PERMANENT PEOPLE'S TRIBUNAL

Session on

Missing Indigenous Children and Unmarked Graves in Canada

An Indictment of Canada for Genocide and Crimes Against Humanity Against Indigenous Children, Families and Communities brought by

the Native Women's Shelter of Montreal

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I. Preamble

A. Introduction

Indigenous peoples have lived on their lands and territories in what is now known as Canada since time immemorial, forming sophisticated societies grounded in their own laws[1], legal orders[2], and governance[3] structures expressed through their distinct languages, worldviews, and cultural traditions[4]. Their legal and political foundations constitute their own constitutional orders[5], from which their inherent authority and jurisdiction are derived. Far from being extinguished or displaced, these Indigenous legal traditions continue to guide governance, family and inter-nation relationships, and responsibilities to the land. While these core elements of nationhood are shared across Indigenous peoples, the legal traditions of First Nations, Métis, and Inuit peoples are distinct, shaped by their unique histories, languages, territories, and political and legal constitutional orders.

Today, Indigenous legal orders matter not only as historical foundations that established Canada, but as living structures that continue to shape Indigenous governance, law, and community life. Despite generations of colonial interruption, Indigenous legal traditions remain resilient, adapting to new contexts while carrying forward responsibilities rooted in land[6], kinship[7], and collective wellbeing[8]. This resurgence reflects the ongoing strength of Indigenous nations and underscores the need to understand their legal orders on their own terms.

For this indictment, we argue that Indigenous nationhood is grounded in three interrelated pillars — land, governance, and family — each distinct yet inseparable in shaping Indigenous legal orders. Land is not simply territory but a living legal and relational source that generates norms, responsibilities, and teachings. Governance reflects the collective decision-making structures through which these obligations are enacted and upheld, often finding their origins in nation-specific ceremonial traditions[9] and structures. Family and kinship form the social fabric that sustains identity, belonging, and intergenerational continuity of family lineage and nationhood, through birthing and raising future generations. Woven together, these elements resemble strands of a braid: each carries its own strength, but their integrity depends on their interconnection. It is through this braided relationship that Indigenous constitutional orders[10] maintain coherence, legitimacy, and resilience[11]. Ultimately, the strength of Indigenous nationhood endures in the relationships braided together between land, governance, and family — relationships that continue to generate living law despite the imposition of colonial interference and ensuing effects of historic[12] and ongoing colonial trauma.

Canada disrupted the intergenerational transmission of knowledge[13], land governance and connection to territory through colonial laws that prohibited Indigenous peoples from exercising their way of life. In this indictment we will demonstrate that Indigenous peoples and nations had complex and sophisticated nations that formed their nationhood enabling them to exercise self-determination on their own terms according to their own laws, worldview and ways of being.

Governance

The formation of the Canadian state was built on a deliberate legal and political denial of Indigenous sovereignty[14]. Colonial officials understood that Indigenous nations possessed their own laws, political authority, and decision-making structures, yet they constructed a legal framework that refused to acknowledge their sovereign realities. This denial was central to state-building: doctrines such as discovery[15], terra nullius, doctrine of reception, and assumed Crown sovereignty[16] were deployed as strategic legal fictions[17] to justify the occupation of Indigenous lands and the replacement of Indigenous constitutional orders. Use of these doctrines [18] were strategically mobilized to justify the state's expansion, even though these concepts held no legitimacy within Indigenous legal orders. This foundational erasure laid the groundwork for a legal system that positioned Indigenous nations not as partners in Confederation[19], but as obstacles to be managed, controlled, or eliminated[20] from the political landscape for the sole purpose of Canadian nation-building. Canada's national identity and political order were forged by elevating settler subjects while systematically dispossessing Indigenous peoples and positioning them as the nation's uncivilized "others."[21]

The Canadian state deployed the language of "civilization"[22] through early laws[23], including the *Indian Act* (officially titled *An Act to amend and consolidate the laws respecting Indians*) (the "*Indian Act*")[24], as a central colonizing tool to justify the erasure of Indigenous sovereignty and to produce public support for colonial expansion. Presented as a benevolent mission of progress, the civilizing discourse constructed Indigenous peoples as "uncivilized," "inferior," or "in need of uplift," thereby legitimizing state intervention into Indigenous lands, governance, and social structures. This narrative also enabled what some genocide scholars identify as *Indigenocide*[25]: the systematic elimination of Indigenous peoples as political and legal subjects, carried out through state policies justified in the language of civilization. This 'civilizing' narrative was not merely rhetorical; it functioned as a legal and political ideology that transformed Indigenous nations from self-governing polities into populations to be managed, disciplined, and absorbed into the Canadian body politic through forced "political participation in Canadian life"[26]. This colonizing logic or the "logic of elimination"[27] operated not only through territorial seizure but through the ongoing

destruction of Indigenous political realities — replacing Indigenous law and governance with the state's own definitions of "Indian" through laws of enfranchisement, civilization, dispossession[28] and dislocation. The same colonial civilizing logic endures in contemporary policy approaches that still conceptualize Indigenous peoples and lands as problems to be managed[29], rather than as constitutional partners whose authority rests in their own inherent laws and governance structures tied to their lands.

The Canadian state further entrenched the colonial logic of elimination of Indigenous nationhood by imposing new governance structures designed to replace Indigenous political orders with institutions controlled and overseen by the state. Through the *Indian Act*[30], colonial authorities dismantled hereditary, consensus-based, and kinship-rooted governance systems, replacing them with band councils that mirrored municipal models rather than Indigenous constitutional traditions. These structures aligned with patriarchal[31] norms foreign to many Indigenous societies, excluding women from political authority and severing governance from the relational obligations that previously tied leadership to land, kinship, and community responsibility. By denying Métis political authority and forcing Inuit communities[32] into municipal-style public governments[33] run by non-Inuit officials, the Canadian state attempted to erase Indigenous governance structures and replace them with settler-controlled institutions that centralized decision-making power over Indigenous peoples' lives. These imposed systems did not merely reorganize inherent Indigenous governance structures; they aimed to eliminate Indigenous nations as self-determining political entities by severing the braid that holds land, governance, and family together —the intentional structural erasure and ongoing nature of settler colonial elimination.[34]

B. Statement of Purpose

The purpose of bringing this prosecution against Canada for genocide and crimes against humanity at this time is to bridge the disconnect between the current understanding of the harm perpetrated by the State through Indian Residential School System, Indian Hospitals, institutions and laws and the continuing lack of state accountability for those harms. Canada committed these crimes and has safeguarded itself through laws and selective adherence to international norms. To this day, harmful and discriminatory provisions of T*he Indian Act* persist as good law. We have had processes such as the Indian Residential School Settlement Agreement (IRSSA), the Truth and Reconciliation Commission, A National Inquiry on Missing and Murdered Indigenous Women and Girls, and an Independent Special Interlocutor who reported on missing and disappeared Indigenous children and unmarked burials in Canada; yet, we have a government that has barely implemented any of the recommendations, Calls to actions or justice that these same processes have made. There is a failure for accountably by the State which must be held to responsible for its international legal obligations, including how such obligations can be effectively implemented, especially in the face of structural impunity. The existing

institutional and legislative limitations, gaps, and weaknesses, must understood as contemporary expressions of the State's continuing discriminatory logic. This indictment and prosecution are an attempt to begin to forge a new pathway through which these structures might be reversed.

C. Summary of Alleged Crimes

This indictment is alleging acts of genocide and crimes against humanity perpetrated against Indigenous children, families and communities. This indictment will focus on the enforced disappearance of Indigenous children through the federal Indian Residential School System (the "IRSS") and other related institutions. We will demonstrate in Canada's own documents, commission reports and through survivors' testimony and shared narratives that Canada committed crimes against humanity and crimes of genocide. The accusations in this indictment are not an exhaustive account of Canada's assault against Indigenous children. Not every criminal act by the state is listed, nor can it be covered in this indictment due to the sheer volume, instances and total systemic approach to erasing Indigenous people in Canada.

D. The Applicable Law

Canada is in breach of its duties under the *Convention on the Prevention and Punishment of the Crime of Genocide*. For genocide, the Convention expressly requires States to prevent and punish the crime.

As it relates to crimes against humanity, the binding legal obligations for Canada come from customary international law. They do not depend on the existence of a dedicated treaty codifying State's obligations.

The prohibition of crimes against humanity formed part of customary international law at least from the Nuremberg period onward. Canada has long recognized that reality in its legislation, parliamentary materials, case law, and official international positions[35]. That prohibition also binds States directly, not only individuals, and its jus cogens character reinforces its universal and non-derogable nature and gives rise to consequences under the law of State responsibility.

The prohibition of crimes against humanity as a *jus cogens* norm means that the resulting duties of investigation and punishment as obligations is incumbent upon the State itself. If conduct affecting Indigenous peoples is proved to constitute crimes against humanity under

the applicable international law, and if the acts or omissions are attributable to Canada, then Canada should incur international responsibility as a State.

The prosecution alleges that the conduct of any State organ is attributable to the State, whether that organ exercises legislative, executive, judicial, or any other functions, and whether it belongs to the central government or to a territorial unit of the State. Canada empowered through domestic law entities, including ones that are not formally organs of the State, to exercise elements of governmental authority particularly over children of Indigenous peoples, communities and Nations as it relates to the crimes against humanity alleged in this indictment. Conduct by federal or provincial officials, public institutions, or bodies exercising delegated public power, is attributable to Canada, even if it was unlawful under domestic law.[36]

There are other International instruments that the prosecution will rely on as listed below. Additionally, Canada is alleged to commit acts under Articles 2 and 3 of the *New Statute of the Permanent Peoples' Tribunal*, as described under Section IV Charges, below.

E. Summary of Requests

The requests that the Native Women's Shelter of Montreal are making includes declarations of the acts committed against Indigenous children, families and communities. The requests also seek to remedy the harm and pain caused. Remedy requires Indigenous-led reparations and state provided resources to investigate and further repatriate those children that disappeared, never returned home and to seek accountability through processes for the criminal harms that these acts of genocide and crimes against humanity have caused.

As it relates to forced or coerced sterilization, resolution and remediation looks like what has already been recommended within Canada and internationally: impartial investigations on all allegations of forced/coerced sterilization, that persons responsible are held accountable and redress is provided to victims, as well as changes in law, which are currently before parliament on a bill to amend criminal law in Canada. Laws must not only change in words or statute but also be enforced in a manner resourced to ensure implementation.

