is a single arm in a truth commission, gender cabineting risks silencing gender in other areas in the commission. Nesiah argues that while a commitment to gender justice is evident in staff and commissioners within the gender unit, a gender conscious approach fails to permeate through other units in the commission. A specific focus area, Nesiah argues "insulates the rest of the commission's work from any responsibility regarding a holistic gender conscious approach"(2006, p. 5). Gender cabineting is an important concept of the literature of truth commissions and helps us better understand the ways in

which truth commissions can engage with gender issues. Alternatively gender mainstreaming -“having gender as a cross cutting theme in all operations” of the commission - brings gender into the everyday operations of the truth commission.

It is important to note that the ICTJ Gender Program is a significant resource that truth commissions, as well as other transitional justice mechanisms, can utilize in order to address the context of inequality and injustices that gave rise to particular forms of abuse, and challenge the structures and institutions of inequality that underpin this abuse (Valji, 2010). The ICTJ Gender Program seeks to take advantage of the opportunity provided by a countries' political transition to enhance women's access to justice and building momentum for fundamental changes (ICTJ, 2006).

In any conflict, gender interacts with one or the combination of race, ethnicity, colonialism, sexism, class and so on. Omitting and/or limiting gender from discussions around the implementation of the mandate, hearings/testimonials, drafting of reports, as well as other mechanisms within truth commissions compromises not only what occurred in the past and the enabling conditions of abuse, but also contributes to present day patterns of injustice and inequality. An analysis of the complex and often, diverse, gendered implications in conflict or genocide is crucial for any form of reconciliation to be possible or gendered violence to be confronted. Moreover, in the absence of addressing gender, there cannot be a complete understanding of the conflict (Meintjes, 2009, p. 98). In *Peace versus Justice*, Shelia Meintjes puts forth the argument that “generally, gender power operates in society to establish that men's subjectivity takes primacy over that of women”(2009, p. 98). Meintjes is speaking specifically to the South African context. I would argue that gender power, roles and hierarchies are also present

in all societies, and failing to recognize the intersections of gender in conflict or human rights abuses can only lead to a persistent marginalization of gender equality in the future.

According to the ICJT, few truth commissions to date “have fully addressed gender, particularly the impact of human rights abuse on women and sexual minorities”(ICTJ, 2006, p. 2). This has not gone unnoticed. Women’s groups and organizations have recognized that truth commissions can provide ample opportunity to highlight gendered inequalities and establish initiatives and strategies for moving forward in terms of gender recognition and equality. In “Queering Truth Commissions” Katherine Fobear argues that two of the most important goals attached to truth commissions are the protection and promotion of human rights as well as the “prevention of further violence and human rights in the future”(2013, p. 3). Violations against sexual and gender minorities are likely to perpetuate if truth commissions “merely put people back where they had been in the social hierarchy before the conflict” (Meintjes, 2009, p .102). Rosemary Nagy argues that notions of ‘breaking with the past’ “mould a definitive sense of ‘now’ and ‘then’” which can “problematically obscure continuities of violence and exclusion” (Nagy, 2008, p. 280). In the South African case, Nagy argues, constructing ‘transition’ as a break with previous violence neglects not only ongoing “police violations of human rights, political violence and general racism and xenophobia”, but also the continuities of domestic violence that many women “face in a militarized society and after male combatants return home” (Nagy, 2008, p. 280). Truth commissions present an opportunity to address numerous forms of abuse and human rights violations and to facilitate an atmosphere where marginalized voices can be heard

and recognized, dismantling colonial and paternalistic ideologies and structures in order to foster gender parity. Various pressures can present themselves that can curtail attention to gender such as political group pressure, international pressure, and pressure from cultural and religious communities (Forbear, 2013, p. 9). It is within those individuals, communities, and institutions that have historically failed to address gender in a substantive way that truth commissions can address and challenge the continuities of gendered abuse.

In my assessment of the gendered dimensions of the Canadian TRC, I examine the relationship between the experiences of women and girls in the residential school system with current forms of oppression Aboriginal women and girls face in Canada including high rates poverty, increased rates of incarceration, missing and murdered women, and sexual violence. It is vital that the TRC address female experiences under the residential school experience, not in isolation, but rather as a substantive part of every function of the truth commission's work.

Chapter Outline

In this first chapter I have briefly outlined the Canadian and South African truth and reconciliation commissions. I argue that both have failed to address and challenge gender human rights abuse in a substantive way. In highlighting the literature more broadly on truth commissions and the concepts reconciliation, truth, and gender mainstreaming, I have provided a background from which I can begin a more in depth analysis of the Canadian and South African truth and reconciliation commissions with specific reference to how each has treated and approached gender and women. The experiences of women

in a conflict are central to understanding what happened in the conflict as well as challenging contemporary inequalities.

In chapter two, I provide an overview of the TRC in Canada, specifically to identify how women's distinctive experiences and gender has been conceptualized and approached by the TRC in its mandate, statement gatherings, and the Canadian TRCs Interim Report. The TRC specifically focuses on the Indian residential school system rather than looking at the colonial project as a whole, and, arguably, overshadows the examination of the potential ripple effects of the residential school legacy in Canada in other domains of Indigenous life.

Chapter three provides an assessment of the ways in which gender has been approached in the South African TRC, followed by a comparison with how the Canadian TRC approached issues of gender. The South African case is an important case study due to "its global exposure to the wretched bloodshed predicated on deep divisions in society characterized by strife, conflict, untold sufferings and injustice" (Villa-Vicencio, 2009, p. 46). Despite the SATRC's influence on South Africa's post-apartheid society, the truth and reconciliation commission is relatively under-theorized through feminist perspectives. Yet the experiences and voices of women were afforded greater attention in the establishment of the Special Hearings for women. Although I will demonstrate that the SATRC was limited in its approach and implementation of gender concerns, these hearings presented a monumental step for South African women, strengthening the power of their voices. This chapter will explore how the South African TRC approached gender in comparison to the Canadian TRC.

In the final chapter, I provide an assessment of how two different truth commissions understand and approach gender issues. Although obvious differences present themselves in the two commissions under examination, my hypothesis is that the absence of a gendered lens (Canadian TRC) and an under-developed gendered lens (South African TRC) has consequently translated into the persistence of gender inequalities. I identify the lessons that can be learned from the South African TRC for the Canadian TRC, and provide a series of recommendations that future commissions can adopt in order to gender their work. I return to my two research questions and summarize my findings, and consider the implications of my research findings. Finally, I identify what other questions arise from my research conclusions, both for Canada and South Africa and potentially other countries attempting to 'restore' justice.

CHAPTER 2

The Canadian Truth and Reconciliation Commission

This chapter examines the truth and reconciliation commission (TRC) of Canada, with specific attention on how the experiences of Aboriginal women and girls are represented and articulated. The goals of this chapter are two-fold. First, I will begin by providing some historical background on Indian residential schools and the TRC, with specific attention on the gendered politics of each. In this way I set the stage for deeper analysis into the TRC's mandate, its National Events, including the program of events and statement gatherings, and finally the Interim Report. Looking specifically at and within each one of these components, I assess how much attention is paid to Aboriginal women's experiences, and the resultant effects and consequences for the commissions proposed goals and actual findings. Because the TRC is currently in progress, there is no final report to examine, unlike the South African case. This leads to me the second goal of this chapter, which is to lay the groundwork for a comparative gendered analysis with the South African truth and reconciliation commission (chapter three) and potential lessons on gendering TRCs drawn from both cases (chapter four). My overall argument is that there is a lack of attention paid to gender and Aboriginal women's experiences as an analytical focal point in the Canadian truth and reconciliation commission, and that this limits the likelihood of reconciliation, even on the terms of the TRC.

Indian Residential Schools

The Indian residential school system was introduced by the missionaries originally and then also the Canadian federal government, and operated from the 1880's into the late 1990's (Hanson, 2009). This extensive school system was established and

funded by the Canadian government and administered by churches, mainly Anglican, Presbyterian, United, and Roman Catholic, in an attempt to assimilate Canadian Aboriginal children into a Euro-Canadian culture and economic system, and to indoctrinate them into Christian ways of living (Schissel and Wotherspoon, 2003; Hanson, 2009). Initially, Aboriginal children attended day schools and returned home in the evenings, however, administrators of the schools felt that lessons learned during the day would be undone when they returned home to their parents, effectively reversing all of their work to civilize Indian children (Woolford, 2013). The residential school system forcibly removed Indian children from their homes, families, traditions, language, and culture (Smith, 2005). It is estimated that 150,000 Aboriginal children attended residential schools and approximately 80,000 to 86,000 of them remain alive today (Stout and Peters, 2011). Furthermore, according to the 1991 Aboriginal Peoples Survey, “there were approximately 373,350 Aboriginal survivors and those who had been intergenerationally affected by the legacy of residential schools” (Stout and Peters, 2011, p.11).

John A. Macdonald, the Prime Minister of Canada, established off-reserve residential schools in 1879 because day schools were proving to be less effective in assimilating ‘the Indian’ than originally planned. ‘Indian children’, as they were defined, were learning European customs during the days, but much of their education in schools was being lost upon arrival into their homes. Off-reserve residential schools forced Indian children into a European industrial education system (Schissel and Wotherspoon, 2003). Member of Parliament for Assiniboia West and Macdonald’s appointee, Nicholas Flood Davin set out to establish a “policy of aggressive civilization for Aboriginal peoples

based on an expressed belief that western Indians were merely at an earlier stage of evolution than their white brothers and sisters” (Schissel and Wotherspoon, 2003, p. 47; and Hanson, 2009). Davin believed that in constantly keeping Indian children within the ‘circle of civilized conditions’ they could transform the Indian into a suitable citizen (Schissel and Wotherspoon, 2003; Hanson, 2009). European settlers were guided by a patriarchal consciousness, a perspective that placed male dominance over women and children in all spheres of life (Grant, 2009, p. 295). Residential schools sought to transform Indian boys and girls, men and women according to specific gender roles. Prior to residential schools, women enjoyed unquestionable positions of power, respect and decision-making on all levels in their communities. Upon the establishment of residential schools Indian girls were taught ‘useful’ skills such as “ironing, sewing, washing”, serving food, in hope of transforming girls into domestic housewives, becoming “the property of individual men, good ‘Christian’ wives and mothers and dependent upon and submissive to male authority”(Smith, 2005, p. 37; NWAC, 2010, p.11). Residential school education undermined and removed Indigenous women’s traditional authority and agency, reinforcing colonial beliefs of female inferiority and subjugation (NWAC, 2010). From an Indigenous perspective, relations between Indian men and Indian women and all of creation are “conceptualized in terms of balance, reciprocity, interdependence, and respect,” whereas Eurocentric worldviews emphasized dominance, hierarchy and gender inequality devaluing Indigenous knowledge and ways of being (NWAC, 2010, p. 5). Furthermore, Kim Anderson describes traditional Aboriginal economic systems as one where everyone’s work is valued, where gender roles are seen as more flexible, and “the work of every individual was necessary for the

well being of the family, community and the nation” (Anderson, 2000, p. 60). Through the Indian Act, women’s roles as leaders were undermined, their political authority lost, their economic power stripped, and spiritual power dismantled. Aboriginal women were effectively inculcated with “patriarchal norms giving primacy to male experience” (Smith, 2005, p.138). It was the combination of gender roles prescribed to Aboriginal men and women that disrupted authority, decision-making and relationships in Aboriginal communities.

The purpose of the residential school system was to assimilate Aboriginal people into a growing industrial-based labor market, to complete the metamorphosis from the ‘savage’ to the ‘civilized’ and deemed “fit to take up the privileges and responsibilities of citizenship” (Schissel and Wotherspoon, 2003, p. 47). In 1920, the Indian Act established that it was mandatory for Indian children to attend one of the many residential schools, and “illegal for them to attend any other educational institution” (Hanson, 2009; Jacobs and Williams, 2008). Residential schools were plagued with violence, abuse, torture, and humiliation. The lack of parental influence, love, and caregiving in residential schools, transmitted into emotional distancing, rebellion, strict discipline, avoiding emotional attachment as well as others in adult life (Stout and Peters, 2011). Numerous studies have been conducted that draw links between the residential school system and ongoing patterns of abuse, alcoholism, and emotional disconnection (Stout and Peters, 2011; Ouelette, 2002). Aboriginal men and women recreate patterns learned in residential schools in their adult life. Stout and Peters (2011) investigated professional First Nations women and the impacts the residential school system had on this group. Stout and Peters (2011) found that professional First Nations women were victims of cycles of violence,

anger, emotional distancing, rebellion, among others as a result of the residential school system. Furthermore, Aboriginal women resorted to various coping mechanisms in the aftermath of schools that pose intergenerational effects for their daughters (Stout and Peters, 2011). The legacy of this history, as Stout and Peters argue, is that ‘at risk’ Aboriginal women continue to experience high rates of domestic violence, over-representation in the justice system, poor health, denial as well as other socio-economic disadvantages (Stout and Peter, 2011; Ouelette, 2002). Survivors and their families are susceptible to patterns of violence, disconnection from family members, and mental health issues as a result of residential schools. This change in family life and relationships contributes to ongoing socio-economic disadvantages Aboriginal women and girls experience.

Throughout the residential school era, Indian children experienced intense abuse, physically, emotionally, and spiritually. Malnutrition, disease, medical experimentation and illness were common occurrences in schools (Mosby, 2013; Smith, 2005; Chrisjohn and Wassacase, 2009). Ian Mosby (2013) and Andrea Smith (2005) examine the exploitation of Aboriginal bodies at residential schools and Aboriginal communities between 1942-1952. Aboriginal bodies were seen as ‘experimental materials’ for new vaccinations, dental work, eye examinations, and food experiments (Mosby, 2013; Smith, 2005). Prior to this period of experimentation, government inspector P.H. Bryce reported “24 percent of the previously healthy Aboriginal children across Canada were dying in residential schools. This figure does not include children who died at home, where they were frequently sent when critically ill” (Hanson, 2009). In addition to unhealthy living conditions, Indian children, both boys and girls, were assaulted, raped, and/or threatened

by staff or other students (Hanson, 2009). Impregnated Indian girls were often forced to abort their child, or forced to give up their child altogether. This was extremely traumatizing for a young girl and the emotional, mental and physical effects remain with her for the duration of her life. Thousands of Indian residential school survivors have since come forward and shared stories about their experiences in schools and there are overwhelming patterns of damage and destruction that schools caused in individuals and across communities. Residential schools were being phased out in the 1960's, however, schools continued to operate under the exclusive control of the Department of Indian Affairs after 1969. Residential schools continued to operate until the final school closure in 1996.

