Decolonising Archives: Indigenous Challenges to Record Keeping in 'Reconciling' Settler Colonial States[1]

Abstract

Feminist and queer engagements with archives and archival theory have emphasised the affective dimensions of archival processes, particularly the meaning and place of archives when they concern marginalised people and intimate lives. In settler colonial context such as Australia and Canada, these ways of thinking about archives have been influential in responding to histories of the removal, institutionalisation and abuse of Indigenous children. This article investigates the importance of feminist engagements with archives and historiography in 'reconciling' settler colonial states, with attention to sites of archival contention. Feminist modes of history that foreground affect in the formation of public culture needs to take account of divergent views regarding the propriety of archival records in 'reconciling' settler colonial states. Indigenous peoples' mistrust of state and institutional archives, demands for control of archives and legal actions for destruction of records, as well as establishment of autonomous archives, all contribute to the important and fraught process of decolonising settler colonial archives.

Introduction

In settler colonial contexts such as Australia and Canada, moves towards reconciliation between settlers and Indigenous peoples are betrayed in the archive. As a result of the absence of archival evidence, legal claims for compensation to members of the Stolen Generations have failed in Australia. In Canada, where avenues for reparations as part of processes of reconciliation have been established, contentions over reliability and interpretation of archival records have come into sharp relief. Disputes have arisen about government obligations to provide access to archival records for the purposes of assessing reparations. There are also important questions about future access to and responsibility for archives created in legal proceedings. In both contexts, Indigenous critique of the politics of reconciliation has been a catalyst for moves towards decolonisation of settler colonial archives.

In Australia and Canada, the politics of reconciliation has notably coalesced around affective responses to the history of the removal, institutionalisation and abuse of Indigenous children. In Australia, the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families traced the laws, practices and policies that resulted in the forcible separation of Indigenous children from their families (HREOC 1997). In North America, a similar history of settler colonialism included the removal and institutionalisation of Aboriginal children from First Nations, Inuit and Métis communities in residential schools (Jacobs 2009). In Canada, the Indian Residential Schools Settlement Agreement (2006) and the subsequent Truth and Reconciliation Commission (2008) were established as forums to provide reparations to residential school survivors.

Feminist and queer investigations of the politics of affect draw attention to the way certain gendered emotions are mobilised in public discourse (Ahmed 2004; Berlant

1997; Povinelli 2002; Probyn 2005). These approaches have been valuable in investigating how emotions contribute to the construction of identities, including national identities. Sara Ahmed, for example, argues that in the Australian discourse of reconciliation that emerged in the wake of the report of the National Inquiry, expressions of national shame toward Indigenous subjects was brought into effect as a way of recovering desire for national pride (2004, 101-121). She suggests that by 'witnessing what is shameful about the past, the nation can "live up to" the ideals that secure its identity or being in the present' thereby reproducing the nation as an ideal (109).

Attention to the politics of affect has also been valuable when archival and other forms of documentation are mobilised through reconciliation processes in settler colonial contexts (Kennedy 2011; Luker 2014). Drawing on feminist approaches to historiography, this article argues that reconciliation processes that involve attention to archival records have provoked affective responses that reveal the way archives have the capacity to 'motivate, inspire, anger and traumatize' (Gilliland & Caswell 2016, 53). These affective politics of reconciliation have been the catalyst for Indigenous demand for decolonisation of settler colonial archives and has resulted in important developments in archival theory and practice. Indigenous peoples' mistrust of state and institutional archives, demands for control of archives and legal actions for destruction of records, as well as establishment of autonomous archives, all contribute to the important and fraught process of decolonising settler colonial archives.

Affective Politics

Feminist and queer engagements with archival theory have emphasised the affective dimensions of archival processes, particularly the meaning and place of archives

when they concern marginalised and intimate lives (Biber & Luker 2014; Burton 2003; Cvetkovich 2003; Dever, Newman and Vickery 2009; Eichhorn 2013). In a key contribution, Ann Cvetkovich (2003) uses queer theory as a methodology for analysis of the importance of affect, specifically trauma, to figuring the place of the archive in the formation of public cultures. Feminist ways of thinking about archival affect have also been influential in relation to analyses of imperial, colonial and postcolonial archives. Ann Laura Stoler (2009), for example, draws on feminist understandings to suggest that colonial archives reveal anxieties about subject formation and the psychic space of empire.