II. The contextual background and the accused party

The contextual background is large and covers an extensive period of time. It includes state sanctioned laws and policies that were designed to erase Indigenous peoples and rights in what is now Canada. As pointed out by Fannie Lafontaine in the supplementary report of the

National Inquiry into Missing and Murdered Indigenous Women and Girls on the Legal Analysis of Genocide, "Colonialism is a unique form of violence that does not fit easily in the international legal definition of the crime of genocide.[37]" She explains,

> Colonial genocide is also a slow-moving process…The intent to destroy Indigenous peoples in Canada was implemented gradually and intermittently, using varied tactics against distinct Indigenous communities. These acts and omissions affected their rights to life and security, but also numerous economic, cultural and social rights. In addition to the lethal conduct, the non-lethal tactics used were no less destructive and fall within the scope of the crime of genocide. These policies fluctuated in time and space, and in different incarnations, are still ongoing. Without a clear start or end date to encompass these genocidal policies, colonial genocide does not conform with popular notions of genocide as a determinate, quantifiable event.[38]
>
> And that;
>
> Framing genocide in Canada as an unlawful act of the state spanning decades and composed of numerous distinct acts and omissions which, in aggregate, violate the international prohibition against genocide allows us to understand its true nature without the entanglement caused by an inappropriate "copy and paste" of the logic pertaining to individual criminal liability and to Holocaust-types of genocides.[39]

To understand the focus of missing and disappeared Indigenous children in Canada; unmarked burial graves; and, on-going forced and coerced sterilization as state actions, the totality of state actions against Indigenous people must be considered. As pointed out by Lafontaine, "Canada's colonial history provides ample evidence of the existence of a genocidal policy, a "manifest pattern of similar conduct", which reflects an intention to destroy Indigenous peoples. The Canadian state was founded on colonial genocidal policies that are inextricably linked to Canada's contemporary relationship with Indigenous peoples."[40]

Identification of the accused- Canada the state actor

This indictment lists only one accused party, and that is the government of Canada. As will be seen throughout this indictment, through the anticipated testimonial and documentary evidence and the laws and policies that Canada itself created to eliminate Indigenous people, the state acted with knowledge or ought to have known the horrific acts that were occurring under their own funded, sanctioned and operated systems against Indigenous people.

III. Statement of Facts

A. Canada's colonial agenda is a 3-pronged attack

The State's assertion and exercise of sovereignty over the territory known as Canada today has always been contingent upon the disappearance of Indigenous peoples as distinct political and social entities

Throughout its history, Canada has used law and coercion to destroy and kill Indigenous peoples' relationship to their ancestral lands and territories, sovereignty, cultures and languages, legal orders, traditional governance structures, identities and kinship. Most importantly, this process of domination and forced removal of Indigenous peoples is not historic but rather is constitutive of the Canadian State's architecture and is reproduced, to this day, in its structures and practices. It is a structure not an event, meaning this structure of genocide becomes embedded within the laws/ legal structures intended to destroy Indigenous peoples and practices[41]. This structure was created by Canada which imposed the conditions that led to the relevant violations of international law.

i. Territory – both the laws and policies engaged and the practical impact on Indigenous peoples

The establishment of the Canadian State is rooted in colonial ideologies and driven by the Doctrine of Discovery (the "Doctrine"). According to the postulates of this doctrine, which emanates from fifteenth century Papal bulls, Christian nations were said to have a divine right to control and "civilize" the non-Christian inhabitants of lands they "discovered".[42] According to the doctrine, the discovering nation automatically received underlying title to the discovered lands. Once the Indian burden was removed through treaty, force or otherwise, European title was perfected. The original inhabitants were only recognized as having a right to use and occupy the lands. This doctrine was confirmed applicable in Canada through the Royal Proclamation of 1763. The legal effects of the Royal Proclamation were interpreted by the US Supreme Court in the Marshall Trilogy and later by the Supreme Court of Canada in St Catharine's Milling. But, as John Borrows demonstrates, the terms of Royal Proclamation were incorporated in the Treaty of Niagara of 1764 which provided for a positive obligation for the British Crown to respect Indigenous sovereignty.[43]

Although religious in essence, the underlying assumption of European superiority is deeply entrenched in the Canadian state.[44]

The main legal tool used to control First Nations was the *Indian Act*, wherein Canada asserted control over First Nations governance and lands. In 1868, Parliament adopted *An Act to provide for the organization of the Department of the Secretary of State of Canada and for the Administration of the Affairs of the Indians*[45]. This law notably granted the Secretary

of State "control and management of the lands and property of the Indians in Canada".[46] It imposed penalties on individuals who provided or sold alcohol to Indigenous people,[47] and specified the criteria for those eligible "to hold, use or enjoy the lands [...] belonging to or appropriated to the use of the various tribes, bands and bodies of Indians".[48]

Following this track, Parliament adopted in 1869 *An Act for the gradual enfranchisement of Indians*[49] (as a continuation of the *Gradual Civilization Act*[50] of 1857). It gave the federal government authority over reserve lands[51], band councils and grading Indians "who appear to be safe and suitable persons for becoming a proprietor of land".[52] It also stated that "Indian women marrying any other than an Indian or a non-treaty Indian shall cease to be an Indian in any respect within the meaning of this Act [...]",[53] marginalizing and excluding Indigenous women from their families and community. Furthermore, it allowed band councils to set rules for the construction and maintenance of public buildings, such as schools, but federal approval was required.

Adopted in 1876, the *Indian Act* merged in a single statute all existing laws pertaining to Indigenous peoples, including pre-confederation legislations. The *Indian Act* placed Indigenous individuals, communities, lands and finances under direct and coercive government control. It did so by: defining the terms "Indians" and "Indian bands", regulating status transmission between generations and the sale of Indian lands, defining acceptable forms of band government, placing limitations on Indian people movements and setting enfranchisement as the ultimate goal.[54] The government's ultimate objective was to terminate federal responsibilities towards Indigenous peoples, and dismantle organized communities on reserves. The *Indian Act* also created a legal framework allowing the government to keep Indigenous individuals under guardianship all their lives and framing them as incapable of managing their own affairs.

Through regularly amending the *Indian Act*, the government slowly strengthened its control over Indigenous lives. Before 1900, the *Indian Act* was modified to, notably, allow the minister of Indian Affairs to replace traditional leaders with elected council,[55] to deny band membership to extramarital children,[56] to make illegal traditional ceremonies (Potlatch Ban[57] under the *Indian Act*), also giving the minister power to lease lands without band consent[58] and to spend band funds without their approval.[59]

Canada's intent to destroy Indigenous Peoples as distinctive nations is demonstrated, around the time of confederation. The Prime Minister's selected Minister of Citizenship (which included Indian Affairs at the time) was transparent about the intentions of the government of the day. This is an oft cited quotation by Duncan Campbell Scott because it so clearly demonstrates the states true intentions:

> "I want to get rid of the Indian problem. . . Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question."[60]

ii. Governance

The British Crown and Canada had various obligations arising from treaties and agreements made with Indigenous nations. Indigenous nations entered into agreements and Canada not only failed to uphold these promises but actually undertook genocidal actions by creating and enforcing laws so the state could free itself from its legal and financial responsibilities to Indigenous people.[61] Moreover, erasing Indigenous collective identities through law and policy served to strengthen the settler state's claim to control over Indigenous' lands and resources.[62] In essence, the State logic was that once Indigenous peoples are "absorbed into the body politic, there would be no reserves, no Treaties, and no Aboriginal rights".[63]

The *Constitution Act of 1867* (the "Constitution") (formerly the *British North America Act)*, which relegates Indigenous peoples to the status of objects of federal jurisdiction in the same way as currency and railroads, provides a prime example of the entrenchment of settler colonialism in State structures.[64] Section 91(24) of the *Constitution* was drafted without the participation or consultation of Indigenous peoples. It confers upon the federal government exclusive legislative authority over "Indians, and Lands reserved for the Indians".

Before confederation, the British Crown and then the federal government started regulating Indigenous' lives. Indigenous peoples were treated as wards of state and not independent nations capable of making their own decisions. Within legal structures and processes, leaders and politicians used the language of Civilization as a logic, and a means to create public will to justify the actions against Indigenous peoples – that persists today. Use of terms like "assimilation" or "attempted assimilation" are part of our colloquial usage of language but they do not actually describe the true actions or tactics that have been used by the State to eliminate Indigenous governance and society.

The laws of Indigenous people, set in ceremonial structure that ties people to land, relationships with all living things and that allow Indigenous people to practice their laws and governance got outlawed by Canadian law and policies. These laws forced Indigenous Nations into new forms of governance that the State then had control and oversight on. Canadian legislation destroyed traditional forms of governance which acknowledged matriarchal systems and more egalitarian systems, in which women had stronger roles prior to this imposition of the laws. Understanding the *Indian Act's* impact on self-determination and self-government requires an understanding of its origins, its unilateral legal definitions and importantly, its original and prevailing intent.

It should be noted that although the following contextual elements find relevance in other elements of the indictment, they all have a bearing on the reproductive control of Indigenous peoples, and especially, Indigenous women. We bring to your attention the insidious ways in which legislative and other State instruments detrimentally impact Indigenous reproduction.

Further, the *Indian Act* balkanized Indigenous Nations into the imposed colonial legal identities of "Indian" as defined under section 2 and 6 of the *Indian Act*. This structure is distinctive from the manners in which Inuit and Métis identity is determined. As such, vibrant and diverse Indigenous cultures are reduced to a singular legal identity other than those identities commensurate with ethnicity. Through the Indian Act, the Government of Canada houses and controls the "Indian Register" to which it only may add, delete or otherwise alter entries pursuant to its policies derived from the *Indian Act* itself and governing Court decisions. The *Indian Act* has been successfully challenged on several occasions for discriminating against Indigenous women. Yet it still exists in 2026, a known discriminatory and race-base act.

iii. Control of people / bodies

The *Indian Act,* policies and laws of Canada control people and the bodies of Indigenous people. For this indictment, there are two types of control being addressed here. The disappearance of children and how it relates to missing and unmarked graves and the unlawful transfer of Indigenous people. The other type includes control over Indigenous people bodies as it relates reproduction and reproductive control.