The federal government sought to 'kill the Indian in the child' (Schissel and Wotherspoon, 2003). According to the Manitoba Justice Institute "residential schools laid the foundation for the epidemic we see today of domestic abuse and violence against Aboriginal women and children" (Hanson, 2009). Suicide, substance abuse, lack of adequate parenting skills, domestic violence, sense of worthlessness, low self-esteem are a few of the long-term effects of residential schools. This list is certainly not exhaustive; however, it begins to paint a picture of the sheer intensity and complexity of the trauma residential schools caused for past and future generations of Aboriginal peoples. It is worth noting that although my project focuses on the negative dimensions of the residential schools system, some Indian children did have positive experiences "with caring teachers and good education" and therefore my generalization of residential schools could be seen as problematic to some (Nagy, 2013, p. 56; Stout and Peters, 2011). The TRC tends to focus on the negative experiences of the residential schools

because the system was overwhelmingly and chronically abusive, oppressive, and exploitative towards Indian children (Nagy, 2013).

Whether a residential school survivor or not, Aboriginal women continue to face overwhelming abuse in their daily lives, whether physical, economic, or social, which cannot be separated from the systemic forms of gendered colonialism that emerged through the residential schools. Through public acknowledgment and recognition in the TRC, systematic subjugation, marginalization and violence against Aboriginal girls and women can be addressed, and it can provide a venue to promote Indigenous approaches to gender balance in Indigenous communities (NWAC, 2010).

The Establishment and Implementation of the Truth and Reconciliation Commission

The truth and reconciliation commission (TRC) of Canada was established in 2007 with the implementation of the Indian Residential School Settlement Agreement (IRSSA). As a result of the 1996 Canadian Royal Commission on Aboriginal Peoples report, along with numerous other reports and inquiries documenting the emotional, physical and sexual abuse that occurred in residential schools, thousands of former students took legal action “against the churches that ran the schools and the federal government that funded them”(TRC Interim Report, 2012, p. 1). The IRSSA is the largest class-action settlement in Canadian history (TRC Interim Report, 2012, p. 1). The Assembly of First Nations, the Government of Canada, the Churches, in addition to the class representatives and the lawyers representing those class representatives came to the understanding that settling out of court would avoid delays, costs, and risks of trials. In addition to providing compensation to former students, the IRSSA established the truth

and reconciliation commission of Canada “with a budget of \$60-million and a five year term” (TRC Interim Report, 2012, p. 1). As of November 15, 2013, Minister of Aboriginal Affairs and Northern Development, Bernard Valcourt, stated that “the Government of Canada will work with the TRC, the parties to the Indian Residential Schools Settlement Agreement, as well as the Ontario Superior Court to provide the Commission with a one year extension to its operating period, until June 2015, as requested by the Commission”(Aboriginal Affairs and Northern Development of Canada, 2013). As such, the mandate of the TRC has been extended to become a six-year endeavor.

In 1998 Honorable Jane Stewart, Minister of Indian Affairs and Northern Development, offered a “Statement of Reconciliation” as part of the document entitled *Gathering Strength-Canada’s Aboriginal Action Plan* (AANDC, 1998). This statement was the government of Canada’s first public acknowledgment of its role in the development and maintenance of the residential school system. In 2008 Prime Minister Stephen Harper made a statement of apology before the House of Commons to former students of Indian residential schools on behalf of the Government of Canada, which was a requirement in the 2007 IRSSA (AANDC, 2008). Within his apology, Harper makes note of the TRC as a “unique opportunity to educate all Canadians on the Indian Residential School system,” and states that it will be “a positive step in forging a new relationship between Aboriginal Peoples and other Canadians” (AANDC, 2008). The Prime Minister’s official apology is significant for its public acknowledgment of the Canadian government’s responsibility in residential schools and the government’s recognition of the lasting and profoundly negative consequences of the Indian residential

school system (Woolford, 2013). Although Harper's apology was widely critiqued for its "concerted effort to manipulate our perception and understanding of what is happening" (Chrisjohn and Wasacase, 2009, p. 199), the government officially and publicly acknowledged its role in the residential school system in Canada.

The first reporting document produced by the Canadian TRC's work was the Interim Report. Included in the Interim Report, published in September 2010, was the vision statement, which claims: "we will reveal the truth about residential schools, and establish a renewed sense of Canada that is inclusive and respectful, and that enables reconciliation"(TRC Interim Report, 2010, p. 2). The TRC overarching goals are to:

Reveal to Canadians the complex truth about the history and the ongoing legacy of the church-run residential schools, in a manner that fully documents the individual and collective harms perpetrated against Aboriginal peoples, and honor the resiliency and courage of former students, their families, and communities; and,

Guide and inspire a process of truth and healing, leading toward reconciliation within Aboriginal families, and between Aboriginal peoples and non-Aboriginal communities, churches, governments, and Canadians generally. The process will work to renew relationships on a basis of inclusion, mutual understanding, and respect (TRC Interim Report, 2012, p. 2).

The TRC is responsible for recruiting staff, drafting mandates, collecting relevant documents, research and report preparation, developing institutional structures, coordinating national and community events, setting up operating procedures, planning

public hearings or statement gatherings, truth sharing and writing interim and final reports (Nesiah, 2006). Whether a society is emerging from repressive rule, armed conflict, or an established democracy where human rights have been compromised historically, there is no one universal approach to planning and implementing a truth commission, and furthermore, there are no universal approaches to understanding and addressing gender in a truth commission (Nesiah, 2006). Broadly speaking, truth commissions all over the world have approached their mandates, hearings, reporting, as well as other functions in the commission in very distinct ways. While lessons have been carried across truth commissions, I contend that gendered issues, including gender specific violence and associated structural inequalities, continue to be sidelined in the central functions and processes of the commission. From the selection of commissioners, to the language employed in reports, to how hearings are conducted, every component of the commission ought to be attuned to the specific experiences of girls and women, in order to draw a more accurate and inclusive picture of the events under examination.

The Canadian TRC has been underway for four years and is currently in its final two years of operation. The last National Event is taking place in Edmonton March 2014, and closing ceremonies are scheduled in Ottawa June 2015. In light of its ongoing operations, the information that has been reported and published thus far is not exhaustive, and indeed the final report has yet to be released. Although this presents a limitation to my project in some respects, I am in a unique research position because I am able to study the ways in which Aboriginal women's experiences are taken up in the mandate, National Events and Interim Report as they unfold, which signals how gender will likely be taken up in the final report and the final recommendations and policy

initiatives. Based on my analysis, since the experiences of Aboriginal women and girls have not been a priority in the mandate, National Events, and Interim Report – both in terms of their experiences in residential schools as well as how they are directly linked to contemporary problems – I expect that specific Aboriginal female experiences of residential schools will not be a strong focus in the final report.

Gender and The Canadian Truth and Reconciliation Commission

Arguably, the majority of truth commissions that have taken place around the world have been responses to countries emerging from war, repressive regimes, or armed conflict. Such approaches to truth commissions will therefore be considerably different from those emerging from historical injustices or ‘colonial genocide’ in democracies (Woolford, 2013). In any form of conflict or abuse, social constructions of gender will inevitably create notions of superiority and inferiority; moreover, men and women will inevitably experience the conflict differently as well as consequent repercussions. In relation to the Canadian residential school system, the effects on Aboriginal women and girls have been overwhelming. According to the Canadian Research Institute for the Advancement of Women, 42.7% of Aboriginal women live in poverty making Aboriginal women, “living both on and off reserve, the poorest among Aboriginal peoples” (Canadian Research Institute for the Advancement of Women, Jacobs and Williams, 2008). The economic and social vulnerability experienced by Aboriginal women continues to receive little public acknowledgement and support, making it more difficult to challenge and change current inequalities.

In addition to social and economic challenges Aboriginal women face, cultural and spiritual components of their lives are significant in understanding the larger issue of residential schools. In *Recognition of Being*, Kim Anderson (2000) examines how spiritual power cannot be divorced from education, business, health or politics. The spiritual power of women, more specifically, Anderson argues was undermined by the Judeo Christian culture, “where a male figure stands above all others and is not part of the interconnectedness” that is central in Native creation stories (Anderson, 2000, p. 72). It was in residential schools that Aboriginal girls often went through puberty, girls specifically passing through their “moon time” or menstrual cycles (Anderson, 2000, p.74). Anderson argues that Christian culture saw menstruation “not as a manifestation of female power, but as a manifestation of female sin, contamination and inferiority”(Anderson, 2000, p. 75). Aboriginal girls often learned about menstruation from their mothers and grandmothers, its connection to the earth, and the feminine power and energy associated with it (Anderson, 2000). Due to the lack of a mothering presence in the schools compounded with Christian patriarchal beliefs, girls were not taught what menstruation was about, and instead underwent intrusive and un-dignifying inspections, beatings, and humiliations due to their natural menstrual cycles (Anderson, 2000). These actions made women ashamed of their bodily functions, spiritually dislocating Aboriginal girls, and creating a separation from the primacy of the female creator (Anderson, 2000; Ing, 2006).

Historically, Aboriginal women were held in high esteem, well respected, and equal members of Indigenous communities, however, upon European arrival Aboriginal women became the exact counter-image of European ideals (Anderson, 2000; Harry,

2009; NWAC, 2010). Through residential schools, Aboriginal women were forced to adopt European traditions, domesticity being the “pinnacle of womanhood” (Harry, 2009, p. 7). The division of labor and land based societies adopted from European traditions restricted Aboriginal women from engaging in agriculture, trapping, hunting, and other forms of labor Aboriginal engaged in among traditional native societies. As European settlement took hold, and Aboriginal men increasingly were drawn into European circles, Aboriginal women’s autonomy and authority were undermined, leaving Aboriginal women dependent on the male authority of the home (Anderson, 2000). As Anderson puts it “the authority given to women as the center of the home and community has been turned upside down by Western ideas of the roles of women in the home” (2000, p. 64).

Furthermore, in many cases, able-bodied students were pulled out of schools to assist in providing badly needed labor for the community, domestic labor in the case of Aboriginal girls (Schissel and Wotherspoon, 2003). Additionally this labor would keep Aboriginal “girls ‘out of trouble’ from the sexual advances of peers and potentially compromising innocent schoolteachers”(Schissel and Wotherspoon, 2003, p. 44).

Europeans traditions of gendered roles permeated throughout residential schools as well as in mainstream society, completely reworking the relationships between Aboriginal men and women, devaluing the respect, autonomy and dignity of Aboriginal women.

In the Canadian context, I argue that gender has garnered minimal attention in the components of the commission under examination, namely the mandate, National Events, and the Interim Report. As a result, the experiences of women and girls during the residential school system, as well as its aftermath, go under-examined and therefore pose little opportunity for systemic change to unequal gendered relations, institutions and

structures that continue to dictate the lives of Aboriginal women. In the subsequent section I look at each of these components specifically analyzing the presence and/or absence of attention paid to the voices and experiences of women.

The Mandate

The mandate is a framework for how the truth and reconciliation commission will operate. The TRC mandate sets out the principles, goals, responsibilities, structure, procedures, powers, timeframe, budget, and resources along with numerous other aspects of how the TRC will function throughout its term. Furthermore the TRC mandate states its principles will build upon the ‘Statement of Reconciliation’ dated January 7, 1998 and the principles developed by the Working group on Truth and Reconciliation and of the Exploratory Dialogues (1998-1999) (TRC Mandate). These principles include:

accessible; victim-centered; confidentiality (if required by the former student); do no harm; health and safety of participants; representative; public/transparent; accountable; open and honourable process; comprehensive; inclusive, educational, holistic, just and fair; respectful; voluntary; flexible; and forward looking in terms of rebuilding and renewing Aboriginal relationships and the relationship between Aboriginal and non-Aboriginal Canadians (TRC Mandate).

In short, the mandate provides a point of departure from which the commission can begin its work.

In the TRC mandate gender or women’s experiences do not occupy a constitutive component. Through a simple word search, the words ‘women’, ‘girls’, ‘female’ or

'gender' do not appear at all in the mandate. In light of this omission, the mandate appears to be closing its doors to addressing, making visible, and legitimizing the distinctive women's experiences in the residential school system, and the distinctive ways that Aboriginal women have been and continue to be affected by the legacy of residential schools. However, the open-ended nature of the mandate, specifically its objective to address the history of the residential schools, as well as its consequences and impacts, presents what seems to be an opportunity to address many of the ongoing issues facing Aboriginal peoples. As such, while the TRC has not mainstreamed gender in its work, this is not intrinsic to the mandate, but a reflection of how the mandate has been interpreted.

As noted in a document entitled 'Culturally Relevant Gender Based Models of Reconciliation' by the Native Women's Association of Canada, "strategies of colonization were gendered purposefully to undermine and remove Aboriginal women's traditional authority and agency" (2010, p.11). Along similar lines, in *Strong Women Stories: Native Vision and Community Survival* (2003), Dawn Martin Hill argues "the perversion of traditional beliefs strips women of their historical roles and authority, transforming their status from leaders into servants" (Hill, 2003, p. 107). Katrina Harry in 'The Indian Act and Aboriginal Women's Empowerment: What Front line workers need to know' (2009) argues Aboriginal women's status in Canadian society must be "examined by looking back at the forces that steered society, including a holistic picture of colonial domination" (2009, p.107). The NWAC (2010), Martin Hill (2003) and Harry (2009) all point to the importance of the gendered nature of colonialism and argue that colonial experiences continue to situate Aboriginal women in present day society. High

incarceration rates, missing and murdered Aboriginal women and girls, poverty rates, poor housing conditions, poor health care are just some of the experiences women are affected by in their daily lives and are directly and indirectly linked to residential school experiences (Wesley, 2012).

Separating residential schools from other colonial practices, such as those listed above limits our understanding of the residential school experience. The mandate fails to take into consideration the relationship between residential schools as well as other historical colonial practices that shaped both Aboriginal female experiences and the gendered dynamics within Indigenous communities (such as patriarchal control of band membership in the Indian Act) and contemporary problems facing Aboriginal women including higher rates of incarceration, and missing and murdered Aboriginal women. Therefore in isolating the residential school experience, the mandate cannot begin to challenge and transform policies, protocols, and practices embedded in gendered-colonial beliefs. The mandates open-ended nature presents what seems to be an opportunity to address some of the ongoing issues facing Aboriginal women and girls however intersections of colonialism with gender, race, among other salient factors are not addressed, and instead the mandate tends to universalize the experiences of Indigenous peoples.

National Events

The purpose of this section is to look at the National Events hosted by the Canadian TRC. Each National Event has a scheduled program prepared for the public which lists all of the activities taking place over the course of the event; this includes, for

example, sharing circles, reflections from honorary witnesses, presentations by a variety of groups, displays and artisans, and so on. While there are differences across National Events, each follows quite similar guidelines. The TRC will host a total of seven National Events in different regions across Canada over the course of its mandate. To date National Events have taken place in Winnipeg, Manitoba, in June 2010; Inuvik, Northwest Territories, in June and July 2011; Halifax, Nova Scotia, in October 2011, Saskatoon, Saskatchewan, in June 2012; Montreal, Quebec, in April 2013; and its most recent one in Vancouver, British Columbia, in September 2013. In 2014 there will be one final National Event in Edmonton, Alberta and the final ceremonies will take place in Ottawa, Ontario in 2015.

According to the Interim Report published in 2012, “the National Events provide the commission with its greatest opportunities to reach out and connect with Canadians of all cultures and backgrounds”, stimulating public engagement and providing education about the history of the residential school system (TRC Interim Report, 2012, p.18). National Events also provide a welcoming platform where residential school survivors can share their experiences of residential schools, as well as issues associated with these schools. Furthermore, the events have “been defined by public acknowledgements of schools legacy and history, and by celebrations and appreciation of Aboriginal cultures” (TRC Interim Report, 2012, p. 18).

I begin by analyzing the National Events that have taken place thus far. Firstly I examine the program of events, looking specifically for traces of women or gender mainstreaming in the list of events. Secondly I examine both the public and private statement gatherings, looking specifically at how each provide a platform where women

can represent their experiences in order to educate and foster greater public acknowledgement of the gendered effects of residential schools. I examine the public and private statement gatherings cumulatively, rather than focusing on each individual statement gathering event.

Program of Events

The first National Event took place in Winnipeg and its theme was 'It's About Respect-A Journey of Survival, Strength and Resilience'. Each National Events' full program of events is available to be downloaded on the TRC website, with the exception of the Winnipeg National Event and the Inuvik National Event, where the program schedules are available on the website but lack any description of specific events. When completing a word search in each individual event's program and/or schedules, the words 'women', 'female', 'girls' and/or 'gender' do not appear until the final two events that took place in 2013. The Quebec National Event, hosted a program named 'Women of Courage: Gendering Reconciliation', which highlighted "the voices of women and the strength of women Survivors, and (to) bring a gender perspective to reconciliation"(Quebec Event Program, 2013, p. 28). Furthermore, this sharing circle provided a forum to "discuss coping mechanisms that women adopted as a response to the traumatic experiences of the residential schools, and how they overcame trauma in order to become leaders in their communities or in particular fields" (Quebec Event Program, 2013, p. 28). Secondly, the Vancouver National Event included in its program a session called 'Honouring Women's Wisdom: Pathways of Truth, Resilience and Reconciliation'. I personally attended this session. The featured speakers spoke about the

revitalization of matriarchal systems, the impact of colonization on gender equity, examples of women as models of resilience as well as cultural traditions and laws that are often silenced in dominant discussions around Aboriginal issues (Vancouver Event Program, 2013).

With a total of six National Events that have taken place thus far, two events (one in Quebec, and one in Vancouver) have dedicated one one-hour-and-a-half time slot to specifically discussing how women's perspectives fit within the larger discussion of reconciliation, and how women are affected by the residential school system now and in the future. In a personal correspondence with Director of Research for the Canadian TRC, Paulette Regan noted that no one at the TRC could comment on how these two events specifically pertaining to women came onto the agenda. Furthermore, Regan noted that research is ongoing, and is hopeful that gender will be a component of the TRC's final report.

I commend the Quebec and Vancouver National Events for including sessions that speak specifically to the experiences, traumas and resilience of women and girls. It certainly presents a step forward from the four previous National Events that did not include a discussion that centered on the experiences of women and girls in their programs. Yet, even these two sessions indicate that the lack of time and efforts allotted to how the residential school experience as well as its legacy is gendered fails to capture a significant part of 'truth-telling'. In the absence of understanding how the residential school system undermined the power, authority, respect and identity of Aboriginal women and girls, it is increasingly challenging to comprehend and address the current issues facing Aboriginal women.

At the same time, while treating gender as a specific focus area can be beneficial as it draws specific attention to how female experiences during and post residential schools differed from those of males and illuminating that attention to women should be a focal point in any relationship building developments, there is a danger in ‘gender cabineting’ (Nesiah, 2006, p. 4). The *Women of Courage: Gendering Reconciliation* session at the Quebec National Event and *Honouring Women’s Wisdom: Pathways of Truth, Resilience and Reconciliation* talk at the Vancouver National Event were single and isolated components of the respective National Events programs. Focusing solely on gender in this way limits the potential for gender to permeate through the everyday functions of the commission, potentially rendering gender as a subject invisible. In other words, treating gender as an isolated focus area and/or cabineting gender can in effect silence gender in other areas of the commission, and produce what Rina Kashyap terms the “ghettoization” of gender (2009, p. 462).

As an alternative, treating gender as a theme that runs throughout the functions and work of the commission contributes to a more holistic understanding of the residential school system. Mainstreaming gender throughout the hearings, reports, recommendations, staff training and hiring’s, research as well as other institutional processes is an opportunity where colonization, residential schools, post trauma, and the future needs of Aboriginal women can be addressed. The unique experiences of Aboriginal women require more substantive focus in order to achieve a more balanced set of gender relations between Aboriginal men and women, and Aboriginal women and non-Aboriginal women in Canadian society.

Statement Gatherings: Truth Sharing

Statement gathering, hearings and testimonials are all common tools that truth commissions employ around the world, providing the opportunity to those who suffered a voice in creating a record of their experience. Statement gatherings are a central element in the Canadian TRC's mandate, and aim to restore dignity to those directly or indirectly affected by the residential school system. Statement gatherings take place at National Events, community events, and "at events coordinated by the Commission's regional liaisons"(TRC Interim Report, 2012, p. 12). It is not clear how the TRC selects its speakers for public statement gatherings. In the absence of knowing how the TRC selects its speakers, our ability to assess a gendered approach is limited. Statements will be used by the TRC in preparing its final report, and when complete, the TRC will store all statements in the National Research Centre, a component of the IRSSA. Because of the difficult and painful nature of the residential school experience, statements can be given publicly, privately, in writing or over the phone, with the option of having an audio or video recording of their statement experience. According to the Interim Report, "the commission has made it a high priority to gather statements from the elderly or ill, as well as implementing projects that reach out to Survivors from particularly vulnerable or marginalized groups who are at risk, such as those who are homeless and those in jails" (TRC Interim Report, 2012, p. 13).

At each National Event there are various ways in which survivors can speak about their experiences. Whether commissioners panels, sharing circles, or private statement gathering sessions, on the whole statement gatherings have been an extremely powerful tool and resource for former students, as well as those affected by residential schools to

voice their experiences of the past as well as ongoing traumas they experience as a result of residential schools. Having attended the Vancouver National Event in September 2013, I was able to witness first hand public statement gatherings. Individual speakers had the option of having health supports or family and/or friends accompany them on stage, comforting them throughout their experience. In each Commissioners Panel I attended, where survivors would speak to the public about their experiences, women constituted more than half of the participants who shared stories about their personal experiences in schools, the experiences of loved ones attending schools, as well as how schools have affected their lives in the aftermath. The strong presence of women in these statement gatherings was a powerful way for women to represent their experiences, illuminating how residential schools affected women as females, and bringing recognition to their voices. For example women spoke about the physical and psychological abuse, how schools altered their appearance, their dress and their hair, learning how to be a mother, different cultural experience of puberty, separation from siblings, mothers and grandmothers as well as other experiences, some of which men also experienced, however, some of which were specific to women. This kind of gender mainstreaming was striking.

The strong presence of women in presenting their testimonies is important. Yet strikingly, at the Vancouver session, the female participants made few links between their experiences in residential schools and structural gendered inequalities today. Katrina Harry (2009), Dawn Martin Hill, (2003), Kim Anderson (2000) among others state that without exploring our history, we cannot begin to understand why Aboriginal peoples face struggle and disadvantage today. Looking at the forces that steered Canadian society,

communities and individuals is crucial to understanding why Aboriginal women's status has been undermined, disrespected, and unequal in Canada. Harry (2009) discusses the severe disadvantage Aboriginal peoples of Canada have in relation to non-Aboriginal Canadian society. Looking at health, suicide rates, housing conditions, education, employment and incarceration rates Harry clearly illustrates how Aboriginal men and women are at a clear disadvantage relative to non-Aboriginal Canadians. Specifically, Aboriginal women suffer from high rates of family violence, prostitution, murder, suicide, and poor health among other problems.

Aboriginal women at the Vancouver statement gatherings spoke about how schools were overtly abusive, violent, and exploitative. The lack of mothering, both for the victim and their children, sexual violence and humiliation directed at girls specifically, emotional distancing, among others were all common themes women drew attention to in their testimonies. Drawing the linkages between residential schools and the ongoing realities of Aboriginal women is integral if any substantive changes are to be made. Due to the fact that the truth and reconciliation commission is still in progress, I am unable to assess whether or not the final report will look at the relationship between how colonialism imposed a system of patriarchy, how women's identities, roles, and spiritualities were compromised as a result of residential schools, and how problems persisting from the residential school system continue to impact how women are treated and represented in society today, both in Aboriginal communities and non-Aboriginal society. Residential school survivors were not always able to learn their traditions, customs and rituals, all of which are central to the functioning of their families and affect the transfer of family knowledge between generations. Rather survivors frequently

adopted behaviors in schools that led to physical, substance and mental abuse. As Cyndy Baskin (2003) argues,

...from an aboriginal perspective, family violence in our communities is the result of, and a reaction to, this system of domination, disrespect and bureaucratic control. Aboriginal people have internalized this oppression and it has affected the family. The treatment of women and children within the family is a reflection of the treatment of Aboriginal peoples in this broader context (p. 219).

The legacy of the residential school system persists in shaping the lives of Aboriginal women and men. Aboriginal women face particular outcomes that continue to go unchallenged. Through statement gatherings as well as their interpretation, the final report and recommendations have the potential to offer greater gender sensitive policy initiatives in order to combat socio-economic disadvantages Aboriginal women face.

Statement gatherings are open ended and voluntary. Speakers have the opportunity to choose the experiences and stories they wish to reveal. After the allotted amount of time in each public statement, the commissioner(s) make concluding remarks. In this time, it would be constructive for the commissioner(s) to make specific reference to the harms described by the individual giving testimony in relation to current forms of oppression. For example, drawing linkages between the struggles women face in the home, whether it be domestic violence, poor health, lack of affection towards their children, with the treatment of either their parents or grandparents in residential schools would not only educate the public attending the statement gatherings, but could draw greater emphasis on how social and economic disadvantages continue to plague Aboriginal families. In linking historical and contemporary practices of colonialism,

Aboriginal women's statements could gain more spotlight for Canada's non-Aboriginal population the hopes of challenging and reassessing the relationship between Aboriginal and non-Aboriginal men and women, as well as Aboriginal women and the state, and how identities and roles have changed throughout the course of colonization.

In *First Voices: An Aboriginal Women's Reader*, Alice Olsen Williams argues "the way Aboriginal women have been represented in Canadian history plays an important role in how Aboriginal people, including Aboriginal women, are perceived in today's Canadian society" (2009, p. 334). Canada's historical representation of Aboriginal women "is grounded in Canada's educational and institutional structures" (Olsen, 2009, p. 340). Some Aboriginal women, like Patricia Monture (2009), argue that Aboriginal people simply respond to the agenda that Canadian government sets for them and this "power-sharing relationship" and constitutional negotiations with Canada are not the answer for the survival of Aboriginal peoples. I commend Monture for wanting to work outside of the system in shifting the relationship between Aboriginal and non-Aboriginal peoples because the system has and continues to colonize Aboriginal peoples through policy and protocols. However, I also see benefit in transforming how Canadian policy, including its education system and institutional structures, operate in order to facilitate change in how Aboriginal peoples are perceived by wider society. Through statement gatherings, Aboriginal women and men have the opportunity to express their experiences under the residential school system as well as its ongoing intergenerational effects. Emphasizing the historical and ongoing gendered inequalities as well as how they relate to one another, Canadian non-Aboriginal society opens its doors to critically analyze the institutions and structures that maintain and perpetuate this marginalizing system.

Statement gatherings, and consequently recommendations included in the final report, can provide solid foundations for challenging policy and dominant perspectives around Aboriginal women status.

The presence of private statement gatherings, I would argue, is necessary for both men and women who choose not to reveal their experiences in public. All of the National Events have provided the option for those wishing to give statements to do so in private. Providing a safer and private space where individuals can express themselves is necessary when dealing with such a large set of people who express, reveal, and tell stories in distinct ways. Dawn Martin Hill argues colonialism has fragmented Indigenous culture, beliefs, and values contributing to the “emergence of an Indigenous traditional women who is silent and obedient to male authority” constructing an image of a “voiceless women whom I call *She No Speaks*” (2003, p.108). Furthermore Hill contends that residential schools were agencies used to entrench Western values into Aboriginal culture, notably the “internalization of patriarchal notions of the silent subordinate woman” (Hill, 2003, p. 110). All of this is significant in the sense that from strong, authoritative Aboriginal leaders at one time, Aboriginal women have adopted submissive, subservient Western values of gender that contributes to their silence. Aboriginal women may be reluctant to share their experiences because they perceive (or believe the commission would perceive) that their violence is private, resist the categorization as victims; and avoid stigmatization among others (Nesiah, 2006). Private statement gatherings offer women the opportunity to reveal their experiences and express openly what happened to them (Hill, 2003).

Due to the adoption of western patriarchal values of women's position of inferiority, Aboriginal women may feel obliged to speak about the experiences of their loved ones, minimize their personal experiences, or withhold their stories altogether in fear of public condemnation. As we will see in the following chapter, this was quite prominent in the South African TRC. In private settings, women may be more likely to speak about their personal struggles and/or abuses they may have experienced without the potential shame or humiliation associated with that abuse. For example rape, abortion, and sexual sterilizations can be extremely traumatic experiences that garner labels such as women's promiscuity, or dirtiness. Women may be reluctant to share these experiences in public because of negative associations. In a private setting, women may be more comfortable disclosing their experiences without the fear of judgment or condemnation. In this way, if they so choose, Aboriginal women have the opportunity to include their stories in the national narrative.