While the exact number of children who disappeared is still unknown, The Truth and Reconciliation Commission ("TRC") identified 3,200 deaths in its final report and the number of deaths was revised to 4,117 deaths by the National Centre for Truth and Reconciliation. However, former Chief Commissioner Murray Sinclair estimated that the number could be as high as 6,000, pointing to gaps in official data and a lack of cooperation from the State and the churches responsible for these institutions.[65] It should also be noted that many deaths weren't recorded. Survivors' testimonies recall of babies born in residential schools, often from sexual abuse, that died, or even were killed, without ever being officially recognized.

Without birth certificates or administrative records, their existence was never recorded, but their loss cannot be ignored. Although the mechanism differs from that of the IRSS, the Sixties Scoop also saw over 20,000 Indigenous children taken from their families and adopted into families in Canada, the United States, or even Europe—often without their birth families knowing their whereabouts, effectively amounting to a form of enforced disappearance.[66]

In short, whether in residential schools or during the Sixties Scoop, the figures available on deaths relating to Indigenous children and their disappearances are underestimates. Lack of documentation, destruction of evidence and institutional silence have all contributed to minimizing the true scale of these losses. However, it is important to understand that Indigenous children have disappeared through other types of Institutions as well, including those under the responsibility of provinces and territories, such as day schools, industrial schools, hospitals and foster care. Moreover, it is primordial to remember that the targeting of Indigenous children has taken many forms, because children are always prime targets of genocidal strategies.[67]

B. Indian Residential School System (IRSS)

The third prong of Canada's attack on Indigenous peoples was eliminating Indigenous peoples through taking control over Indigenous children via the IRSS. The IRSS emerged from the mission to "civilize" and "Christianize" Indigenous peoples that missionaries had set for themselves.[68] Some boarding schools for Indigenous children were established by missionary groups throughout the 17th and early 19th.[69] However, "parents were reluctant to send their children, and the students were quick to run away and return home".[70] Except for giving bands the charge to build and maintain schools and some religion related rules, there was no reference to education in the 1876 and 1880[71] version of the *Indian Act*.

The federal IRSS was established in 1883, when the Canadian government officially established a policy for industrial schools to assimilate Indigenous children, aiming to "kill the Indian in the child". Prime Minister John A. Macdonald authorized the creation of the first three residential schools in collaboration with the churches. While attendance was not mandatory for all until 1894, the 1883 initiative marked the aggressive expansion of the system.

It was a central piece of the government's "policy to eliminate Indigenous people as distinct people and to assimilate them into Canadian mainstream against their will."[72] As such, the IRSS served as a way to disrupt Indigenous peoples' link to their land, governance and cultural identity, in order to undermine "their relationship to the land, language, religion, family relations, educational practices, morality and social custom."[73] Moreover, residential schools, beyond their educational purpose, also served as child-welfare facilities by taking in orphans, the sick and children whose families were "judged to be unable to care for them."[74]

Children were specifically targeted for the so called "civilization"[75], an approach that disguised genocidal actions to control entire Indigenous communities and nations, through removing and controlling children—a segment of the group population that was easier to

handle and control. The IRSS was then based on three key stages: separation, socialization and assimilation through enfranchisement.[76]

First, the IRSS justified the states action to remove Indigenous children from their families, claiming it was necessary to "liberate these savage people from the retrograde influence of a culture that could not cope with rapidly changing circumstances".[77] The IRSS was peddled to settler society as a protective measure against what was perceived as the "evil surrounding",[78] of their own peoples lifestyles and beliefs. The propaganda and political speech supporting the system claimed that the IRSS would allow Indian children to fully develop their potential to be good, useful and productive citizens.

Second, a precise pedagogy for re-socialization and indoctrination into Christianity was implemented. In residential schools, children were to be taught various skills, such as carpentry, knitting, and cooking, but these skills were considered, "useless unless accompanied by the values of the society the children were destined to join."[79] According to the governmental authorities, children needed to be educated to perceive and interpret the world as a European environment where only European values and beliefs held significance.

Third, the IRSS served to integrate graduates into the non-Indigenous world and serve as labour for Canada's economic development.[80] The mentality was that "the male graduate could avail himself of the enfranchisement provisions of the *Act*, leaving behind his Indian status and taking on the privileges and responsibilities of citizenship."[81] If every Indigenous person had been "absorbed into the body politic, there would be no reserves, no Treaties, and no Aboriginal rights."[82]

In sum, in the words of the TRC: *"Canada's residential school system for [Indigenous] children was an education system in name only for much of its existence."*[83]

While the Canadian state has maintained full legislative control over Indigenous lives and lands, the federal government has never formally enacted legislation specifically aimed at managing the education of Indigenous children. In 1897, Indian Affairs official Martin Besson wrote that "[n]o regulations have been adopted or issued by the Department applicable to all its schools, as had been done by the Provincial Governments."[84] While the government neglected to take action in overseeing Indigenous education, it actively employed a series of measures to assimilate and abuse Indigenous children through the establishment of the IRSS. The churches and residential school administrators had free range to employ measures that they thought appropriate to compel Indigenous children into the IRSS to effectively erase their identity with the full consent of the government.[85] Throughout the *Indian Act*'s history, no comprehensive regulations were established to govern crucial

aspects of educational institutions, including training, housing, health, discipline, food, or clothing. The lack of regulation created fertile ground for abuse and neglect.[86]

While the State neglected to adequately regulate residential schools and other educational institutions for Indigenous children, it used law to coerce attendance. In 1884, the *Indian Act* introduced for the first time mandatory residential school attendance for Indigenous children, giving bands the responsibility for assuring such attendance.[87] After 1894, children refusing to go to residential schools - legally called "truant" - could, under the *Indian Act* and its regulation, be forced by a warrant[88] to go back and their tutors could be held accountable and liable for prosecution.[89]

Furthermore, in 1908, the federal government implemented the *Regulations Relating to the Education of Indian Children* to force attendance to day school of reserve, stating that "all Indian children between the ages of seven and sixteen shall attend a day school on the reserve on which they reside for the full term during which the school is open each year."[90] It can be argued that forcing school attendance for the whole year, prevented families from spending part of the year on the land and, consequently, forcing permanent settlement on reserve land, thus displacing or removing families from using and living on their ancestral territories.

Towards the end of the 19th century, the IRSS faced difficulties with recruitment.[91] Indigenous parents were reluctant to send their children to these institutions, worried that they wouldn't return to them after their schooling was over.[92] The poor quality of education, the limited and inadequate diet, the amount of work students were required to do, the discipline and physical and sexual abuse that student faced further fuelled parents' suspicions that the system was harmful and intended to obliterate their language and culture.[93] As a result, throughout the first part of the 20th century, the federal government adopted several measures to consolidate and strengthen the IRSS through coercion, including strategies to compel parents to send their children to residential schools.

Notably, in the 1920s, the *Indian Act* was amended, and the educational provisions underwent significant changes, prompted by the churches' pressure and the federal government's acknowledgment of its limited control over student discharge policies. The object behind 1920's amendment of the *Indian Act* was explicitly articulated by Duncan Campbell Scott, then Deputy Superintendent General of Indian Affairs, who stated the goal was to "continue until there is not a single Indian in Canada that has not been absorbed into the body politic."[94] It is imperative to emphasize Indigenous people were consistently excluded from decision-making processes.[95]

These modifications, codified in section 10(1) of the *Indian Act*, instituted mandatory attendance requirements for Indigenous children between the ages of seven and fifteen at day, industrial, and boarding schools.[96] This new legislative provision provided legal grounds for the forcible placement and retention of children in residential schools until the age of fifteen or sixteen.[97] It granted designated officers law enforcement authority to investigate and enter premises where they had reasonable suspicion that an Indigenous child was being prevented from attending residential school. Furthermore, punitive measures for individuals responsible for a child's truancy were introduced.[98] Royal Canadian Mounted Police officers were named truant officers.[99] Adults who failed to comply with the attendance requirements were subject to summary conviction before a justice of the peace or Indian agent. Penalties included fines or imprisonment.[100] The government also interfered directly with Indigenous governments who did not cooperate with Indian Affairs in efforts to force attendance to residential schools.[101]

Additionally, the amendment authorized the warrantless arrest of non-compliant children, who could then be escorted to residential schools.[102] If the officer considered that the child was not being properly cared for or educated and that the parent is unfit or unwilling to provide for the child's education, they could issue an order of placement, forcefully taking the child away based on a discretionary decision.[103] The use of punitive measures against families who resisted sending their children to residential schools were frequent, such as cutting them off from government relief.[104] The threat of legal action and of the loss of government rations was used to compel parents to send their children to residential schools[105].

Despite these amendments and the increased coercion, a student running away from residential schools was not illegal. However, children deserting were charged for the theft of clothing belonging to the government, or under the *Juvenile Delinquent Act*[106] if they ran away multiple times, risking being sentenced to a reformatory until they turned twenty-one.[107] Furthermore, children could not be discharged from the residential schools without the approval of the Department of Indian Affairs. This policy was enforced regardless of whether the parents had initially consented to their children's attendance at these institutions.[108] Even though the law established the discharge from the residential schools age at 15 years old, it was common practice by many Indian Affairs officials to refuse discharge of students under 18.[109]

Through its mission of 'civilizing' Indigenous children, the IRSS was inherently violent.[110] It stripped children of their identity in an effort to forcibly assimilate them.[111] Survivors recalled having their hair shaved[112], being dressed in uniform clothing, and being referred to by numbers rather than names.[113] This approach was designed to erase all traces of their

culture and force them to assimilate to colonial norms, depriving them of their roots and dignity.

The IRSS was also a negligent system. The federal government and the churches failed to establish and enforce an adequate set of standards and regulations to guarantee the health and safety of residential school students. These poor living conditions in the schools resulted notably from the federal government's determination to keep residential school costs to a minimum.[114] The TRC estimated that 3,201 Indigenous children died in the IRSS.[115] Of these deaths, only 51% had a known cause of death recorded.[116] According to more recent reports of the National Center for Truth and Reconciliation, this lack of adequate standards and regulations is estimated to have contributed to the death of at least 4,117 children.[117] The ongoing discoveries of unmarked graves shows that these numbers are certainly higher. Survivor testimonies have also reported the killing of babies born in residential schools—deaths not attributed to neglect but to deliberate acts of violence.[118]

The poor quality and limited quantity of residential school food, rooted in Ottawa's underfunding of the system and lack of dietary standards, resulted in long-term health effects and compromised physical development of the students[119]. The consequences of this inadequate nutrition were larger since "undernourished children were also far more likely to succumb to infection illnesses, particularly tuberculosis, which was rampant in the residential schools for much of their history".[120] Furthermore, the TRC revealed that medical experimentations were conducted on the children without parental consent.[121]

Moreover, the residential schools were poorly constructed and poorly maintained which put students even more at risk.[122] In fact, poor sanitation and poor ventilation contributed to the spread of diseases while poor construction and lack of a proper water supply increased the risk of fire.[123] According to the TRC, at a minimum 53 schools were destroyed by fire and there are at least 170 additional recorded fires, in which no fewer than 40 students died.[124]

The unsanitary conditions coupled with the poor nutrition contributed to the tuberculosis crisis in the residential schools. 47% of the deaths for which there is a known cause[125] are attributable to this disease[126].