Providing the option of private statements gatherings is important for reasons of confidentiality, privacy, among others I have already mentioned. However, public statements by women are also important for exposing their voices and the diversity of harms in a public forum. Gender mainstreaming requires treating gender as a cross cutting theme throughout all of the components of the commission. While private statement gatherings may not expose gendered human rights abuses in a public way, they remain a crucial component of the commission's work in accommodating those who still seek to expose truths. Giving Aboriginal women the option of testifying publicly and/or privately accommodates the diversity of Aboriginal women and their experiences.

The Interim Report

The Interim Report was released February 24, 2012, reflecting on the activities undertaken by the commission, its governance and operational framework, and previous reports, including the 1996 Royal Commission on Aboriginal Peoples Report. It also provides twenty recommendations that touch on five central areas including “the operation of the commission, education, support for survivors, reconciliation and commemoration”(Pine, 2012, p. 1). In a press conference for the release of the TRC’s Interim Report, Chairperson Justice Murray Sinclair describes the Interim Report as a snap shot of where the commission is at this point in time (Vimeo, TRC-CVR, 2012). Although Sinclair notes that the commission still has a significant amount of work, there is no discussion of gender, women, or girls, or even a mentioning of the commissions failure to address certain topics.

The Interim Report is a thirty-page document that, through a simple word search, employs the word ‘women’ once, ‘girls’ three times; ‘gender’ and ‘female’ are virtually non-existent. In the instance where the word ‘women’ is used, it refers to the volume in the RCAP final report. In the instances where the word ‘girls’ is used, it is used to describe the separation of boys and girls, the fact that boys and girls could not speak to each other, and the commission’s acknowledgment of discipline crossing into abuse “of girls being whipped for running away” (TRC Interim Report, 2012, p. 5). In none of the cases was ‘women’ or ‘girls’ used to describe the unique experiences of Aboriginal women and girls in relation to the residential school system.

In the few references to ‘women’, ‘girls’, and ‘gender’ in the Interim Report, the TRC failed to appreciate the significant and specifically gendered effects of the

residential school experience and its repercussions. Residential school survivors, men and women, were deprived of their childhoods, unable to utilize family knowledge, tradition and culture. Those reading and interpreting the Interim Report will have little, if any, regard of the specific experiences of women and girls as well as how the effects of residential schools have impacted Aboriginal men and women differently. The domestic roles women were inculcated into, the impact on Indigenous modes of mothering and caregiving, and their unique experiences of menstruation among others changed Aboriginal women's identities and in some instances may have led to internalized colonialism. In remaining silent about gender, the Interim Report contributes to a dominant narrative, which maintains male privilege (Forbear, 2013). In the absence of addressing Indigenous female experiences, opportunities to dismantle gender stereotypes and discrimination are pushed further to the peripheries of dominant ideologies (Forbear, 2013).

Under the section titled *Commissioner Activities*, subsection *Parenting Skills*, the Interim Report discusses how family relationships have been broken, fractured and disrupted as a result of the residential school system. In this particular section, the report fails to discuss how family relationships affected women, men, boys, and girls differently. The section on *Parenting Skills* does address how the transmission of parenting and knowledge skills were deprived from children who attended schools, which has also led to intergenerational effects. But this leads to many questions; what skills were withheld from girls? What skills were withheld from boys? Were these skills gendered, and necessary for the development of Indigenous cultures and epistemologies? In the absence of these skills, what limitations exist for women and men?

The acknowledgment of intergenerational effects in the Interim Report is important in considering some of the ongoing issues Aboriginal people face as a result of residential schools. Because Aboriginal women experience abuse and are impacted differently than Aboriginal men by the residential school system, it is important that the report address these divisions in order to address, more broadly, how impacts of the residential school system have manifested today. While the Interim Report is a short document that seeks to summarize the commission's activities thus far, and therefore is certainly not exhaustive about how women's sufferings, experiences, and ramifications differed from those of men, the report's limited commitment to treating gender substantively is an indication that gender may not become an integral component of the final report and policy recommendations in the future.

In contrast to the approach taken thus far in the Canadian TRC, the 1996 Royal Commission on Aboriginal Peoples final report dedicated a volume to the specific experiences of women. While the RCAP final report is not the focus of this project, it is an example of how gender can be highlighted and simultaneously included into a document in a sustained way. Although treating women as a specific focus area, or gender cabinetting, is not the most effective way to include the unique experiences and abuses women face, it demonstrates a commitment to women in their Report. Not only does the Interim Report fail to incorporate the differential experiences of men and women throughout the report, but the substantive omission of any gender concerns in the Interim Report is an indication that gender will not occupy a reasonable section or chapter in the final report. In the absence of a gender conscious approach thus far in the commission's work, the representation of Aboriginal female voices in the final report is doubtful.

Conclusion

The Canadian TRC has made tremendous strides forward in welcoming a diversity of voices to speak about their personal experiences of the residential school system as well as how this system has affected loved ones. Furthermore the TRC has uncovered thousands of personal stories that will all contribute to the drafting of the final report, including its recommendations. At the same time, the TRC is seriously limited in the ways in which it addresses the distinct character of gender of residential school experiences, which in turn constrains the possibility that the TRC can serve as a venue for significant change in the history of gender and colonial inequality. While the mandate has the potential to address a broad array of consequences and impacts of the residential schools, it has been interpreted in a way that precludes any discussion pertaining to the specific gendered nature of colonialism and residential schools more specifically. This ultimately limits the opportunity for considerations of gender to appear in the rest of the commission. The program of events in each National Event further failed to include women specifically in their activities until its two most recent events; however, because the data is not available from the TRC, we are limited in understanding how or why these events came onto the agenda.

Furthermore, in focusing solely on gender in one event, the commission is at risk of gender cabineting or rendering the subject of gender invisible in the everyday dimensions of its work. Statement gatherings, whether public or private, have provided thousands of survivors a forum to share their stories. In their interpretation of the thousands of testimonies, the commission must consider how the specific abuses pertaining to Aboriginal males and females are linked to current socio-economic

disadvantages. Finally the Interim Report is absent of gender, indicating that it is unlikely to appear in the final report. In order to address historical and present day gendered-colonial inequalities and violence, national narratives must be inclusive, flexible in identities and subjectivities, and facilitate an atmosphere “where marginalized voices can speak to the public about their own experiences”(Forbear, 2013, p. 2-3). In order for the TRC to be a viable structure for addressing patterns of violence, racism, sexism, the TRC as an institution must incorporate the voices and experiences of women in their everyday practices.

In the next chapter, I compare the Canadian and South African truth and reconciliation commissions. Having already a strong grasp on the Canadian TRC, I will introduce the South African case, including a brief historical overview of its history of apartheid and the establishment of the truth and reconciliation commission. Then, I will examine the SATRC mandate, testimonials, including its ‘Special Hearings’ for women, and its final report, and compare how each of these components are similar or different from the Canadian TRC in their treatment of gender issues.

CHAPTER 3

The South African and Canadian Truth and Reconciliation Commissions Compared

Anti-Apartheid leader and first Black president of South Africa, Nelson Mandela died on 6 December 2013, while I was writing this research. Known around the world as a leader for equality, justice, love and reconciliation, Mandela revolutionized South Africa, marking the end to the apartheid regime in the early 1990s. Worldwide anti-apartheid campaigns captivated the hearts and minds of people globally. Mandela's passion, commitment and strength over the course of decades, both in and out of prisons, led to ground-breaking changes in South African society as well as a complete shift in how the world conceives racism. I begin with a short synopsis of Mandela because, as one of the most recognized political figures in the world, his work in South Africa is an integral part of this project. Mandela's death marks a time in history that fosters reflection on how to help others and how we can work together to instigate large-scale change. Relationships, whether in the South African case between whites and Blacks, or in the Canadian case between Aboriginal peoples and non-Aboriginal Canadians, require a genuine and truthful effort on behalf of everyone, "to be prepared to be of service to our people"(CBC, 2013).

This chapter examines the South African truth and reconciliation commission (TRC). Looking at the mandate, Special Hearings for women, as well as a summary of the final report, I examine how the South African TRC compares to the Canadian TRC with specific attention paid to how the experiences of girls and women are treated and articulated. By conducting investigations and facilitating hearings, the South African TRC sought to elicit truth about the atrocities committed during apartheid. The SATRC

was premised on the belief that only “by honestly confronting its painful past of killings, torture, disappearances, imprisonments, and officially sanctioned racial discrimination could the country moved forward from its horrific past” (Kashyap, 2009, p. 450). Despite the TRC's influence on South Africa’s post-apartheid society, this experience – the truth and reconciliation commission – is relatively under-theorized through feminist perspectives (Kashyap, 2009). In outlining a brief description of apartheid, as well as the establishment of the South African TRC, I set the stage for an examination into the gendered dynamics in the mandate, Special Hearings, and final report. Following the analysis of the South African mandate, Special Hearings, and summary of the final report, I draw comparisons within each section, illustrating how the Canadian case is similar or different to that of the South African case.

Apartheid in South Africa

The period foreshadowing Nelson Mandela’s death and the global response to his passing put South Africa under the public light once again. Countless newspaper and televised reports, interviews and social media texts have surfaced concerning the life of Mandela which centers around combatting racial prejudices and discrimination. The abolishment of the official apartheid regime is one of the many accomplishments Mandela achieved in his life. It was in Mandela’s lifetime that, in 1948 under the Nationalist Party, apartheid officially became a legalized system. Dutch and later British colonization entrenched a system of discrimination and disadvantage based on race and gender. Since Dutch colonization and the arrival of other European colonizers, white minority rule dictated all

facets of life in South Africa, at least until 1993 when the Nationalist party was defeated by the African National Congress (ANC), headed by President Nelson Mandela.

Through an ideology based on racial segregation, apartheid laws and policies generally led to “dehumanization, petty segregation, grinding poverty, political non-recognition, racist paternalism and lack of life opportunity”(Nagy, 2012, p. 353).

Historically, white supremacy dominated South African society, establishing a hierarchy of race and imposing an inferior status on all Blacks. Black people became “foreigners within their own country” (Gurd and Manjoo, 2010, p. 80). State sponsored discrimination included laws and policies pertaining to franchise rights, land, housing, education, employment, health, governance and judicial institutions, freedom of political activity, freedom of movement and family life (Gurd and Manjoo, 2010). Although apartheid laws affected all Blacks, Black women particularly felt certain restrictions in different ways, and sometimes more harshly, than their male counterparts. For example numerous *influx control measures* and *pass laws* ensured the curtailment of Black peoples movement. Influx control and pass laws regulated the inflow of Black Africans into white urban areas, namely to serve white labor needs, and pass laws specifically required Black South Africans above the age of 16 to carry a ‘pass’ with them at all times in order to prove their allowance into a particular region (Wilson, 2001). Black women were not seen as providers of cheap labor, and therefore did not have the 'right' to live in urban areas, hence forcing them to live separately from their spouses and partners (Gurd and Manjoo, 2010). Black women would be forced to either remain in rural areas, often wrought with dire living conditions, or live illegally in urban centers, engaging in low paying jobs in the domestic work force.

State sponsored discrimination controlled the lives of Black South Africans for decades. This did not go without resistance to state sanctioned murder, draconian states of emergency, and extra legal measures used by the apartheid regime. The state “used sex and gender-based violence and discrimination in ways that reflected and exploited the norms in society regarding women and gender” (Gurd and Manjoo, 2010, p. 83).

Liberation movement camps also committed gendered human rights abuses, including allegations of rape against women and girls and other forms of sexual abuse. Depending on the conditions men experienced before reaching the camps, how men saw themselves and their male identities in the face of women’s success, among other reasons led to gendered violence in liberation movements. There are various accounts of women reporting rape by their comrades throughout apartheid, but many remained silent about these forms of violence in the testimonies because “if women said that they were raped, they were regarded as having sold out to the system in one way or another” (SATRC, Vol. 4, Ch. 10, p. 296). Women endured different forms of torture, others kinds of oppression “including miscarriages in detention, torture using electric shock on pregnant women, allegations of rape by soldiers”, and other forms of abuse (Gurd and Manjoo, 2010, p. 83). Tristan Anne Borer (2009) describes how women’s rape was a “symbolic act meant to humiliate men for not being able to protect them”(p. 1176). This practice was part of a larger set of apartheid tactics, such as impregnating women on the opposing side of the conflict, humiliating ‘manhood’ and asserting their power and authority over others.

As a result of mass struggle and mobilization against apartheid, in the 1980s “the apartheid state adopted a more flexible agenda with liberation movements that included

unbanning political organizations” (Nagy, 2012, p. 353). Foreseeing political transformation, and its scarcity in resources, the governing Nationalist Party began secret talks with the ANC leading to the 1990 release of Nelson Mandela. After “4 years of protracted negotiations in the face of political stalemate, international pressures, impending economic collapse and the risk of an all-out civil war”, the transition to democracy was initiated with President Nelson Mandela coming into power in 1994 (Nagy, 2012). Following the electoral victory of Mandela, the ANC committed South Africa to a policy of ‘reconciliation’ (Gurd and Manjoo, 2010). Reconciliation in this context was initiated by the ANC, however, as we see in the Canadian context, survivors themselves demanded reconciliation.

In comparison, the Canadian TRC emerged out of a class action lawsuit initiated by residential school survivors. After years of criminal prosecutions, civil litigations and alternative dispute resolution, “the [Canadian] courts started to apportion liability between the government and the churches for residential school” (Stanton, 2011, p. 201). The emergence of the South African and Canadian truth and reconciliation commissions show significant variation in their historical context, which provides a starting point to an analysis of the gendered nature of the TRCs work.

The Establishment of the South African Truth and Reconciliation Commission

In the South African context, the ANC was instrumental in committing to an agenda of reconciliation, whereas in the Canadian context Aboriginal peoples and communities seeking government accountability instigated reconciliation. The SATRC emerged out of “a compromise between the Nationalist Party’s desire for complete

impunity for torture and killings and the ANC's desire for Nuremberg-style trials"(Nagy, 2012, p. 354). Included in the 1993 Interim Constitution, the ANC established a body to address human rights violations (Gurd and Manjoo, 2010). The Promotion of National and Reconciliation Act of 1995 (hereinafter the TRC Act) had as its principle goals:

...the establishment of a complete picture of the causes, nature, and extent of gross violations of human rights committed during the specified period, the discovery of truth regarding these violations and the political conflict in general, the promotion of reconciliation, the granting of amnesty to obtain full disclosure and the making of recommendations in respect of reparations for the victims/survivors as well as for measures to prevent the violation of human rights (Gurd and Manjoo, 2010, p. 84-5).

The truth and reconciliation commission consisted of 17 commissioners, nine of whom were men, and eight women, split into three committees: The Reparation and Rehabilitation Committee, the Human Rights and Violations Committee and the Amnesty Committee. Throughout the course of two and half years, from December 1995 to October 1998 (original mandate, but extended to 2002) the commission hosted 80 victim hearings across South Africa in addition to special and institutional hearings with over 22,000 statements from victims taken (Nagy, 2012; United States Institute of Peace). The final report, which consists of five extensive volumes, was submitted to Parliament in October 1998. In the Canadian truth and reconciliation commission, the mandate was originally five years, with a one year extension, there are three commissioners, two male commissioners and one female, and a total of seven national events, as well as various regional and community events.

Gender and The South African Truth and Reconciliation Commission

In part due to the time that has elapsed since the South African TRC completed its mandate, there have been multiple works published concerning the work of the commission and how the TRC has affected post-apartheid South Africa. With specific reference to the gendered components of the TRC, Sheila Meintjes (2009); Rosemary Nagy (2012); Kiri Gurd and Rashida Manjoo (2010), Nahla Valji (2010); Antjie Krog (2009); Beth Goldblatt (1998), along with many others have written extensively on how gender was constructed, manipulated, and shaped by the workings of the TRC. Since the Canadian truth and reconciliation commission is still underway, arguably, there has not been as much scholarly material produced on the commission. Rosemary Nagy (2012), Beverly Jacobs and Andrea Williams (2008), Natalie Chambers (2009) among others, have considered the Canadian truth and reconciliation commission with an eye on the experiences of women and girls; however, there has not been a substantive focus on the actual TRCs ongoing (lack of) focus on gender. My contribution is therefore to follow the progress of the commission in a way that has not yet been taken up by other scholars. The SATRC provides a model by which to examine ways to gender truth and reconciliation commissions.

Gurd and Manjoo (2010) argue that the South African TRC Act is “gender neutral with no specific reference to women, gender, or to gender based violence” (p. 86). It was apparent early on in the commission that although women testifiers were participating in large numbers in hearings, women were not speaking about their personal experiences, rather the experiences of their loved ones. According to Gurd and Manjoo, Black

women's experiences of apartheid were not fully heard and/or acknowledged in the early stages of the SATRC. Feminist activists and scholars quickly organized around this issue and requested that the commission adopt more gender sensitive processes for women. As a result Special Hearings for women were established. Although the Special Hearings for women were certainly viewed as a triumph for some, the testimonies within Special Hearings often reverted women back to traditional gendered roles, ultimately shaping what truths were produced in the final report (Krog and Mpolweni, 2009).

Antjie Krog and Nosisi Mpolweni (2009) argue in 'Archived Voices: Reconfiguring Three Women's Testimonies Delivered to the South African Truth and Reconciliation Commission' that the material gathered in the South African TRC's proceedings was done in a context where women's victimhood was the central focus and traditional gendered roles emphasized in a way that maintained the status quo of gender relations. Additionally Krog and Mpolweni (2009) argue that through processes of translation and transcription, particular meanings are produced when gender sensitive measures are not in place and important components of individual stories are lost altogether. Giving testimony can begin a process of healing, liberating the individual from a truth that may have never been expressed before. If women's testimonies are not recognized in a way that accounts for the complex experiences of human rights abuse, their truths may not become a component of the national narrative (Krog and Mpolweni, 2009). Yet, the commission shaped women's testimonies in a way that highlighted particular components of women's stories. This in effect shaped the 'truth', producing knowledge that silenced the diversity of experiences women endured during the apartheid period. This will be discussed further under the Special Hearings section.

The South African TRC has garnered widespread attention worldwide. With specific reference to the experiences of women and its attempt to apply a gendered lens, the South African TRC was one of the first commissions to go beyond the work of other commissions in states emerging out of conflict, with its implementation of the Special Hearings for women, and the incorporation of a chapter specifically focused on women in its final report. Despite this progress, I argue that the commission's attempt to incorporate gender in its work did not address the myriad of abuses women and girls experienced during apartheid, and consequently did not challenge ongoing gender inequalities in South Africa and the continuities of gendered violence.

The SATRC Mandate

The South African TRC mandate is found in Volume one, Chapter four of its final report. The South African TRC mandate outlines how and why the commission was established, including its historical and legislative origins, how it differed from other commissions to date, including the distinctive institutional and Special Hearings, objectives, terminology as well as the political context and motivation behind the commission. The mandate also includes addressing violations committed by both state and liberation movements, and outlines the TRC's power to grant amnesty to perpetrators who testified their crimes truthfully to the commission (United States Institute of Peace).

In laying out its mandate across forty-five pages, the South African TRC relied on a variety of groups within civil society, including women's groups stating that "all have a role to play in achieving the goal of national unity" (SATRC, Vol. 1, Ch. 4, p. 49). Under subsection 'Why the South African Commission is different from other commissions',

the mandate states that Special Hearings allows direct contributions for those participating in specific areas, for example activism (SATRC, Vol. 1, Ch. 4, p. 54). Furthermore, under this section the South African TRCs mandate states that it was several times larger in terms of staff, budget, and powers of search, seizure and subpoena than three commissions preceding it (SATRC, Vol. 1, Ch. 4, p. 55; Nagy, 2012, p. 354). These components allow for a more inclusive environment, specifically for women. Welcoming the subjects of activism, rather than just politicians and government officials, into Special Hearings allows for a more complete picture of how women played an integral role and contributed in anti-apartheid movements as well as perpetrator roles (SATRC, Vol. 4, Ch. 10). Moreover, since the size of staff and budget were larger, relative to other commissions, the South African TRC is in a more favorable position to welcome more gender sensitive approaches into its proceedings, including conducting gender training for all those members in the commission, appointing women to high ranking positions in the commission, prioritizing resources in order to incorporate a gender analysis in all of the commissions work and so on (Valji, 2010; DeLaet, 2006). Yet, while the mandate identifies various types of contributions made by a diverse set of actors and groups in society, which I discuss in more detail under the Special Hearings section, Black women's testimonies were often swayed in such a way that placed women back to traditional gendered roles.

Significant debate centered on how the TRC defined gross violations of human rights in the mandate. The Mandate states that:

...gross violations of human rights means the violation of human rights through
(a) the killing, abduction, torture or severe ill treatment of an person; or (b) any

attempt, conspiracy, incitement, instigation, command or procurement to commit an act referred to in paragraph (a), which emanated from conflicts of the past and which was committed during the period 1 March 1960 to 10 May 1994 within or outside the Republic, and the commission of which was advised, planned, directed, commanded or ordered, by any person acting with a political motive (SATRC, Vol. 1, Ch. 4, p. 60).

The TRC defined apartheid as “gross violations of human rights” during the period in which the civil war took place (Gurd and Manjoo, 2010, p. 88). The commission limited its attention to gross human right violations emanating from the conflict of the past, rather than focusing on apartheid policies themselves. Serious debate ensued on the ways in which the definition of gross violations of human rights placed a heavy emphasis on physical violence and bodily harm (Gurd and Manjoo, 2010). The mandate acknowledges the commission’s difficulty in addressing “lesser crimes”, those associated with systematic discrimination and dehumanization, however, the commission defined its task as addressing “specific acts, resulting in severe physical and/or mental injury, in the course of the past political conflict” (SATRC, Vol. 1, Ch. 4, p. 64).

The academic scholarship has pointed to the shortcomings of definitions used by the South African TRC. Lyn Graybill (2001) notes, for example that “under the guidelines of the legislation authorizing the TRC, it was mandated only to recompense victims of gross human rights abuses, defined as the killing, abduction, torture, or severe ill treatments of any person by a person acting with a political motive” (p. 4). Similarly, Fiona Ross describes gross human rights violations as “an individual in which all effects of power were stripped away except those that left traces on the body” (cited in Gurd and

Manjoo, 2010, p. 88). Although the mandate states its intention to “recognize and acknowledge as many people as possible as victims of the past political conflict”, the construction of violence in the mandates definition of gross violations of human rights was too narrow to include the diversity of violence and suffering that both men and women experienced (Gurd and Manjoo, 2010, p. 88). The mandate primarily understood violence in combative terms; as “a discrete harm that caused bodily injury to an individual within the context of a local conflict” (Gurd and Manjoo, 2010, p. 88). This construction of violence reflects a common understanding of the term using physical, and more recently psychological terms (Gurd and Manjoo, 2010).

Absent from this conceptualization of violence are structural inequalities and disadvantages, and consequently how this violence is “racialized, gendered, historical, global and strategic” (Gurd and Manjoo, 2010, p. 88). Structural violence, Borer argues, arises from “social, economic and political structures that increase the vulnerability of particular groups- for example, poor women who experience higher infant mortality rates due to limited access to health care systems”(Borer, 2009, p. 1174). Social and economic rights, feminist human rights scholars argue, operate primarily in the private sphere, which disproportionately affect women more than men. Similarly Fionnuala Ni Aolain (2011) argues, commitments to economic and social transformation are generally articulated as “vague principles, not as binding rules to which consequences for lack of enforcement attached” (2011, p. 79). Failing to uncover these types of violations, those associated with the ‘ordinary’ workings of apartheid in contrast with the extraordinary forms of violence, displaces some forms of pain, experience and its expression and

renders other forms of human rights violations more visible, primarily those of political and civil nature which fall in the public sphere (Borer, 2009; Nesiah, 2006).

Within the conceptual framework of the South African TRC, gross violations of human rights depended on a 'political motive' (Borer, 2009). Determining the 'political motive' of acts of torture, abduction, killing and severe ill treatment stemming from the conflicts during apartheid was an extremely difficult task. Restricting the definition of gross violations of human rights to those acts associated with a 'political motive' narrowed the scope of what the commission could establish as truth. Borer (2009) argues that for a number of reasons the SATRC was unable to discover more about the truth concerning rape and other forms of sexual violence. How could a truth commission determine the political motive behind rape, genital mutilations, or sexual assault? Legally the mandate grants amnesty to applicants satisfying that the act, omission, or offence to which the application relates "is an act associated with a political objective committed in the course of the conflicts" constituting an "offence or delict which is associated with a political objective and which was advised, planned, directed, commanded, ordered or committed within or outside the republic during the period of 1 March 1960 to the cut-off date" (Promotion of National Unity and Reconciliation Act of 1995, Chapter 4, sec. 20).

Similar to the definition of gross violations of human rights, which was overly restrictive, amnesty was also considered only for those acts that had a political objective (Borer, 2009, p.1178). However, as I have noted above, determining the political motive of rape, or any form of violence can be extremely complex and problematic. As a result, Borer argues, many crimes remain untold and unpunished, and consequently there is no accountability for a variety of violations. Black women suffer extremely high rates of

rape, domestic violence, and sexual assault among other abuses that are gendered in nature (Goldblatt and Meintjes, 1996). In post apartheid South Africa, violence against Black women persists, at rates similar if not higher than those experienced during the conflict (Sigsworth and Valji, 2011).

The mandate limits the expression of gendered human rights abuse. The mandate's definition of gross violations of human rights ultimately limits women in disclosing multiple forms of abuse, as well as its dependence on a political motive. The failure of the mandate to incorporate the structural inequalities and injustices Black women experienced during apartheid reinforces women's positions of inferiority in South African society.

Comparison: The Canadian and South African TRC Mandates

When comparing the Canadian and South African truth and reconciliation commissions, significant variations are apparent, including of course that the Canadian TRC is still in progress and the South African TRC has been complete for over 10 years now. But a comparison can still be made because both countries have a history of dispossession, oppression, and struggle for liberation. More specifically, the residential school system as well as apartheid practiced gendered violence that affected women and girls in unique ways. My analysis indicates that, despite the openness of the mandates in the Canadian TRC, the South African and Canadian TRCs mandates have been interpreted in ways that fail to include the gendered nature of violence and its ramifications in a substantive way. This violent legacy in part contributes to the ongoing marginalization of Black and Aboriginal women's experiences today.

As I noted in chapter two, even though the Canadian TRC's mandate could address the broader consequences and impacts of residential schools, it has been interpreted in ways that fail to centre the relationship between the residential school experience and the continuities of violence Aboriginal women face today. As such, the limited understanding of the mandate is a missed opportunity to challenge current institutions, structures, and dominant ideologies that continue to marginalize and disadvantage Aboriginal women in Canada. The South African TRC's mandate, as noted above, also failed to adopt a gendered lens, specifically evident in its narrow definition of gross violations of human rights, which heavily focuses on physical violence and fails to adopt a definition that takes into consideration violence related to issues of structural inequality and disadvantage. Moreover, under the SATRC mandate, a 'political motive' must be proven in order for an act of violence to fit within the definition of gross violation of human rights and further to be granted amnesty. The definition of gross violations of human rights governed the work of the South African TRC, and therefore the mandate seriously limited the potential for peace and/or reconciliation in South Africa (Borer, 2009).

My contention is that both the Canadian and South African mandates have been interpreted in ways that ultimately fail to consider the gendered effects of colonialism and apartheid. Recognizing how gender is a constitutive component of the Canadian Indian residential school system and apartheid in South Africa is crucial in challenging patriarchal systems that continue to dominate social, political, economic, and cultural relationships in both countries. In the South African case, it is evident that Black women continue to face soaring rates of violence, rape, and sexual assault on a daily basis

(Sigsworth and Valji, 2011). As Borer argues, “at the moment, one might argue that rather than a culture of rights, there is a culture of sexual violence in South Africa” (2009, p.1180). In the aftermath of conflict or struggle, violence does not simply cease to exist. Romi Sigsworth and Nahla Valji (2011) argue “violence against women has continued at levels akin to, or surpassing, those experienced during the conflict” (p. 115). Whether reasserting authority in employment, household, among others, violence against Black women continues to reach exponential levels. Due in part to the normalization of violence in conflict, violence carries over into the transitional period; according to Sigsworth and Nahla this violence has translated into some Black men asserting dominant positions over women, thus reinforcing the subordinate and unequal roles women play in society (Sigsworth and Nahla, 2011).

While there are numerous contributors to this culture of sexual violence, the framework and composition of the mandate could have been an opportunity where issues of sexual violence underwent serious scrutiny, and opened a window of opportunity where gendered norms could be challenged in mainstream South African society. In the case of Canada, the commissions’ gender blindness in the mandate masks over the unique experiences women and girls faced in residential schools, and also misses an opportunity to address larger questions of Aboriginal women’s poor health, housing, employment, addictions, abuse, among others. While the mandate is not the only avenue in which the unique experiences of women can be addressed, it provides a general framework for the entire commission and is reflective of what the commission is going to accomplish in its work.