In 1906, Dr. Peter Bryce, newly appointed chief medical officer of the Department of Interior and Indian Affairs (the "Department")[127] drew attention to this appalling situation in residential schools in the 1906 *Annual Report of the Department of Indian Affairs*. He observed a cycle of disease in which children were infected at home and sent to residential schools, where they infected other children and then the children infected in the schools were "sent home when too ill to remain at school, or because of being a danger to the other scholars, and have conveyed the disease to houses previously free".[128] Rather than acting

on Dr Bryce's recommendations, the Department suppressed his findings and largely ignored his recommendations and he was later forced into retirement in 1921.[129] Despite this information and knowledge the Minister of Indian Affairs did not adopt an official policy requiring that residential schools director inform Indian Agents when a child died until 1935.[130]

Despite these documented problems, the government deliberately chose not to implement measures recommended by medical professionals, prioritizing cost savings.[131] According to the TRC, residential schools had the means to help children build resistance to tuberculosis by providing sanitary, well-ventilated living spaces, adequate nutrition, warm clothing, and ample rest.[132] Instead, the residential schools willfully maintained conditions that they knew would perpetuate illness and death. These institutions consistently denied students healthy living conditions, nutritious meals, proper clothing, and physical care necessary to prevent illness and offer infected children any chance at recovery and survival[133].

The discipline enforced in the IRSS was rooted in strict religious views on order, obedience, and sin.[134] Corporal punishment, justified by Biblical teachings, was used not only to maintain order but also as a means to guide children toward a "righteous" path.[135] Students were punished harshly for minor infractions, including speaking their native languages, bedwetting, or not completing lessons, often facing extreme forms of physical punishment.[136] A nationwide discipline policy was not introduced until 1953, and even then, little was done to curb excessive punishments.[137] Residential school principals "who were viewed as being excessively violent were allowed to remain in office"[138] and were often shielded by similarly abusive staff.[139]

Prior to 1953, without a formal State policy, there were no restrictions on the objects used to inflict punishment, the areas of the body targeted, or the severity and frequency of blows. Reports describe students being struck with objects ranging from horse whips to metal rods, with no limits on confinement as punishment, which sometimes included prolonged isolation in rooms resembling jail cells. Additionally, restraints and humiliating punishments were used, turning discipline into a form of dominance that often verged on sadism.[140]

In 1953, the *Statement of policy regarding school discipline, with particular reference to corporal punishment at Indian schools*[141] sent out by the Indian Affairs superintendent of education, Philip Phelan, mandated that only the principal or teacher in charge administer corporal punishment, delivered as a strapping on the palm in front of a same-sex witness.[142] While public humiliation was discouraged, there were no limits on the number of strokes.[143] However, the TRC exposed that students continued to be subject to "excessive, violent, and often humiliating punishments".[144] These findings highlight the government's failure to create and enforce consistent directives or monitor discipline effectively. Government

inaction in this regard had the effect of sending the message that there were no real limits to the mistreatment of Indigenous children in residential schools.[145]

Students in the IRSS suffered widespread physical, mental, sexual, and spiritual abuse. The lack of policies to address specifically sexual abuse left children defenseless against predatory staff members.[146] When abuse allegations surfaced, authorities often neglected to report incidents to the police, opting instead to quietly dismiss the perpetrator or, in some cases, allow them to continue working at the residential school, thus enabling ongoing abuse.[147] This systematic failure reflected gross negligence by both the government and the churches involved. This systemic negligence and complicity not only enabled ongoing abuse but also contributed to the deaths and disappearances of countless children. Survivors have recounted cases of girls subjected to sexual violence disappearing for months due to pregnancies resulting from the abuse, with some never returning.[148]

Reports from students and parents were frequently dismissed, complaints were not investigated impartially, and allegations were rarely reported to Indian Affairs or law enforcement. Government agencies failed to support police investigations, and Indian Affairs field staff neglected to report prosecutions involving residential school employees. Additionally, there were inadequate background checks for hiring, no protection against student-on-student abuse, and a lack of support for victims. Even when police were involved, investigations were often poorly handled, contributing to a pervasive culture of abuse and impunity in the schools and enabling the conditions that led to untold numbers of deaths, disappearances of Indigenous children.[149]

Throughout the 1940s, the government began changing its approach toward the education of the Indigenous children. The outbreak of the Second World War led to a new round of budget cuts, characterized by a reduction of "the number of students for which a school was authorized to receive a per capita grant".[150] Although the number of students the government was prepared to fund had fallen, the enrolment rate did not decrease as much. As a result, there was even less money available to feed, clothe, house and teach more children, leading to further worsening conditions.[151]

Between 1946 and 1949, the *Special Joint Committee of the Senate and House of Commons Appointed to Examine and Consider The Indian Act* (the "Special Parliamentary Committee") conducted an investigation into the *Indian Act*, to "[…] put an end to what was increasingly viewed as discriminatory legislation"[152]. Their final report concluded that there were " […] many anachronisms, anomalies, contradictions and divergencies".[153] Furthermore, the Committee recommended that the IRSS be replaced by the integration of the Indigenous students into provincial schools[154]. It wrote that any new legislation should contain provisions solely intended to facilitate "[…] the gradual transition of Indians from wardship

to citizenship and to help them advance themselves",[155] recommending notably to educate Indigenous children with non-Indigenous children "to better prepare them for assimilation".[156] Although presented as more progressive, this new policy was a more subtle form of assimilation.

The 1951 amendments of the *Indian Act* led to what TRC called "a major revision that stripped out many of its compulsory measures while retaining the commitment to assimilation".[157] While various compulsory, restrictive, and punitive measures were repealed, the underlying objective of assimilation of Indigenous peoples into mainstream Canadian society was maintained .[158] During the years of the hearing of the Special Parliamentary Committee 1946, discussing the 1951 amendment, Co-chairman, D.F. Brown stated :

> [...] I believe that it is a purpose of this Committee to recommend eventually some means whereby Indians have rights and obligations equal to those of all other Canadians. There should be no difference in my mind, or anybody else's mind, as to what we are, because we are all Canadians.[159]

Most importantly for our purposes, these amendments allowed the provinces to offer services to Indigenous communities, thus increasing their involvement in the control of Indigenous children.

The 1951 amendments to the *Indian Act* marked the beginning of a complex transition period. During the decades that followed, residential schools were gradually closing and the number of children "scooped" from their homes increased, leading to more students attending non-Indigenous schools than residential ones.[160] In such context, the State, with the complicity of provinces, territories and the churches deployed a new strategy aimed at the disappearance of Indigenous children: the "Sixties Scoop". During this period, which extended from 1951 to 1991, thousands of First Nations, Metis and Inuit children were taken away from their families by provincial and federal social workers and placed in foster care or adopted by Euro-Canadian families.[161] Therefore, these "transracial adoptions integrated Indigenous children into the Euro-Canadian nuclear family to be socialised for proper Canadian citizenship".[162] This practice was done without the consent or knowledge of the communities.[163] Therefore, it served as an alternative to the IRSS, but shared the same goal: forceful removal through cultural assimilation by separating the children from their families, communities and culture. The State did not inform families about the children's whereabouts. Thus, the Sixties Scoop massively contributed to the tragic disappearance of thousands of Indigenous children, some that are today still searching for their relatives.[164]

In its report on the legacy of the IRSS, the TRC asserted that "the child welfare system is the residential school system of our day".[165]

> The actual and widespread removal of Indigenous children from their families and placement into non-Indigenous households, regardless of any connection to their culture, serves as clear evidence of the ongoing assimilation activities by the Canadian government. The insufficient allocation of resources for culturally appropriate family support services significantly impedes Indigenous children's ability to remain within their cultural environments, thereby hindering the development of a strong sense of identity and self-worth[166]. This underfunding has far-reaching consequences for the well-being of Indigenous children and communities. Moreover, the federal government's documented negligence[167] in providing adequate funding for Indigenous children in welfare services has direct and detrimental impacts on the well-being of Indigenous children. The systemic underfunding perpetuates a cycle of disadvantage and contributes to the ongoing overrepresentation of Indigenous children in the child welfare system. The very structure of the system is designed in such a way that it is more expedient to remove children from their home environments than to provide the necessary support to enable them to remain within their families and communities.[168]

In 1968, for administrative purposes, the government reclassified "residential schools" into "residences" and "schools", integrating the educational component into the government's day school system.[169] By the following year, control over the residential schools had been transferred from church authorities, yet they continued to suffer from federal neglect. This transition was not the result of a deliberate policy decision but was instead prompted by a ruling from a federal labor board.[170]

In 1969, Jean Chrétien, then Minister of Indian Affairs, introduced the *White Paper* (under the official name *Statement of the Government of Canada on Indian Policy*) (the "White Paper").[171] This federal policy proposal was explicitly aimed at fully assimilating Indigenous peoples by intensifying the assimilationist policies that underpinned the 1920 amendments to the *Indian Act*. It suggested the abolition of their "special status" under Canadian Law, by the removal of "the legislative and constitutional bases of discrimination".[172] The proposal also called for the abrogation of the *Indian Act* and the termination of existing treaties. Regarding the *Indian Act*, Cree chief and Indigenous' rights activities Harold Cardinal[173] commented : "We would rather continue to live in bondage under the *Indian Act* than surrender our sacred rights".[174] With regard to education, the policy proposal suggested entrusting children to the provincial education system,[175] viewed by Indigenous people as unreceptive, inappropriate and racist.[176] The *White Paper* disregarded the majority of input provided by Indigenous peoples.[177] It sparked a powerful and effective movement of

Indigenous resistance and activism, fighting, notably, for greater educational autonomy.[178] It garnered significant opposition from Indigenous political organizations, notably by the "*Red Paper*"[179]. The Indigenous response rejected the responsibility transfer for Indigenous children's education to provincial authorities, stating that:

> [t]he funds for education should be offered to the tribal councils. Then the tribe can decide whether it will operate schools itself or make contracts with nearby public schools for places for some or all of its students [...].[180]

The proposed new *White Paper* was publicly abandoned in 1971, and the government eventually accepted the principle of "Indian Control of Indian Education".[181]

Despite the government's change of approach to Indigenous education in the 1940s, it took until 1996 for the last residential school to close. Several factors contributed to this prolonged timeline such as conflicts between the government and the Church which led to long-term negotiations; lack of educational alternatives and resources in some areas; the persistence of the government's assimilation goals which took over the efforts put into the dismantlement of the system and the transition to Indigenous control of some of the residential schools into the 1980s and 1990s[182].