The SATRC and the Special Hearings

In South Africa, the Special Hearings for women were established in August 1996, following criticisms that Black women were speaking primarily about the violence perpetrated against their loved ones rather than testifying about their own experiences under apartheid. Although over half of testimonies in the Special Hearings came from women, the majority of their testimonies concerned violence pertaining to relatives and dependents as opposed to their own personal experiences (Gurd and Manjoo, 2010). The Centre for Applied Legal Studies (CALs) at the University of the Witwatersrand examined how the commission missed some of the truth about these women's experiences "through a lack of sensitivity of gender issues"(SATRC, Vol. 4, Ch. 10, p. 284). It was in the second half of the Commission's life (mid way through 1997) that the truth and reconciliation commission agreed to the University of the Witwatersrand CALs workshop proposal to hold Special Hearings for women, and subsequently held three hearings in Cape Town, Durban and Johannesburg. Special Hearings were for women specifically, and prohibited men and male commissioners from attending and participating (Gurd and Manjoo, 2010). Special Hearings provided both evidence of women's involvement in the struggle in addition to evidence of women as direct victims (Gurd and Manjoo, 2010, p. 87).

This shift in the commission's focus marked its attempt to "understand the individual and institutional motives and perspectives which gave rise to the gross violations of human rights under examination"(SATRC, Vol. 1, Ch. 4, p. 58). In the final report, under the Special Hearings for women section, the commission states that it "attempted to amend its procedures in ways that would encourage women to

speak”(SATRC, Vol. 4, Ch. 10, p. 285). According to the report, “by April 1997, the form used by the Commission to record statements had been refined (Version 5) and included the following cautionary note: “IMPORTANT: Some women testify about violations of human rights that happened to family members or friends, but they have also suffered abuses. Don’t forget to tell us what happened to you yourself if you were the victim of a gross human rights abuse”(SATRC, Vol. 4, Ch. 10, p. 285). Furthermore, Special Hearings took into consideration issues of confidentiality and protective measures, such as in-camera hearings, testifying before only women commissioners and allowing them to remain anonymous (Gurd and Manjoo, 2010, p. 87; Borer, 2009, p.1180). Below is an analysis of the specific ways that the SATRC structurally eclipsed Black women’s experiences of apartheid.

Special Hearings: Primary and Secondary Victims

Distinguishing between primary and secondary victims was a point of contention in the commission. Due to the fact that Black women were overwhelmingly testifying about the experiences of their loved ones, women were initially seen as secondary victims. As defined by the South African TRC, primary victims are those victims which have experienced the gross violations of human rights directly, whereas secondary victims or dependents are those individuals articulating a form of their personal suffering as a result of the trauma experienced by the primary victim (SATRC, Vol. 1, Ch. 5, p. 367). This is significant for Black women because in the Special Hearings they were overwhelmingly categorized as secondary victims. In response to criticisms about this categorization, over the course of the commission, commissioners distinguished less and less between

“what were originally perceived as ‘primary’ and ‘secondary’ victims” due to the difficulty in “distinguishing between or weighting, the physical and psychological pain suffered by the direct victim and psychological pain of those to whom this person was precious”(SATRC, Vol. 4, Ch. 10, p. 285).

The Limited definition of Gross Violations of Human Rights

As I have described above, the definition of gross violations of human rights was highly problematic because it focused excessively on bodily integrity rights and failed to recognize structural violence as a result of apartheid, which women are more likely than men to suffer from. In the Special Hearings, in particular, this limited forms of experience and its expression for Black women (Borer, 2009). Gurd and Manjoo comment on how Black women’s testimony was shaped by commissioners’ intervention, forcing the victim to disclose a different story than they had originally planned (Gurd and Manjoo, 2010, p. 89). The definition of gross violations of human rights sidelined the diversity of roles Black women were forced to adopt during apartheid, for example, leadership or activist roles, limiting the ‘new’ national narrative that is drawn out of the truth commissions’ work. The CALS submission argued that the definition of severe ill treatment should be interpreted to include apartheid abuses such as “forced removals, pass laws, arrests, alienation of land and breaking up of families”(SATRC, Vol. 4, Ch. 10, p. 290). The commission’s relative neglect of the effects of the ‘ordinary’ workings of apartheid has a gender bias, as well as a racial one. As noted, “Women were subject to more restrictions and suffered more in economic terms than did men during the apartheid years” (SATRC, Vol. 4, Ch. 10, p. 290).

The chapter devoted to Special Hearings acknowledged that structural violence not only had longer consequences than other types of violations, but also affected a larger number of people than other types of violence that the commission was mandated to focus on. The apartheid system developed a system of economic segregation whereby South African women suffered most through integrated systems of “migrant labor, forced removals, inadequate or no education, neglect of traditional agriculture, and lack of basic health care” in addition to “high unemployment rates, severely skewed income distributions, and tragic health differentials”(Borer, 2009, p.1174). These indirect violations and violence’s were not covered under the definition of gross violations of human rights and therefore downplayed and omitted altogether the suffering women experienced under apartheid.

Refiguring Black Women’ Testimonies in Special Hearings

Despite the intention to include more women, the Specials Hearings worked to reassert traditional gender roles for women, welcoming certain kinds of stories while marginalizing others. In ‘The TRC Women's Hearings as Performance and Protest in the New South Africa’, Annalisa Oboe (2007) presents a number of compelling arguments concerning the power of testimonies, about the different approaches women take in expressing themselves, and how subcultural codes continue to dominate how women express themselves, even in a safer space such as the Special Hearings. Oboe repeatedly suggests that commissioners shaped women’s testimonies, what stories were told, and what information was dispersed in the media and included in the final report (Oboe, 2007). Oboe summarizes a poem by Gcina Mhlophe which captures the daily anguishes

women endured, the separation of families, poverty, and the psychological and social harms experienced, even when direct violence was not among them (Oboe, 2007). While Black women consistently testified about structural disadvantages they faced daily during apartheid, testimonies consistently reverted back to narrow categories of sexual violence, or the suffering women endured as a result of their husbands (Nesiah, 2006).

In an in-depth examination of women's testimonies Oboe (2007) identified common patterns where commissioners consistently diverted away from what women considered to be central in their articulation of suffering, and towards a narrow conception of what was traditionally conceived as women's suffering. For example, Joyce Marubini attended the Special Hearings in Johannesburg in July 1997. In her opening statement, Marubini discussed her membership in the Namakgale branch of the Youth Congress, an organization fighting against the apartheid regime. She recounted a police raid, where she (along with other members) was arrested, deprived of food and water, and severely assaulted. No explanation was given for their treatment or why they had no legal rights. Despite her detailed account, Marubini's story was confined to the gendered nature of the assaults, completely omitting her political activism. She was questioned about her marital status and how her husband felt about her assault, which reinforced "the concept common in traditional patriarchal family structures in South Africa that, once married, a woman is the possession of her husband"(Oboe, 2007, p. 60). This example clearly demonstrated how the commission applied a problematic gendered lens to the experience, drawing the victim away from her position as an activist and towards an emphasis on her suffering as female and wife, while denying important facets of her agency and role. In this way the commission not only failed to elicit the truth, but it reinforced existing

patriarchal structures and replicated some of the gendered discrimination employed under apartheid.

Special Hearings called upon women to “speak as actors, as active participants and direct survivors of the violation of human rights” however, in the end it was only a narrow set of stories that came out of the hearings (Oboe, 2007, p. 61). Trivializing women's experiences in this way overshadowed not only the contributions women made throughout the regime, but also the myriad sufferings that shaped the conflict, both at the time and in its aftermath. In part due to the lack of recognition in the Special Hearings of the multitude of abuses Black women experienced specifically, violence against Black women persists in South African society.

Moreover, the kinds of questions commissioners asked were not the only mechanism that distorted and/or minimized the complexity of women's testimonies. Antjie Krog and Nosisi Mpolweni (2009) argue in ‘Archived Voices: Reconfiguring Three Women's Testimonies Delivered to the South African Truth and Reconciliation Commission’, that there were less obvious and more subtle reconfigurations of truth-telling that took place during the compilation of SATRC testimonies (Krog and Mpolweni, 2009, p. 357). Krog and Mpolweni examined three testimonies given by Black women to provide supporting evidence that the archives were in fact shaped by power relations and ultimately presented a partial refigured truth that compromises the complexity and depth of testimonies. Krog and Mpolweni found that translators were unable to capture emotional distress, omitted some facts altogether, and interpreted words and phrases in such a way that silenced women's suffering. As an example, political activist Sicelo Mhlawuli, along with three other men, was burnt and mutilated by

unknown persons, and found dead in June 1985. Mr. Mhlawuli was found with particularly troubling injuries including multiple stabbings, acid burns, and an amputated hand. Mrs. Nombuyiselo Mhlawuli, the wife of Sicelo Mhlawuli, appeared in front of the SATRC on 16 April 1996 -two days after the commencement of the hearings- to express her own trauma at the loss of her husband. In an effort to convey her suffering to the commission, Mrs. Mhlawuli expressed intense emotional trauma.

The original testimony delivered in Xhosa, when compared to the archived version in English translation illustrates dangerous limitations that arise with errors in translation and cross-cultural understandings; for example the archived version of her testimony claims that she was 'worried' instead of 'hurt' (Krog and Mpolweni, 2009, p. 361). Furthermore, the severity of the wounds and the brutality of the event were completely underplayed because the transcriber did not indicate the number of stab wounds, where they were placed along the body, or that Mr. Mhlawuli was buried without his right hand. Downplaying injuries and omitting facts altogether posed severe consequences for Mrs. Mhlawuli, who arguably attempted to heal through her testimony.

In sum, the establishment of Special Hearings for women was monumental for Black women for its principles suggested that such hearings would elicit a broader understanding of how Black women experienced and suffered under apartheid. Although Special Hearings were applauded initially, women's testimonies were overly directed by commissioners, lost meaning through translation, distorted based on the definition of gross violation of human rights, and overly focused on women as solely victims which failed to capture the diversity and underlying facts that work to maintain Black women's position of inferiority. The purpose of Special Hearings was to unveil what truths had

been silenced and to uncover a range of sexual, physical, and psychological abuses experienced by women. Because the commission did not hear nor fully record the myriad of sufferings women experienced, women's experiences were not open to the sort of analysis that the rest of the report invited and "the history of patriarchy that accompanied and supported the race-based discrimination of the apartheid system" was absent from the narrative (Borer, 2009, p. 1180). In order for reconciliation to be possible, eliciting a full understanding of the conflict is a necessary condition. In the absence of hearing the complexity and diversity of women's true experiences, the commission perpetuates assumptions about "who is important and whose suffering really counts"(Walaza, 2010, p. 196).

Comparison: Canadian 'Statement Gatherings' and South African 'Special Hearings'

The statement gatherings in the Canadian TRC and the Special Hearings in South African TRC both provided a platform where individuals had the opportunity to come forward to share their experiences during the respective struggle. The Canadian TRC thus far has hosted six national events, as well as several regional events, all of which included statement gatherings. Individual statements can be submitted publicly or in private, over the phone, online, on camera and or written. Similarly the South African TRC hosted numerous hearings across the country, which became the public face of the commission; this included three Special Hearings for women.

While the Canadian commission is still underway, there is yet to be any substantive reference to the structural inequalities Aboriginal women face as a result of colonialism and Indian residential schools. Aboriginal women's participation in statement

gatherings is high, which is positive in terms of highlighting their experiences in residential schools or how residential schools have affected their lives intergenerationally. However, in the absence of locating the dynamics between the devastating impacts of the residential schools and their legacy, challenging dominant patriarchal norms in society, and the continuities of gendered violence, Aboriginal women remain in a dire position. It is precisely these systemic issues that are sidelined in the Canadian TRC. Similarly in the South African context, the Special Hearings for women failed to acknowledge specific forms of violence and experience that women endured under apartheid, limiting the possibility of challenging structural inequalities that persist today. Both commissions have ultimately failed to address the long-term consequences for women after the IRS system and apartheid.

In the Canadian TRC statement gatherings, women and men alike were free to discuss issues they felt to be the most important. In the South African TRC Special Hearings, women were free to discuss their experiences under apartheid; however, their testimonies were often reverted back to occupying traditional gendered roles. The commission emphasized sexual violence more than any other violence experienced or roles adopted by Black women (Nesiah, 2006). Political activism, perpetrator roles, among others, have been sidelined in the commission's work. In both TRCs women's experiences did not come to be associated with underlying structural inequalities and violence women currently face and therefore escaped scrutiny.

In the previous chapter, I argued that the National Events cabinet gender in their establishment of women specific discussions. The 'Women of Courage: Gendering Reconciliation' discussion at the Quebec National Event and 'Honouring Women's

Wisdom: Pathways of Truth, Resilience and Reconciliation' talk at the Vancouver National Event compartmentalized or sidelined gender differences, treating women as a special interest group as opposed to mainstreaming gender into the normal activities of the entire commission. Similarly the South African mandate acknowledges that it risked sidelining gender in the establishment of Special Hearings for women (SATRC, Vol. 1, Ch. 4, p. 290). In both cases women's experiences become a specific focus area, insulating gender and women from the every day functions of the commission. Consequently, the Canadian and South African commission's failed to create an accurate and full account of female stories of pain and suffering, survival, activism, and resistance. In the absence of considering women's experiences in all aspects of the commissions, women's stories are sidelined and given little value in the whole of the conflict or struggle under question.

The SATRC Final Report Summary

The South African TRC's final report summary consists of five volumes. Volume one provides an introduction to the commission's work including a background on the establishment of the commission, the historical context of the mandate period, the roles and responsibilities of the commissioners, the mandate, concepts and principles, its methodology and process along with its legal challenges. Volume two deals with an overview of the conflict, including how it developed, the different forms of violations by the state, contextualizing the liberation movement, special investigations and the political violence in the era of negotiations and transition. Volume three focuses on the perspectives of victims of gross violations of human rights reflecting the regional

structure of the commission. Volume four addresses “the various hearings of the commission conducted into the political, economic, and social environment that gave rise to or allowed for gross violations of human rights” (SATRC, Vol. 4, summary). Volume four includes a chapter on ‘Women’ drawing attention to gross human rights violations faced by women. Volume five concludes the report including its findings and recommendations. The Amnesty Committee continued its work until May 2001 submitting two additional volumes in the final report in 2002 totalling to seven volumes, however, these two volumes are not included in the summary.

Throughout the examination of the South African TRC mandate and Special Hearings, I have made reference to the final report, because both components are found in the final report. Just under 4,500 pages, the final report is far too extensive to examine in its entirety, and therefore I analyze the summary of the five volumes listed above. It is primarily in volume four that the experiences of Black women are found and therefore that is where the majority of my examination lies.

Volume four of the final report devotes specific attention to the context of Institutional and Special Hearings. The volume discusses the unique treatment of Black women in regards to state health organization, including the inadequate care for pregnant women as well as those giving birth, Black women’s experiences in prisons, including abusive treatment towards pregnant women, forced miscarriages, ignoring women’s needs for menstruation, child birth, parenting and psychological threats to their family which Ms. Zahrah Narkedien describes as the most effective method “as a means of applying pressure on women where they were most emotionally vulnerable”(SATRC, Vol. 4, Ch. 8, p. 290). These contributions are an important component of the final report

in signalling not only the different forms of abuse Black men and women endured, but also how violence was gendered throughout apartheid. Volume four devotes one chapter to Special Hearings for women. Within this section, the report highlights how the gender hearings came about, the statistics, the definition of gross violations of human rights, gendered roles and socialization, silences, including silences about sexual abuse, sexual and psychological abuse, non prison experiences, relationships and women as perpetrators. Each section speaks about the experiences of Black women specifically, using information from women's testimonies.

The final report acknowledged many of the shortcomings that arose during the Special Hearings. These include the consistent pattern of women refusing to speak about themselves directly throughout the entirety of the hearings, how the "outlook of the commission might have affected what was heard, given the gendered roles and socializations within the society", and its limited definition of gross violations of human rights which neglected the ordinary workings of the apartheid regime (SATRC, Vol. 4, Ch. 10, p. 290). Despite these acknowledgments, the self-evaluation conducted by the commission neglected to comment on "its ability to uncover more truth about women's experiences or to hold perpetrators of gross violations of women's human rights accountable for their actions" (Borer, 2009, p. 1180). Further, while the commission recognized there are multiple reasons for women's silences including protecting her family, a desire to protect herself by keeping silent about illegal activities, a desire to forget terrible experiences, difficulties of describing ones experiences in a public forum, among others, the report does not acknowledge other, more underlying structures that contribute to and maintain a culture of silence amongst women. Although its

acknowledgement of some of its shortcomings is noteworthy in recognizing that it did not address the entirety of claims for justice, the commission's final report did not address how the maintenance of violence in the aftermath of apartheid, politically, economically, and socially continues to be gendered. The commission's self-evaluation of its limitations should be treated as an avenue for further research into the conversation on gendered human rights abuse (Nesiah, 2006). This will be discussed further in Chapter 4.

The section titled 'Gendered Roles and Socializations' notes that gender is a social construct, and how roles in the public and private sphere are socially determined, commonly placing men in the public, political sphere, and women in the private, domestic sphere. Beth Goldblatt, a specialist in human rights, feminist legal theory, equality and discrimination, comments on the number of women testifying about the abuses of fathers, husbands, and sons:

[The testimonies] reflect the reality that women were less of a direct threat to the apartheid state and were thus less often the victims of murder, abduction, and torture. This was due to the nature of society which was, and is, structured along traditional patriarchal lines. Men were expected to engage with the state in active struggle while women were denied 'active citizenship' because of their location within the private sphere (SATRC, Vol. 4, Ch. 10, p. 292).

The above excerpt speaks to how gender roles, experiences, and abuses that were central in the lives of Black women during apartheid were minimized. Women engaged in perpetrator roles, institutionalized violence, and also experienced widespread sexual assault and psychological torture, all of which were central elements in apartheid (Goldblatt and Meintjes, 1996). The report continues to provide further statistical data on

the number of women detainees, killings, armed forces among others which women consistently were fewer than men. The final report fails to highlight where the sources of male dominance are rooted, how institutions perpetuate violence against Black women and further how to uncover and approach policies and practices in a gendered way. The transformative moment of a truth commission arises when it provides a window of opportunity to challenge underlying structural inequalities. The final report can have a “profound impact on the development of equality and a culture of respect for all people”(Goldbaltt and Meintjes, 1996, sec. D).

The report does acknowledge that women “fulfilled all roles in the struggle and suffered the full range of human rights violations” (SATRC, Vol. 4, Ch. 10, p. 292). The report provides many stories of Black women in detention and prisons, as well as non-prisoners and their specific experiences of abuse, humiliation, and victimhood. The final report acknowledges that “women were subject to more restrictions and suffered more in economic terms than men did during the apartheid years”, however, this type of violence was not covered in its definition of gross violations of human rights, and therefore fell outside of what the commission redressed (SATRC, Vol. 4, Ch. 10, p. 290). The definition of gross violations of human rights resulted in gender blindness, “primarily silencing types of abuse that disproportionately affected women” (Borer, 2009, p.1176).

In Volume 5, Chapter 9, ‘Reconciliation’, the report recites Ms Thenjiwe Mtintso at the Special Hearings in Johannesburg who argues that the commission focused on the past, and should shift its focus to the future in addressing violence against women. While violence is attributed to war, violence against women is part of the operation of patriarchy itself, and the bodies of women and children continue to be used as “the terrain

of anger and struggle” (SATRC, Vol. 5, Ch. 9, p. 418). Any notion of reconciliation, democracy, and nation building will not be complete as long as patriarchy is not confronted. Mtintso continues by saying that it is not only government but also society that must address the continuities of violence in Black women’s lives. Similarly, Dr. Sheila Meintjes from the Centre of Applied Legal Studies calls for further “efforts and opportunities to be made for women to speak out” (SATRC, Vol. 5, Ch. 9, p. 420).

Although the final report does acknowledge gender specific human rights violations were exploitative and humiliating in nature, it pays limited attention to the socioeconomic violations that Black women faced under apartheid and fails to consider the root causes and continuities of gender specific silences (Borer, 2009, p. 1178). In its failure to recognize the diversity and complexity of truths that explicitly connects apartheid to continuities of violence, the final report ultimately downplays the perpetuation of institutional violence and social relations which maintain forms of structural disadvantage.

Comparing the Canadian Interim Report and South African Summary of the Final Report

The Canadian Interim Report was released in 2012, summarizing the commission’s work to date. I have argued that the Interim Report failed to address the unique experiences of women in any substantive way, and ignored the gendered nature of abuse perpetrated in residential schools. In failing to address these concerns, the Interim Report casts serious doubt that the final report will address the gendered nature of the residential school system. The South African final report was released in 1998 summarizing the entire two years of the commission’s work. The final report summary

provides a breakdown of five volumes in the final report. Volume four devotes an entire chapter to the Special Hearings for women, and volume five reports violations specific to women and includes recommendations pertaining to gender inequalities and injustices. While the South African final report is far more substantive than the Canadian Interim Report in terms of its treatment of gender, I argue that the South African report is still limited in addressing the underlying structural inequalities that women faced during and post- apartheid. Volume four discusses violence specific to women, different types of abuse as prisoners and non-prisoners, a broad conception of gender as a social construct, some of the reasons women remain silent, which is far beyond what the Canadian Interim Report did. However, the SATRC also failed to discuss the continuities of gendered violence and socio-economic disadvantages women face, which arguably are akin to, or above, those levels experienced during the conflict (Sigsworth and Valji, 2011).

The South African final report addresses some of the reasons why women remained silent in uncovering their abuses under apartheid in all hearings, but the list did not include underlying patriarchal structures that contribute to women's silence. Similarly in the Canadian case, the 'silent woman', whom Hill (2003) describes as *She No Speaks*, can be reluctant to disclose her experiences under the residential school system due to dominant perceptions of women. Enabling women's voices in a public sphere, and representing women's experiences of human rights abuse in more complex ways is central to a commission's work. Addressing some of the ways in which women's position of inferiority is maintained is crucial in promoting a path towards reconciliation.

The recommendations found in the Canadian Interim Report do not touch on the subject of gender or the specific experiences of Indigenous girls and women. I argue that

this absence only confirms that the different experiences of Aboriginal males and females under the residential school system as well as its manifestations are not a priority for the Canadian TRC. The recommendations in the South African final report found in volume 5, chapter 8 do address some concerns with specific attention to women. The commission states that it needs to be sensitive to the needs of particularly disadvantaged groups in the past (women and children), as well as recommendations to building a culture of human rights in private and public sectors (SATRC, Vol.5, Ch. 8, p. 304, 305, 348). In volume 5, chapter 9, 'Reconciliation', women's testimonies clearly address the shortcomings of the commission in terms of address the continuities of violence for Black women. But the chapter fails to address how the commission can move forward to include women's voices, women's experiences and challenge where and why violence against women persists. Ultimately, in the Canadian report, gender and women are non-existent, and in the South African report it is sidelined. In both contexts, failing to address the differential experiences of males and females in an atmosphere that claims to welcome all truths, poses serious ramifications for the future of gender equality.

Conclusion

This chapter introduced the South African apartheid regime in order to examine particular components of its truth and reconciliation commission, including the mandate, Special Hearings, and the summary of the final report. While the South African TRC attempted to implement a gendered lens in its procedures, it largely failed to account for the underlying structures that maintain gender inequalities, and was also critiqued for failing to address the continuities of gendered violence in the aftermath of conflict. Borer

argues “the South African case, then, offers a cautionary tale about the difficulties associated with the ability of truth telling mechanisms to serve the cause of fostering a truly gendered human rights culture”(Borer, 2009, p. 1180). The mandate introduced the concept of gross human rights violations, which focused disproportionately on bodily injury, limiting what the commission could redress. Special Hearings for women presented a ‘safer’ space for women to disclose their personal experiences under apartheid, but it also reduced the experiences of women to traditionally held patriarchal conceptions of femininity. Finally the SATRC final report summary examined some of the gendered effects of apartheid, although it also missed an opportunity to address underlying reasons as to why violence against Black women, whether, physical, or socio-economic, persists.

In making a comparison between the South African TRC and the Canadian TRC, I drew relevant comparisons with Canada. In both contexts, a truth, a narrative, a story is needed that explicitly connects the residential school system and apartheid to current manifestations of Aboriginal and Black women’s disadvantage in society respectively (Nagy, 2012). Borer argues, “violence and coercion are a normal part of the every day life of South African women” (2009, p. 1180). Similarly in the Canadian context, Aboriginal women in Canada are the poorest population in the country, facing disproportionate rates of abuse, poor health, along with numerous other entrenched disadvantages. One of the central purpose of each truth commission is to reconcile a nation (Walaza, p. 196). In the absence of a gender focus, one that takes into account the range of truths about sufferings reconciliation does not seem achievable (Meintjes, 1998). Nonetheless, in the final chapter, I consider what lessons can be learned for future

commissions seeking reconciliation in a way that is more attuned to different gendered experiences and the power dynamics among marginalized peoples.

CHAPTER 4

Lessons for Future Truth Commissions and Women

To walk in balance, with guidance, by the creator, to unite our people together as healthy nations to ensure a better life for the future generations (Ouellette, 2002, p. 74)

The Canadian and South African truth and reconciliation commissions have made significant contributions to individuals, communities, and each respective nation as a whole (Nagy, 2012). Establishing truths, calling into question the motivations behind such repressive policies, confronting racism, relieving tensions between communities and perpetrators, exposing untold histories, and allocating responsibilities in the struggle, are a few, among many, of the contributions the TRCs have made in their projects. The goals of both TRCs have been to uncover and acknowledge historical human rights abuses, draw attention to victim and survivors' voices, educate the public about the historical injustices, restore relationships across differences, and promote reconciliation. While there are certainly monumental contributions each commission has made in their respective countries, the acknowledgment of women's experiences has been virtually non-existent in the Canadian context, and the South African's explicit focus on women failed to capture the depth of their experiences and further perpetuated traditional gender roles.

The South African TRC finished its mandate over ten years ago and South African women continue to face issues of racial and gendered discrimination. Women continue to suffer sexual violence, poverty, poor housing and health care, unemployment among others in their daily lives (Borer, 2009; Walaza, 2010). The Canadian TRC is moving into its final year of operation and has thus far failed to acknowledge gender and women's experiences in any substantive way beyond two special sessions in the

National Events. In light of this inattention to the specific experiences of women and girls, it seems unlikely that Aboriginal female experiences will occupy a significant component in the Canadian TRC final report and its recommendations. While no commission can eradicate sexism and patriarchy, in these two cases there was a missed opportunity to make central the experiences, abuses, and continuities of violence Black and Aboriginal women faced in the past and present. While a truth commission is certainly not the only vehicle in which gender justice ought to be visible, it presents a transformative moment or a window of opportunity where underlying institutions and social norms go under critical examination, opening the potential to challenge gendered patterns of abuse.

In this final chapter, I will begin by briefly outlining a summary of my findings, including the Canadian TRC, the South African TRC and how the commissions compared with reference to gender in their work. The majority of this chapter provides a preliminary overview of how future truth commissions can approach gender related issues in their work. Specifically, I outline how gender can be addressed in the mandate, statement taking, hearings, and writing of the final report. In highlighting some of the issues and strategies to address the gendered nature of human rights abuse, I hope to provide a set of diverse approaches commissions can adopt in their work. Keeping in mind that every context (including its political history, patterns of human rights abuses and gender relations) is different, commissions will address questions of gender in diverse and complex ways and therefore, there is no universally accepted set of best practices.

Summary of Findings

Comparing the Canadian and South African truth and reconciliation commissions inevitably raises questions. Canada's non-transitional society and its existing 'democratic' institutional structure, one that continues to be operated by those who architected the residential school system, is unique relative to other societies undergoing transition and engaging in truth and reconciliation processes (Jung, 2011). Alternatively, the South African context emerged from a violent civil war, tasked with establishing and maintaining democratic institutions and dealing with the potential of violent reactions to any newly state implemented policy. Despite obvious differences between the political, social, economic and cultural landscapes in Canada and South Africa, both countries instituted TRCs to address historical injustices. Yet, both TRCs have failed to adequately address the gendered effects, specifically those affecting women and girls, of the residential school system and the apartheid system of South Africa.

In the Canadian case, despite the possibilities of the mandate, women, girls, and gender do not occupy a constitutive component of the TRC's work. The mandate has been interpreted in ways that fails to explore how the residential school system has contributed to many of the contemporary problems and inequalities facing Aboriginal women today. Until recently, the programs of events, included in each National Event, did not address women or gender specifically in their schedules. The two most recent National Events, Quebec and Vancouver, held one event each which spoke specifically about the traumas experienced by and resilience of women and girls in the residential school system as well as its aftermath. Statement gatherings provided thousands of survivors and loved ones the opportunity to discuss publicly, or privately, their

experiences of the residential school system. Open ended and voluntary, statement gatherings were an optimum opportunity to draw a continuum from the abuse experienced in residential school system to current forms of socio-economic disadvantages women suffer; however, this was not a significant component of the TRC's work. The Interim Report, which sums up all of the commission's work to date, failed to shed light on the specific experiences of women and girls as well as the differentiated impacts of men and women in the school system.