The year 2021 marked a turning point in public attention regarding the residential school legacy, as up to 215 potential unmarked burials were found, and later confirmed, at the site of the former Kamloops Indian Residential School in British Columbia[183]. In June of that year, Cowessess First Nation in Saskatchewan revealed an estimated 751 possible unmarked graves at the site of the former Marieval Indian Residential School[184]. In response to these atrocities, Kimberly Murray was appointed in June 2022 as Independent Special Interlocutor for missing and disappeared Indigenous children and unmarked burials in Canada. Her mandate is to identify needed measures and make recommendations for a new federal legal framework, in order to ensure the respectful and culturally appropriate treatment of unmarked graves and burial sites of Indigenous children.[185] Despite the crucial importance of her work, some limitations restrict the depth of her investigation and the legal impact it is possible to have, such as the very limited timeframe, the lack of legal authority, the dependence to the government's voluntarism towards the recommendations, and the lack of international mechanisms that could provide avenues for justice.[186]As further public confirmations of potential unmarked burials were revealed in 2022 and 2023[187], her mandate was extended and finished in December 2024.

C. Forced and Coerced Sterilizations

Cases of Indigenous people being sterilized without consent have been happening since the 1890's in Canada. It is estimated that between 12,000 and 15,000 Indigenous women, men and gender-diverse individuals have experienced forced, coerced or imposed sterilization.

Although it is anticipated that the evidence before the tribunal will include the historical use of sterilizations as a tool to control Indigenous populations and address some of the locations where this is occurring, including within the IRSS, and other institutions like Indian Hospitals that the federal government funded and operated, it must be understood as a contemporary and on-going issue.

In the fall of 2015, there were media reports indicating several Aboriginal women stated they had been coerced into having a tubal ligation immediately after childbirth in a Saskatoon Health Region hospital. The Saskatoon Health Region (SHR) asked Dr. Yvonne Boyer and Dr. Judith Bartlett to do an External review.[188] Citing Carol Strange (1996 with Tina Loo), in *Making Good: Law and Moral Regulation in Canada, 1867–1939* their review provided an overview of Canada's history of forced sterilization:

> Historically Canada's sterilization policies have had great detrimental effects on Indigenous women. Large numbers of Aboriginal women and men were sterilized for being "mentally unfit" – when in reality, for various cultural and historical reasons they did not fit in with the Eurocentric dominant society's definition of "fit." Not only has this caused the destruction of ancestral linage but has brought many lives to a brutal violent end.

The review also covers eugenics legislation, notes that it is well documented that "mental" institutions were breeding grounds for experiments in sterilization. Sterilization was used as a method for controlling an institutionalized population from reproduction and as methods of control and mental health management. That forced sterilization has also become part of residential school claims. They reported "Inuit women were also sterilized in record numbers in the 1970s. In fact, 26% of all Inuit women in Igloolik between the ages of 30 and 50 were sterilized."[189] They said "without consent or with being coerced into consent, sterilization is an act of violence."[190]

Another report of in Quebec also examined sterilizations if Indigenous women done by Suzy Basile & Patricia Bouchard. Their report, *Free and informed consent and imposed sterilizations among First Nations and Inuit women in Quebec,* Research Report main findings included: The undermining of patients' free and informed consent; That Indigenous woman had fear, distrust and avoidance of health services; There was differential treatment in Hospitals- First Nations and Inuit women feel as though they are

treated as second-class patients; The ages of Indigenous women who underwent tubal ligations or hysterectomies ranged from early adulthood to mid-thirties. It is difficult to understand why such young women were constrained to a tubal ligation or hysterectomy despite the availability of less risky and invasive methods of contraception (birth control pills, intrauterine devices, etc.), which were never mentioned to them. [191]

In 2019, The National Inquiry into Missing and Murdered Indigenous Women and Girls Inquiry found "persistent and deliberate" human and Indigenous rights violations at the root of Canada's staggering rates of violence against Indigenous women, girls, 2SLGBTQQIA people. They found that "the forced sterilization of women represents directed state violence against Indigenous women and contributes to the dehumanization and objectification of Indigenous women, girls, and 2SLGBTQQIA people." [192] They also noted:

> In the eyes of the colonizer, the long-standing, misguided, and racist view of First Nations and Métis women as promiscuous, un-Christian, and uncivilized justified the policy of eugenics. Indeed, sterilization was viewed as a way to eventually eliminate the Indigenous population entirely. Emily Murphy, a settler suffragette who became the first female magistrate court judge in Canada, wrote about the intended effects of sterilization.
>
> One hardly knows whether to take the Indian as a problem, a nuisance, or a possibility.... Regarding his future we may give ourselves little uneasiness. This question is solving itself. A few years hence there will be no Indians. They will exist for posterity only in waxwork figures and in a few scant pages of history. [193]

Recently, the Survivors Circle for Reproductive Justice [194], an Indigenous incorporated not-for-profit entity was created to centre the lived experiences and priorities of indigenous women, men and gender diverse who have experienced reproductive and obstetric violence, including forced/coerced sterilization. Their mandate is to provide supports to survivors and to advocate for reproductive justice for all First Nations, Inuit, and Métis in Canada. They also have a national registry which collects the truths of those forcefully or coercively sterilized. They are leading research, advocacy for law reform and reparations for survivors. The fact that this organization exist demonstrates the contemporary nature of the on-going harms.

D. Canada's Amnesty and Impunity

The State's continued failure to acknowledge and act on crimes and human rights violations, which often were created by their own laws and policies, results in lack of accountability and deterrence. Specifically:

- The utter failure of the state to prosecute or have any type of culpability ascertained of those who were most harmful children within the schools, especially those with religious affiliations, perpetuates the violence.
- Omission/failure to act/creation of the condition of impunity leads to state culpability for the abuse that occurred through IRSS in international law

It was residential school survivors who filed criminal complaints, which led to investigations, trials, and the eventual sentencing of some perpetrators of abuse within the IRSS. The limited number of convictions and prosecutions reflects Canada's implicit policy of settler amnesty, where individuals known to have perpetrated abuses against Indigenous peoples were rarely held accountable. The Canadian state has consistently taken extensive measures to protect individuals and institutions from responsibility, effectively establishing systemic immunity[195]. Although settler amnesty was never formally legalized, it was covertly implemented through deliberate state actions, such as avoiding investigations into abuses against children, refusing to adopt relevant international instruments and domestic legislation, and disregarding reports of abuse within the IRSS. Complaints were frequently shelved or ignored, and investigations were rarely pursued[196].

This led survivors from the late 1980s to early 1990s, to file civil lawsuits to seek damages for the abuses they endured. By 2005, a total of 18,000 suits had been brought to civil courts. However, most survivors were unsuccessful in pursuing their cases to the point of receiving compensation.[197] The Canadian government consistently argued for reduced liability, often attributing survivors' struggles to their own dysfunctional lives regardless of their experiences in residential schools.[198] The government further attacked the credibility of survivors in court, actively working to undermine their claims[199].

In 2003, the government launched the Alternative Dispute Resolution Process (ADR), a voluntary program to resolve specific claims of sexual abuse, physical abuse, and forcible confinement[200]. However, the ADR was widely criticized for not providing survivors with the full compensation to which they were entitled. It excluded compensation for the broader impacts of abuse endured at school, failing to address emotional abuse, loss of family life, and loss of language and culture[201]. Later, a parliamentary committee evaluating the ADR found the process to be deeply flawed, noting its lack of prior consultation with Indigenous communities, its failure to remain impartial, and its restrictive compensation criteria, which applied only to a narrow group of survivors[202].

This is yet another example of the government's policy of settler amnesty. Canada consistently minimizes its role in the atrocities committed, offering only partial acknowledgment of its responsibility while actively working to limit its liability concerning Indigenous children[203]. A clear pattern emerges: the government denies accountability,

forces victims into lengthy litigation, and ultimately makes settlement decisions without consulting the survivors, their families, or their communities.[204]

Facing criticism and an increasing number of class action lawsuits, the government moved toward negotiations that eventually led to the Indian Residential Schools Settlement Agreement (the "IRSSA"). The IRSSA was signed on May 23, 2006, and it included numerous funds to support and address survivors' healing needs and to provide intergenerational funding for commemoration initiatives.[205] The scope of the agreement was limited to residential schools where the federal government acknowledged responsibility. The government denied liability for Métis students who attended provincial institutions, Indigenous children who attended day schools, convents, or those confined in sanatoria.[206] The ISSRA also established the Truth and Reconciliation Commission (the "TRC"). Once again, in line with its history of settler amnesty, the Government of Canada, in collaboration with churches, restricted the mandate of TRC during its establishment. Notably, the TRC was denied the authority to issue subpoenas, determine criminal or civil liability, name individual perpetrators, or formally accuse anyone of misconduct.[207]

Finally, on June 11, 2008, former Prime Minister Stephen Harper stood in Parliament to formally apologize for Canada's role in the IRSS, acknowledging that the policy of assimilation was wrong and had inflicted profound harm.[208] This historic moment was the result of a decade-long Indigenous struggle through political activism, court battles, and negotiations, which left the government with no choice but to recognize its responsibility in the IRSS and the horrors it unleashed on Indigenous children for over a century.[209]

The apology, despite being a significant step in the right direction, fell short in many respects and remains controversial. It failed to convey the full truth, acknowledging only a partial narrative. Specifically, it described the deaths of Indigenous children in residential schools merely as unfortunate and tragic incidents, without addressing the broader systemic context.[210] In doing so, the apology served as a carefully crafted statement aimed at limiting the Canadian state's accountability and narrowing the scope of its responsibility, by attributing harm to isolated incidents and individual actions rather than addressing the systemic nature of these atrocities.[211]

Canada's failure to ensure justice and accountability for Indigenous peoples is further evident in its selective adherence to international norms. Canada selectively adheres to some international norms and not to others, for example it will not ratify the International Convention for the Protection of All Persons from Enforced Disappearances, and have made sure cultural genocide is not codified in the Genocide convention. Canada's selective

adherence explains why it is so difficult to seek justice before formal international courts and, thus, why this initiative before the PPT was deemed necessary.

Canada has actively obstructed efforts by Indigenous peoples to seek accountability through international law.[212] For example, it successfully lobbied to exclude cultural genocide from the definition of genocide in the *Convention on the Prevention and Punishment of the Crime of Genocide*.[213] Moreover, while Canada incorporated genocide into its Criminal Code during the convention's ratification, it narrowly defined the crime, deliberately excluding references to sterilizations and the forced removal of children.[214] When implementing domestic legislation in regards to the Rome Statute that established the International Criminal Court, Canada notably failed to incorporate the crimes of enforced disappearance and apartheid within the definition of crimes against humanity in its legislation.[215]

The TRC was established in 2008 under the terms of the IRSSA. Its dual mandate was to "reveal to Canadians the complex truth about the history and the ongoing legacy of the church-run residential schools"[216] by fully documenting the harms perpetrated against Indigenous peoples and honoring their resilience and courage, and to "guide and inspire a process of truth and healing, leading toward reconciliation"[217] by renewing relationships. In 2012, the TRC published its Interim Report, which presented conclusions, recommendations and a first summary of the residential school's history. It then operated for six years. Throughout its mandate, it held a series of national events aimed at raising awareness about the history of residential schools and promoting reconciliation. The first one was in 2010 in Winnipeg and explored the history, the experiences and the impacts of the IRSS[218].

Despite these initiatives, progress on implementing the TCR's calls to action has been extremely slow. The path to truth and reconciliation still faces many challenges due to a lack of commitment and actions from the Canadian State. As of 2024, only 14 out of 94 calls to action issued by the TRC have been completed. Thus, ten years after the TRC report publication, only 15% calls have been completed, 49% are still in progress, 20% are stalled and 16% haven't even been started yet. Among those that have been completed, two are related to language and culture, one to justice and 11 to reconciliation. However, no work has been completed regarding child welfare, education and health.[219]

The 77th call to action, calling for cooperation with the National Center for Truth and Reconciliation in order to "identify and collect copies of all records relevant to the history and legacy of the residential school system", is stalled.[220] This status is due to the failure of the Federal Government, Library and Archives Canada, and other entities, to release all

relevant documents in their possession. Furthermore, the 71th call to action, calling for total availability of the records on the deaths of Indigenous children in the care of residential school authorities to the National Centre for Truth and Reconciliation, is also stalled.[221] Thus, survivors, Indigenous families and communities and researchers have identified significant barriers that still exist in archive and death records access, systematically taking away their power by silencing their understandings of the past.

In addition, even though it has been eight years since Canada has adopted the United Nations Declaration on the Rights of Indigenous People ("UNDRIP"), the 43rd call to action, regarding a full adoption and implementation of the UNDRIP, as well as the 44th call to action calling upon the government to develop a national action plan to achieve the goal of the declaration, are still in progress. This status reflects the important lack of the government's inaction in order to preserve impunity, justice and accountability.[222]

IV. Charges

A. Genocide

Canada is in breach of its duties under the *Convention on the Prevention and Punishment of the Crime of Genocide*. For genocide, the Convention expressly requires States to prevent and punish the crime. Additionally, Canada is alleged to commit acts of genocide under **Article 2**, of the New Statute of the Permanent Peoples' Tribunal, Rome, 27 December 2018 including:

> (a) Killing members of the group;
>
> (b) Causing serious bodily or mental harm to members of the group;
>
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) Imposing measures intended to prevent births within the group; and
>
> (e) Forcibly transferring children of the group to another group.

B. Crimes Against Humanity

The prohibition of crimes against humanity as a *jus cogens* norm means that the resulting duties of investigation and punishment as obligations is incumbent upon the State itself. If conduct affecting Indigenous peoples is proved to constitute crimes against humanity under the applicable international law, and if the acts or omissions are attributable to Canada, then Canada should incur international responsibility as a State. Additionally,

Canada is alleged to commit crimes against humanity under **Article 3**, of the New Statute of the Permanent Peoples' Tribunal, Rome, 27 December 2018 including:

a. murder.
b. extermination;
c. enslavement;
d. deportation or forcible transfer of population;
e. imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
f. torture;
g. rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity;
h. persecution against any identifiable group or collectivity grounded on discriminatory reasons that do not fall under any of the five actions constituting the genocide; and
i. enforced disappearance of persons.

Violations of International Treaties:

- *Convention on the Prevention and Punishment of the Crime of Genocide* (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277, art 2. *Convention on the Rights of the Child,* Nov. 20, 1989, 1577 U.N.T.S. 3.
- *International Covenant on Civil and Political Rights,* 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976) [ICCPR], art 6, 7 and 9
- *Declaration on the Protection of All Persons from Enforced Disappearance*, GA Res 47/133, UN GAOR, 47th Sess, Supp No 49, UN Doc A/47/49 (18 Dec 1992), art 13(1).
- *International Convention for the Protection of All Persons from Enforced Disappearance,* 6 Feb 2007, 2716 UNTS 3 (entered into force 23 Dec 2010), art 12(2), art 1.
- *United Nations Declaration on the Rights of Indigenous People,* GA Res 61/295, Un Doc A/RES/61/295 (2007), art.24(1) and (2)

V. Evidence Summary

The anticipated evidence includes three types of evidence to be before the Permanent Peoples Tribunal: Testimonial, Documentary evidence in the form of a record of Canadian Laws, decree and Policy (a book of authorities) and Documentary evidence in the form of an excerpt report.

A. Testimonies

The prosecution will rely on survivor and eyewitness panels, as well as expert panels, as evidence of the charges against Canada. Will say material will be created for each anticipated panel or individual witness. Expert panels will include media, audiovisual, and documentary records anticipated to be exhibited during testimony. The anticipated witnesses and panels will include:

(i) The Special Interlocuter
(ii) Investigative Journalism and fighting for records
(iii) Indian Residential School Survivor Panel- will include video and statement testimonials as well as *viva voce* evidence
(iv) Survivor Group Processes and Initiatives to locate the disappeared children, Ground penetration, and other attempts at locating and investigation
(v) Sterilization Survivors Panel —Indian Hospitals, eugenics and use of sterilization Expert witness on forced and coerced sterilization, with expertise in trauma-informed support of survivors.
(vi) Expert legal analysis of Genocide and application to the alleged acts and crimes

B. Documented Canadian law, decrees and policy

This will be a record of the relevant portions of Canadian law, policy and decrees that will be indexed. Essentially it will be like a book of authorities.

C. Excerpt Report

This report will compile excerpts of witness accounts and statements as well as official state documents and statements demonstrating the crimes as charged. This evidence has been derived from reports including but not limited to:

- The Truth and Reconciliation Commission Reports

- The Special Interlocutor on Missing and Disappeared Indigenous Children, Final and interim Reports
- The National Inquiry into Missing and Murdered Indigenous Women and Girls report

VI. Specific Requests

A. Declaration

The prosecution is seeking Declarations that Canada committed the crimes as charged and based on the evidence.

The goal of this indictment is to address and have acknowledged the crimes that have been perpetrated by the Canadian state against Indigenous people. International legal recognition of the harms that colonial genocide by Canada has caused Indigenous people is but one means to hold a state accountable. That the state's laws and policies continue to negatively impact Indigenous peoples and Indigenous Nations in their original territories is telling. Canada should be held to account and meet its International legal obligations. The prosecution asserts that such declarations and appeal to the international community would increase support for ongoing civic resistance, accountability efforts, and legal reform.

These recommendations seek Indigenous-led reparations and an assessment of the specific implications of the unpunished and severe human rights violations. It calls for support of Indigenous people, families, communities and Nations to address the missing and disappeared children, unmarked burial graves and the on-going forced and coerced sterilization of Indigenous people. Specific requests include but are not limited to:

B. Supports for Survivors, Families and Communities

That any ongoing and future support efforts by the federal, provincial and territorial Canadian governments and Indigenous institutions be informed by the work of the UN Permanent Forum on Indigenous Issues on the Indigenous determinants of health.

C. Investigations, Truth-Finding and Repatriation

Indigenous-led investigations into the missing and disappeared children and unmarked burials at all Indian Residential Schools and associated institutions should be supported

and funded by the federal, provincial and territorial Canadian governments and the churches.

Canada should enact legislation to create an Indigenous-led investigatory commission to oversee and conduct forensic investigations and truth-finding processes into missing and disappeared Indigenous Children and unmarked burials

That Canada should adopt the human rights-based forensic investigation principles set out in the 2019 UN Committee on Enforced Disappearances' Guiding Principles for the Search for Disappeared Persons in creating the investigatory commission

D. Other Reparations

The federal, provincial and territorial Canadian governments should enact commemoration laws. These laws should prioritize Indigenous laws and culture, set rules of public conduct for commemorative events or at memorial sites; regulate educational curricula; and establish dedicated programs to support individuals and families to attend the burial sites of their missing or disappeared relatives, and to place grave markers, cairns, and monuments at these sites

E. Records

Canada, in consultation and collaboration with Indigenous Peoples, should enact legislation creating a statutory requirement for all individuals, governments, churches, universities, and organizations that hold records relating to children at Indian Residential Schools and associated institutions to register their holdings in a National Records Registry.

The federal, provincial and territorial Canadian governments should be required to review and amend existing laws, policies, and procedures on the access, retention, and destruction of records relating to Indigenous Peoples, and in particular, records regarding Indian Residential Schools and other associated institutions, in consultation and collaboration with Indigenous Peoples.

F. Other Legislative Reform

The federal, provincial and territorial Canadian governments, in consultation and collaboration with Indigenous Peoples, should amend or enact legislation and associated

regulations, policies, processes, and effective enforcement mechanisms to create an "Indigenous Burial Site" designation to protect these sites.