Combined, interpretations of the mandate, the program of events, statement gatherings and Interim Report have all excluded or only nominally focused on the experiences of women and girls in their work. The relationship between the residential school system, as well as ongoing inequalities, which affect a disproportionate number of Aboriginal women, go unexplored in the Canadian TRC; this notable absence signals that there is little hope that the gendered nature of the colonial system of residential schools will be central in the final report and recommendations. With its principal goal of reconciliation, the truth and reconciliation commission limits its opportunity to reconcile relationships between Aboriginal women and those responsible for the establishment and maintenance of the residential school system. In failing to substantively address the different experiences of men and women, boys and girls, in the school system as well as how those experiences have manifested in a variety of ways in the aftermath of schools, the commission not only limits its understanding of the gendered nature of abuse but also contributes to a perpetuation of gendered silences in society.

In the South African TRC the impact on women and the role of gender were taken up more substantively than in the Canadian case, with a chapter in the final report

devoted specifically to women and the establishment of Special Hearings for women. Despite this inclusion, the commission's attempt to incorporate gender in its work failed to address the multiple types of abuse Black women experienced during apartheid, and did not confront the ongoing gender inequalities in South Africa. The mandate narrowly defined gross violations of human rights in a way that not only ignored the current forms of violence Black women face, but it also focused heavily on physical violence and bodily harm. In over emphasizing physical violence, the set of complex roles and identities women adopted in the struggle are overlooked and go unaddressed. The diversity of harms experienced by women are limited to, often times, forms of sexual violence. Furthermore, the South African TRC granted amnesty to those violent acts considered to be gross violations of human rights that were dependent on a 'political motive'. Proving a 'political motive' was highly problematic and resulted in many crimes remaining untold and unpunished, because of the difficulty in determining a political motive in a crime such as rape.

In the Canadian context, the mandate similarly fails to see gender, and more specifically, Aboriginal female experiences, both in the past and present, as a critical dimension in its framework. Structural gender biases are critical to the historical account of a country because they shape policies, practices and institutions that often affect women in a more substantive way than men. The use of the mandate presented an opportunity, where the commissions could have uncovered some of these gender biases and addressed them in the key organizing concepts, frameworks, budget allocations and so on. In the case of South Africa, with significant pressure on the TRC to incorporate the voices of women, it established Special Hearings for women. Although the

commission encouraged women to speak as women, as oppose to testifying about their loved ones, women were consistently portrayed as secondary victims, limited by the definition of a gross violation of human rights and its ignorance to the ordinary workings of apartheid, including the socio-economic harms of forced removals, land dispossession among others. Moreover, the testimonies given in the Special Hearings for women shed light on a narrow set of stories due to the kinds of questions commissioners asked, which distorted some women's experiences and underplayed particular gendered forms of violence. Similarly in the Canadian context, statement gatherings did not capture the complexity and diversity of harms experienced by women.

In both cases, Aboriginal and Black women's statements were not fully linked to continuing structural inequalities today. The South African TRCs final report includes a specific chapter that addresses the Special Hearings for women, including some of its shortcomings, and a chapter on reconciliation, that addresses some of the unique experiences women faced under apartheid. The final report made a point in acknowledging its shortcomings in the mandate, including its conceptual limitations of gross violations of human rights, and the Special Hearings, both with specific reference to women and gender. This evaluation did not comment on its inability to uncover more truths about women's experiences or include a discussion on the continuities to violence in the aftermath of apartheid. In the absence of this recognition, the commission does not open up space for further research and analysis into the socioeconomic harms of apartheid, effectively ending the conversation on gendered human rights abuse. The Interim Report in the Canadian context fails to address the gendered effects of the residential school system as well as its manifestations. Furthermore, not one of the twenty

recommendations in the Interim Report addresses gender inequalities. In the absence of confronting the ongoing operation of patriarchy, violence against women (whether physical, economic, or social), and the underlying institutions responsible for the continuation of such abuse, the Canadian and South African TRCs are limited in their goal of reconciliation.

Future Commissions

The International Centre of Transitional Justice (ICTJ) Gender Program report provides a preliminary overview of the various elements of truth commissions that “warrant attention to gender related issues”(Nesiah, 2006, p. 6). In drawing lessons from past commissions, this report offers various ways to address gender throughout numerous aspects of a commission. This includes context specific analysis and strategies for addressing gender human rights violations (Nesiah, 2006, p. 2). As well, incorporating gender into the organizational structure of truth commission requires that commission staff, in various departments, are fully engaged in the process of working effectively with gender human rights abuses. According to the ICTJ, prioritizing the concerns and interests of marginalized groups, investigating the enabling conditions and patterns of abuse, and involving a diversity of civil society groups ensures a strong institutional commitment to highlighting often times neglected issues and abuses (Nesiah, 2006). Operationally then, addressing gender in a truth commission’s work can offer a more inclusive, representative, and respectful human rights agenda in a country’s post struggle period (Nesiah, 2006). In this section, I consider how a TRC could ‘mainstream gender’. Because there are various topics to be addressed in a commissions’ operations, and this project has focused on three overarching components of a truth commission, I limit my

discussion to the mandate, statement taking, hearings and final report writing in addressing gender sensitive processes in truth commissions.

A truth commission's mandate "should be determined through open, consultative processes" that allocate specific attention to marginalized and vulnerable communities (Nesiah, 2006, p. 6). Welcoming the voices of women in addition to other marginalized groups in a forum for decision-making provides critical insight about gendered patterns of human rights abuse and ensures the process is responsive to exclusions of knowledge. A mandate can provide a more expansive definition of the truth in "criticizing dominant claims to authoritative truth" underscoring "how truth is often partial, contested and a matter of historical struggle" (Nesiah, 2006, p. 7). In demystifying established truth, the mandate of a TRC can be used to signal that historically and structurally suppressed truths are important. Other definitions in the mandate are also crucial to addressing gender human rights violations. In 2002 La Comisión de la Verdad y Reconciliación in Peru adopted a broad definition of sexual violence where sexual violation is "one among other forms of sexual violence" (Dal Secco, 2008, p. 73). Furthermore an expanded definition of human rights violations can expose the reality of gender-based torture. Human rights violations have often been defined according to bodily injury; however, this conceptualization is too narrow, and ignores the extreme vulnerabilities and structural inequalities that often affect women in more disproportionate numbers. Furthermore, focusing too narrowly on bodily or physical injury often minimizes women's experiences to sexual violence or rape. Nesiah argues that this representation "perpetuates more widespread prejudices that reduce women to sexual beings alone" (2006, p. 10).

A significant component of a truth commission's work lies in documenting survivors' stories of the struggle. Nesiah argues that "it is particularly important that truth commissions are sensitive to patterns that might emerge from these statements, especially gendered hierarchies or patterns of abuse against women" (Nesiah, 2006, p. 17). A truth commission can enhance a gendered approach to statement taking, by training statement takers in "how to deal empathetically with the psychological stress of submitting testimony" (Nesiah, 2006, p. 21). It is common that women speak about their loved ones in testimonies rather than their personal experiences, as we see for example in the South African context, and as a result crimes against women often go underreported, fundamentally distorting the historical record. In response to this, truth commissions can integrate specially trained statement takers to engage women in in-depth interviews and individual case histories. Trained statement takers can be prepared with various interview techniques, informed on the breadth of experiences women faced during the conflict, and qualified to "look for cues to patterns of abuse" (Nesiah, 2006, p. 19). Truth commissions should, if permissible, have victim's full contact information in order to not only make records accessible, but to provide the opportunity for the commission to report its findings of an investigation to a victim, especially in the case of the disappeared. As Nesiah states, "the right to truth involves both truth telling and access to truth" (2006, p. 21). Finally, a victim's identity in statement gathering should be approached with caution. In the case where a statement-taking unit "projects a particularly protective approach to witnesses, this may be perceived as patronizing and depoliticizing the context of struggle against an unjust disorder" (Nesiah, 2006, p. 20). Truth commissions should be aware of

the complexities involved with a victims' sense of empowerment and vulnerability in its approach to statement taking.

Hearings, whether public and private, are another significant component of a truth commission's work. Thematic hearings, described by the ICTJ, highlight critical issues in a country's history of human rights abuse, and further "can respect each individual's experiences of loss and survival while also recognizing the larger collective significance"(Nesiah, 2006, p. 26). Special Hearings for women would fall under the category of thematic hearings. These hearings can be advantageous in grouping women together in order to highlight some of the gendered patterns of abuse. Drawing out the links between continuities of extraordinary and ordinary violence can increase the social impact of this form of hearing. Thematic hearings can also broaden the scope of the commission's work by bringing in expert testimony that can highlight relationships between types of violence, and can provide the opportunity for addressing women's experiences in more complex ways.

Individual hearings can "publicly affirm the value of each individual life, and allowing women to testify in a privileged, officially sanctioned space carries symbolic significance in marking state responsibility for women's experiences of abuse"(Nesiah, 2006, p. 30). Because of various pressures, or barriers women face that contribute to their reluctance to testify, a commission should be "proactive in mobilizing outreach efforts and creating an institutional environment that encourages public testimony"(Nesiah, 2006, p. 30). Providing a testimony will not only give women a platform from which to address the nation, but also educate the public on human rights abuses experienced by women. Finally in providing in-camera testimony, a truth commission recognizes and

respects the victim's right to due process. In camera hearings can create a safer space where women are more comfortable testifying about abuses that may be publicly shamed or denounced (Nesiah, 2006).

The way in which women's voices are included in the final report can be critical to how the diversity of their roles are recorded in the national narrative and how their losses are redressed (Nesiah, 2006). The final report should address the history of gendered human rights abuses and incorporate a comprehensive report on the gendered nature of abuse, ensuring a richer representation of the entire range of statements submitted. Accounting for the diversity of experiences women faced during a context of struggle allows for critical examination of institutional structures and opens up space for future analysis into the gendered nature of abuses. In allocating a chapter to gender for example, Nesiah argues, this allows the report to reflect on its own methodology, engaging in self-evaluation of its work, and opening up space for further research, analysis and discussion. Alternatively, it must be noted that allocating a specific chapter to or hearings for women can also pose a danger of gender cabineting, which potentially renders gender analysis invisible through other relevant areas of the commission. Finally, accessibility to and clarity of the final report is a key to a commissions work. This is especially significant in contexts where literacy rates are low and where "linguistic minorities, rural communities, and others have less access to national media sources and official records"(Nesiah, 2006, p. 33). In writing the final report a commission may want to involve women's groups as well as other outside actors in conducting research, providing critical feedback, and making written submissions (Nesiah, 2006). Given inherent limitations of including all testimonies, a commission should select testimonies

which cover a wider range of abuses committed, thus providing a richer representation of the diversity of harms that occurred in the conflict, and informing future generations of women's experiences and the roles women played in contexts of political conflicts.

What I have provided above is certainly not exhaustive for addressing gender related issues in truth commissions. Rather, it provides an overview for thinking about the various ways and practices that can be utilized and extended in order to address gender more substantively in a commissions work. Furthermore, implementing all of the measures noted above will likely be unrealistic for a truth commission with a limited budget or time frame, however, gender should remain a central focus and priority in any commission.

Beyond the scope of the mandate, statement taking, hearings and the writing of the final report, there are various other aspects in a truth commission that could potentially address gender related issues. This includes: appointments and recruitment of commissioners and staff; initializing training on gendered human rights abuse for everyone in the commission; relationships and consultations with non-state actors, including engaging consultations and dialogue with the broader community of women's organizations, academics, and activists; working with media institutions to ensure messages are transmitted to marginalized groups, and disseminating information about women's multiple roles and experiences; investigations in establishing crimes and their enabling conditions; research into gender relations; and recommendations for reparations and reforms. All of these components provide opportunities where a gendered perspective can bring female voices in a public forum and "constitute an opportunity to remove long-standing denials of abuses and gain public recognition" (Dal Secco, 2008, p. 69).

Due to significant challenges, actors, and elements, the advancement of reconciliation and promotion of institutional reforms are often hopeful at best in a truth commission's work. Economic considerations, political will, legislative initiatives, and societal and individual readiness to change, among others, are highly influential in the commissions proposed goals (Nesiah, 2006). Reconciliation in every context will have different meanings. Even within a single country, reconciliation will be conceptually and politically debated. The Canadian government, through the TRC, and South African TRC have been criticized for their overarching goal of achieving reconciliation rather than its development, and for treating reconciliation as an event rather than a process (Jung, 2011; Hayner, 2011). Chair of the Canadian TRC Murray Sinclair points out that because it took Canada such a long time to reach this point in our relationship, one characterized by exploitation and domination, and with over seven generations of residential schools, it will take a few generations to begin this path towards reconciliation (Vimeo, TRC-CVR, 2012). Similarly in the South African context, although the promotion of reconciliation is commendable, it must be a process approached with patience, addressing and investigating every enclave of society in order to uproot where inequalities persist.

As I have argued earlier, reconciliation is best initiated and promoted in a commission's work, rather than seen as completed when a TRC finishes its final report. A truth commission is a powerful institution that can begin to challenge some of those issues that are often sidelined in mainstream society. Gender inequalities present in the Canadian, South African, Peruvian, Sierra Leonean truth commissions, among others, have gone unchallenged or underexplored in their work resulting, in part, to the disadvantage of women more disproportionately than men (Nesiah, 2006; Valji, 2010;

Nagy, 2008). In the absence of challenging underlying structures that perpetuate gender inequalities, a truth commission is limited in promoting reconciliation.

My work presents an ongoing scholarly and social discourse that is fundamental to the injustices Aboriginal and Black women continue to suffer. Analyzing the influences and factors of how gender shapes a conflict or genocide is crucial if any fundamental lessons are to be learned. Understanding the depths and complexities of intersections of gender, race, colonialism, among others, helps paint a more accurate and clear understanding of the continuities of gender abuse globally. Addressing gender and women in truth commissions can be a strong contributor in challenging some of those gendered patterns of abuse and contribute to a richer understanding of how to challenge such inequalities in present and future generations. In the absence of understanding the truths of our past, we are limited in our paths towards reconciliation in the future.

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