G. Combating Denialism

Canada should take steps to combat Indian Residential School denialism, including:

- Tracking the dissemination of disinformation and misinformation about the IRSS, missing and disappeared children, and unmarked graves and burial sites;
- Regulating and requiring search, social, and digital companies to stop and immediately remove the dissemination of misinformation, disinformation, and falsehoods about the IRSS, missing and disappeared children, and unmarked graves and burial sites;
- Providing support for Indigenous people and communities that have been subjected to online hate and harm; and
- Establishing penalties, effective monitoring, and enforcement mechanisms

Canada should amend its *Criminal Code* by making it an offence to wilfully promote hatred against Indigenous Peoples by condoning, denying, downplaying, or justifying the IRSS or by misrepresenting facts relating to it.

H. Apology and Acknowledgements

Canada should formally and publicly acknowledge and apologize for each of the international crimes the Tribunal determines they have committed regarding missing and disappeared Indigenous children and unmarked burials and for the harms they perpetrated against missing and disappeared Indigenous children, their families, and communities

I. Forced/Coerced Sterilizations

In December 2018, the United Nations Committee Against Torture (CAT) published its observations of Canada's implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In its report, CAT acknowledged the information received from Canadian representatives on the forced and coerced sterilization of Indigenous women. It expressed concern regarding the implementation of the calls to action outlined in the Saskatoon external review, particularly with respect to providing reparations to the women who were pressured to undergo sterilization.[223] AT called on Canada to:

(a) Ensure that all allegations of forced/coerced sterilization are impartially investigated, that the persons responsible are held accountable and that adequate redress is provided to the victims;

(b) Adopt legislative and policy measures to prevent and criminalize the forced or forced/coerced sterilization of women, particularly by clearly defining the requirement for free, prior and informed consent with regard to sterilization and by raising awareness among indigenous women and medical personnel of that requirement.[224]

In addition to these categories of proposed recommendations, we ask that the Tribunal make any additional recommendations that determines are suitable in the circumstances and in light of the evidence and legal arguments presented at the session.

VII. Signatories

A. Endorsing Organization

The Native Women's Shelter of Montreal
Na'kuset, Executive Director

Board of Directors

Dana-Marie Williams, President
Mel Lefebvre, Vice President
Lara Kramer, Treasurer
Autumn Godwin, Secretary
Justin Charland, 2 Year Board Member
Lyne Dionne, Board Member
Micaiah States, Board Member
Jon-Ethan Rankin Kistabish, Board Member

Survivors' Group Committee

Lucy Tulugarjuk
Ida Baptiste
Eleanor Hegland
Elizabeth Marquis

Elders' Committee

Kevin Deer
Ed Connors
Diane Longboat
Alma Brooks
Fred Kelley
Kahienes Sky

B. Prosecutors

Christa Big Canoe, assisted by Sarah Glickman, **Aboriginal Legal Services**
Alisa Lombard, **Lombard Law**, prosecutorial support
Sara Mainville, Erika Voaklander, Christina Gray, **JFK Law LLP**, prosecutorial support and solicitor support for NWSM
Assisting Students: Christian Symth, June Callwood Fellow 2025, Meghan Sage-Wolfe, Osgoode Law School Indigenous Intensive Program Placement student, 2026, University of Toronto Externships: Katherine Getler and Brianna Brumen, 2024/25, Tim Thompson 2025/26

C. Advisors

(i) **Indigenous Legal Advisory Committee**:

Brenda Gunn
Janice Makokis
Jasmine Redfern
Erika Voaklander
Meghan Sage-Wolfe, student member

(ii) **International legal advisors**,

Éloïse Ouellet-Décoste, Supervising lawyer, Université du Québec à Montréal, Clinique international de défense des droits humains (CIDDHU). Students that assisted in research and preliminary drafting: Corinne Brochu, Rizwan Ahmad Khan, Léa-Marie Tremblay, Jeanne Boily, Marjolaine Bougie.

Érick Sullivan, Université Laval, Directeur adjoint, Clinique de droit international pénal et humanitaire

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[66] The Sixties Scoop - Indian Residential School History and Dialogue Centre
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[101] As an example, Federal's government removed Wahpeemakwa's son from his position as chief of a Saulteaux-Cree band in the Moose Mountain area of Saskatchewan in 1889, because under his leadership, the role of missionaries was limited and many

band members refused to send their children to residential school. (Ray, Miller, and Tough, Bounty and Benevolence, 192-195; Tobias, "Ahchuchwahauhhatohapit", online: <http://www.biographi.ca/en/bio/ahchuchwahauhhatohapit_14E.html> (accessed 17 July 2014), cited in TRC Report, vol 1, Part 1 at p 252).

[102] The *Indian Act* 1920, section 10(3).

[103] The *Indian Act* 1920, section 10(3).

[104] As early as 1885, High River school principal Albert Lacombe urged Indian Affairs "to bring pressure in some way to bear upon those Indians who refuse their children", as by threatening to deprive them of their rations. (Indian Affairs annual report for the year 1906 that, In Canada, *Annual Report of the Department of Indian Affairs, 1906*, 232, for the Kwawkewlth Agency, "a few parents were fined for not sending their children to school" cited in TRC Report, vol 1, Part 1 at pp 251, 264.

[105] For example, David Laird, then Secretary of Indian Affairs, addressing the issue of twelve families from Onion Lake who were receiving rations while refusing to send their children to school, obtained authorization from Ottawa to "withhold rations from such parents for the children at home who are fit to attend school, but are not sent thereto. This is a hardship of which they could relieve themselves by complying with the wish of the Department and sending their children to the school of their choice where they would be fed and clothed. (TRC, NRA, Library and Archives Canada, RG10, volume 6320, file 658-1, part 1, David Laird to Secretary, Indian Affairs, 3 April 1906; [PAR-000980-0000] RG10, volume 6320, file 658-1, part 1, Microfilm reel C-9802, M. Benson to Deputy Superintendent General, Indian Affairs, 21 February 1907. [120.00284] ; cited in TRC Report, vol 1, Part 1 at p 24. Also see: TRC, NRA, Library and Archives Canada, RG10, volume 6032, file 150-40A, part 1, Headquarters - Compulsory Attendance of Pupils - Indian Schools, 1904-1933, Microfilm reel C-8149, FA 10-17, A.F. MacKenzie, 10 December 1919. [AEMR-255278] cited in TRC Report, vol 1, Part 1 at p 278.)

[106] *The Juvenile Delinquents Act,* R.S.C. 1970, Chap. J-3.

[107] Neil Sutherland, *Children in English-Canadian Society: Framing the Twentieth-Century Consensus* (Toronto: University of Toronto Press, 1976), at 122, cited in TRC Report, vol 1, Part 1 at p 582.

[108] TRC Report, vol 1, Part 1 at p 264.

[109] *Ibid* at p 284.

[110] RCAP Report, vol 1 at p 349.

[111] *Ibid* at p 349.

[112] See for e.g. Truth and Reconciliation Commission of Canada, *The Survivors Speak: A Report of the Truth and Reconciliation Commission of Canada*, volume 4 (Winnipeg: The Truth and Reconciliation Commission of Canada, 2015), online: https://nctr.ca/wp-content/uploads/2025/07/IR4-5-2015-eng.pdf [TRC Report, Survivors Speak] at p 31.

[113] TRC Report, Survivors Speak at p 66.

[114] Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: Missing Children and Unmarked Burials: The Final Report of the Truth and Reconciliation Commission of Canada*, volume 4 (Winnipeg: The Truth and Reconciliation Commission of Canada, 2015), online: https://nctr.ca/wp-content/uploads/2021/01/Volume_4_Missing_Children_English_Web.pdf [TRC Report, vol 4, Missing Children] at p 2.

[115] TRC Report, vol 4, Missing Children at p 10.

[116] *Ibid* at p 1.

[117] Vanbuekl, "Concerted national action overdue for all children who never came home from residential schools" (2 June 2021), online : *National Centre for Truth and Reconciliation,* online: <https://nctr.ca/concerted-national-action-overdue-for-all-the-children-who-never-came-home-from-residential-schools/>.

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[119] TRC Report, vol 4, Missing Children at pp 50-51.

[120] *Ibid* at pp 53.

[121] Special Interlocutor Report, Executive Summary at p 51 citing TRC Report, vol 1, Part 1 at pp 252, 432; TRC Report, vol 1 , Part 2 at pp 227, 228–29 (the Amebicide study), 230–31.

[122] TRC Report, vol 4, Missing Children at p 54.

[123] *Ibid* at p 58.

[124] *Ibid* at p 75.

[125] *Ibid* at p 1.

[126] *Ibid* at p 58.

[127] *Ibid* at p 61.

[128] *Ibid.*
[129] Maximilian Smith, "Peter Henderson Bryce". (2024), online: <https://www.thecanadianencyclopedia.ca/en/article/peter-henderson-bryce>.
[130] TRC Report, vol 4, Missing Children at p 428
[131] *Ibid* at p 74.
[132] *Ibid* at p 74.
[133] *Ibid* at p 74.
[134] *Ibid* at p 84.
[135] *Ibid* at p 84. See for e.g. Proverbs, 13:24, 22:15, and 29:15.
[136] *Ibid*. For more details see Note 378 at 203.
[137] TRC, NRA, Library and Archives Canada, RG10, volume 8542, file 51/25-1, part 2, Philip Phelan, 14 April 1953. [FAR-000067], cited in TRC Report, vol 4, Missing Children at p 85.
[138] TRC Report, vol 4, Missing Children at p 94.
[139] *Supra note 136* at p 94.
[140] *Ibid* at p 98.
[141] TRC, NRA, Library and Archives Canada, RG10, volume 8542, file 51/25-1, part 2, Philip Phelan, 14 April 1953. [FAR-000067].
[142] *Ibid.*
[143] *Ibid.*
[144] TRC Report, vol 4, Missing Children at p 101.
[145] *Ibid* at p 102.
[146] *Ibid.*
[147] TRC Report, vol 4, Missing Children at p 103.
[148] Office of the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, *Upholding Sacred Obligations, Reparations for Missing and Disappeared Indigenous Children and Unmarked Burials in Canada*, vol 2 (Six Nations of the Grand River: Office of the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, 2024), online: https://osi-bis.ca/wp-content/uploads/2024/11/2b.OSI-Upholding-Sacred-Obligations-VOLUME-2.pdf at p 960.
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[150] TRC, NRA, No document location, no document file source, F. O'Grady to Father Provincial, 20 June 1940; [OKM-000292] TRC, NRA, Library and Archives Canada, file 205/25-1, volume 2, 06/1948–12/1955, "Memorandum," 12 January 1943. [AEMR-200919].
[151] Canada, *Annual Report of the Department of Indian Affairs,* (Ottawa: Department of Indian Affairs, 1940) at p 186; Canada, *Annual Report of the Department of Indian Affairs*, (Ottawa: Department of Indian Affairs, 1941) at p 165.
[152] John Giokas, *The Indian Act: Evolution, Overview and options for amendment and transition: Final Report*, (Ontario: 1995) at 54, citing John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy", *Sweet Promises: A Reader on Indian-White Relations in Canada*, J.R. Miller (ed.),(Toronto: University of Toronto Press, 1991), at p 139.
[153] Special Joint Committees of the Senate and the House of Commons,-"4th Session : Special Joint Committee appointed to continue and complete the examination and consideration of the Indian Act", *minutes of proceeding and evidence* no 1 (1948), at 186, online (PDF): <https://parl.canadiana.ca/view/oop.com_SOCHOC_2004_2_1/1>, cited in TRC Report, vol 1, Part 2 at p 16.
[154] The 1948 draft of the *Act* encouraged "Dominion-Provincial conference" concerning Indigenous children's education. Moreover, Joint Committee's member John Tobias declared that "the Dominion government should begin turning over responsibilities for providing services to the provinces"**.** (John Giokas, *The Indian Act: Evolution, Overview and options for amendment and transition: Final Report*, (Ontario: 1995) at pp 60-61, online (pdf): <https://publications.gc.ca/collections/collection_2016/bcp-pco/Z1-1991-1-41-130-eng.pdf>). See also: TRC Report, vol 1, Part 2 at p 55.
[155] Special Joint Committees of the Senate and the House of Commons,-"4th Session : Special Joint Committee appointed to continue and complete the examination and consideration of the Indian Act", *minutes of proceeding and evidence* no 1 (1948), at 187, online (PDF): <https://parl.canadiana.ca/view/oop.com_SOCHOC_2004_2_1/1>, cited by TRC Report, vol 1, Part 2 at p 17.
[156] Special Joint Committees of the Senate and the House of Commons,-"4th Session : Special Joint Committee appointed to continue and complete the examination and consideration of the Indian Act", *minutes of proceeding and evidence* no 1 (1948), at 189, online (PDF): <https://parl.canadiana.ca/view/oop.com_SOCHOC_2004_2_1/1>,, cited by TRC Report, vol 1, Part 2 at p 17.

[157] TRC Report, vol 1, Part 2 at p 14.
[158] *Ibid* at p 155.
[159] Minutes and Proceedings of the Special Parliamentary Committee 1946 at 744, cited in (John Giokas, *The Indian Act: Evolution, Overview and options for amendment and transition: Final Report*, (Ontario: 1995) at 54-55, online (pdf): <https://publications.gc.ca/collections/collection_2016/bcp-pco/Z1-1991-1-41-130-eng.pdf>.
[160] TRC Report, vol 1, Part 2 at p 58.
[161] Erin Hanson, "Sixties Scoop", online : *First Nations & Indigenous Studies the University of British Columbia* <https://indigenousfoundations.arts.ubc.ca/sixties_scoop/>.
[162] Allyson D. Stevenson, *Intimate integration: a history of the Sixties Scoop and the colonization of Indigenous kinship,* (Toronto: University of Toronto Press, 2021) at p 226.
[163] *Supra* note 159.
[164] *Ibid.*
[165] Truth and Reconciliation Commission of Canada, *The final Report of the Truth and Reconciliation Commission of Canada : Canada's Residential Schools : The Legacy, vol.5*, (Winnipeg: The Truth and Reconciliation Commission of Canada, 2015), online: https://nctr.ca/wp-content/uploads/2021/01/Volume_5_Legacy_English_Web.pdf [TRC Report, vol 5, The Legacy] at p 4.
[166] TRC Summary Report at p 137: "In part, this has happened because of a lack of adequate funding for culturally appropriate supports that would allow children to remain safely with their families, or to allow children to be placed in foster or adoptive environments that are culturally appropriate and capable of giving children a sense of identity, self-respect, and self-worth."
[167] *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada*), 2016 CHRT 2 (CanLII), online : <https://www.canlii.org/en/ca/chrt/doc/2016/2016chrt2/2016chrt2.html>. Last visited November 24, 2024.
[168] TRC Report, vol 5, The Legacy at p 12. See First Nations Child & Family Caring Society, "I am a witness: Human Rights Case", online: *First Nations Child & Family Caring Society* <https://fncaringsociety.com/i-am-witness>.
[169] TRC Report, vol 1, Part 2 at p 10.
[170] *Ibid* at p 11
[171]Indian and Northern Affairs Canada, *Statement of the Government of Canada on Indian policy, 1969*. Online (pdf): <https://publications.gc.ca/collections/collection_2014/aadnc-aandc/R32-2469-eng.pdf>.
[172] First proposition of the White Paper "New Policy". (Indian and Northern Affairs Canada, *Statement of the Government of Canada on Indian policy, 1969*, at p 4).
[173] Cree chef, lawyer and author notably of *The Unjust Society*, Arnold Cardinal was a figurehead in the movement against the *White paper* proposal.
[174] Edmonton: M.G. Hurtig Ltd, 1969 at 140, cited in John Giokas, *The Indian Act: Evolution, Overview and options for amendment and transition: Final Report*, (Ontario: 1995) at p 85.
[175] The document "[p]ropose[s] [that] the governments of the provinces that they take over the same responsibility for Indians that they have for other citizens in their provinces." (Indian and Northern Affairs Canada, *Statement of the Government of Canada on Indian policy, 1969*, at p 7).
[176] TRC Report, vol 1, Part 2 at p 12. Also see Newman, *Indians of the Saddle Lake Reserve*, 82, 83, 87.
[177] Sally Weaver wrote that "Indian leaders felt duped by the consultation process and were incredulous at the government's assertions that the White Paper was a response to their demands." (Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto: University of Toronto Press, 1981), at 171, cited in John Giokas, *The Indian Act: Evolution, Overview and options for amendment and transition: Final Report*, (Ontario: 1995) at 84). Also see: TRC Report, vol 1, Part 2 at p 22.
[178] TRC Report, vol 1, Part 2 at p 84.
[179] Policy paper, originally titled "*Citizens Plus*" and composed by the Indian Association of Alberta, presented by the National Indian Brotherhood in 1970 to the federal government in response to the *White Paper* of 1969. Indian Chefs of Alberta, Citizen Plus, 1969. See: https://caid.ca/RedPaper1970.pdf
[180] Indian Chiefs of Alberta, *Citizens Plus,* page 16 of 95-page portable document file, cited in TRC Report, vol 1, Part 2 at p 22.
[181] TRC Report, vol 1, Part 2 at p 11.
[182] *Ibid* at p 185.
[183] Courtney Dickson and Bridgette Watson, "Remains of 215 children found buried at former B.C. residential school, First Nation says" (29 May 2021), online: *CBC News* <https://www.cbc.ca/news/canada/british-columbia/tk-emlúpste-secwépemc-215-children-former-kamloops-indian-residential-school-1.6043778>.

[184] Bryan Eneas, “Sask. First Nation announces discovery of 751 unmarked graves near former residential school”, (25 June 2021), online : *CBC News* <https://www.cbc.ca/news/canada/saskatchewan/cowessess-marieval-indian-residentialschool-news-1.6078375>.
[185] Office of the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, “About” (2024), online: <https://osi-bis.ca/about/>.
[186] *Ibid.*
[187] Office of the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, *Sacred Responsibility: Searching for the Missing Children and Unmarked Burials. Interim Report* (Six Nations of the Grand River: Office of the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, 2024), online: https://osi-bis.ca/wp-content/uploads/2023/07/OSI_InterimReport_FINDINGS_June-2023_web.pdf at p 10.
[188] Dr. Yvonne Boyer and Dr. Judith Bartlett, External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women, 22 July 2017. https://senatorboyer.ca/wp-content/uploads/2021/09/Tubal-Ligation-in-the-Saskatoon-Health-Region-the-Lived-Experience-of-Aboriginal-Women-Boyer-and-Bartlett-July-11-2017.pdf
[189] *Ibid* at p 9.
[190] *Ibid.*
[191] Suzy Basile & Patricia Bouchard, *Free and informed consent and imposed sterilizations among First Nations and Inuit women in Quebe,* Research Report (First Nations of Quebec and Labrador Health and Social Sciences Commission, 2022), https://files.cssspnql.com/s/CGKiiNtINdTYkGF at pp 58-61
[192] Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1a, untitled at 267
[193] *Ibid* at p 266.
[194] What is the Survivors Circle? — Survivors Circle for Reproductive Justice
[195] Special Interlocutor Report, Executive Summary at p 33.
[196] *Ibid* at p 35.
[197] TRC Report, vol 1, Part 2 at p 560.
[198] *Ibid* at p 561.
[199] *Ibid* at p 562.
[200] *Ibid* at p 564.
[201] *Ibid* at p 565.
[202] *Ibid* at p 566.
[203] Special Interlocutor Report, Executive Summary at p 37.
[204] *Ibid* at p 37.
[205] TRC Report, vol 1, Part 2 at p 574.
[206] *Ibid* at p 575.
[207] Special Interlocutor Report, Executive Summary at p 37.
[208] TRC Report, vol 1, Part 2 at p 576.
[209] *Ibid* at p 579.
[210] Special Interlocutor Report, Executive Summary at p 165.
[211] *Ibid* at p 168.
[212] Special Interlocutor Report, Executive Summary at p 32.
[213] *Ibid* at p 36.
[214] *Ibid*.
[215] *Ibid*
[216] TRC Summary Report at p 23.
[217] *Ibid*.
[218] *Ibid.*
[219] Indigenous Watchdog, “Calls to Action” (2024), online: <https://www.indigenouswatchdog.org/calls-to-action/>.
[220] Indigenous Watchdog, “Call to Action #77” (6 December 2024), online : <https://www.indigenouswatchdog.org/cta/call-to-action-77/>.
[221] Indigenous Watchdog, “Call to Action #71” (2 December 2024), online : <https://www.indigenouswatchdog.org/cta/call-to-action-71/>.

[222]Indigenous Watchdog, “Call to Action #44” (27 March 2024), online : <https://www.indigenouswatchdog.org/cta/call-to-action-44/>.

[223] As cited in, The Standing Senate Committee on Human Rights , FORCED AND COERCED STERILIZATION OF PERSONS IN CANADA, June 2021 https://sencanada.ca/content/sen/committee/432/RIDR/Reports/RIDR_ForcedSterilization_e.pdf at p.13

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