Where the discourse of reconciliation has emerged in settler colonial contexts such as Australia and Canada, rhetorics of shame, compassion, empathy and forgiveness have dominated as responses to accounts of the removal of children from their families and communities under forced policies of assimilation. These are feelings traditionally associated with the feminine. As Rosanne Kennedy (2011) points out, attention to the gendered sentimental tropes aligned with the suffering mother and vulnerable child serve to create an affective community for the Stolen Generations. Kennedy draws on Cvetkovich's concept of an 'archive of feelings' as a way of understanding the role of material memory objects, such as Sorry Books, produced as part of a public campaign to apologise to members of the Stolen Generations. Kennedy suggests that the Sorry Books campaign, a popular reconciliation event in Australia, exemplifies a form of compassionate politics that constitute a public archive of non-Indigenous affective responses to Indigenous suffering.

Similarly, Penelope Edmonds (2016) has drawn on such frameworks to investigate sites of affective performance of conciliation and reconciliation in settler colonial contexts. Edmonds argues that reconciliation is a form of utopian politics expressing

desire for the virtuous, unified nation. However, she reveals how Indigenous people have resisted, re-visioned and contested the politics of reconciliation through performative and cross-cultural political action, 'in order to assert and re-enliven the historical and cultural dimensions of their sovereignties, and work them into new forms of political action in the name of peace-building and counter-colonial resistance' (24).

Joy Damousi (2002) maintains that histories of injury and suffering can act as catalysts for collective political action for minority and oppressed groups. She argues that public expressions of grief, trauma and loss, such as the testimony expressed by members of the Stolen Generations during the HREOC Inquiry, mobilised Aboriginal communities into political action. In this way, the anguish and loss that had previously been experienced privately within families and communities, including efforts to reclaim children, was mobilised in the public sphere as collective political action. While it was not the first time the issue had been politicised, Damousi argues that the *Bringing Them Home* report, including the recommendations for reparations, reflected the politicisation of the experiences of trauma and anguish (108).

However, Indigenous and First Nations feminist scholars have critiqued the affective mode of settler colonial reparative justice. Audra Simpson (Mohawk) (2016a) refers to it as 'affective governance', a form of liberal power that operates through the performance of emotion. She argues that 'recognition' is another in a historical legacy of forms of managing Indians, and their difference; that it is a 'trick of toleration' (2014, 19). Positing an alternative mode, Simpson has identified the politics of refusal as central to the ongoing sovereign position of her people, the Mohawk of Kahnawa:ke (2014). Refusal, Simpson maintains, 'avenges the prior' of injustice and highlights its ongoing life in the present (2016c). It 'comes with the

requirement of having one's *political* sovereignty acknowledged and upheld, and raises the question of legitimacy for those who are usually in the position of recognizing' (2014, 11).

Dian Million (Tanana Athabascan) has developed a uniquely Indigenous feminist approach to affect and history that she calls 'felt theory' (2009). Million argues that while second-wave white feminism dismantled the distinction between the public and the private sphere, it was Canadian First Nations women's narrative accounts of their lived experiences that challenged mainstream, largely male, historical scholarship of colonial histories by 'changing the conditions for what *could be* said', and allowing for a 'more complex "telling"' of colonial history (2009, 54). Importantly, these analyses of colonial power highlight the way '[r]ape and sexual violence have always been normative to the subjugation of colonized peoples' (38).

Million maintains, however, that state-initiated reconciliation projects, consistent with all human rights discourses in the post-WWII period, are carried out within the logic of trauma, where it is assumed that when 'victims of state violence speak their truth in the presence of oppressors, a new story will emerge, a reconciled national history' (2013, 3). She suggests that the discourse of trauma produced in such processes creates a 'wounded' Indigenous subjectivity. However, this is at odds with the concurrent articulation of political rights to self-determination, such as in the United Nations Declaration on the Rights of Indigenous Peoples, and performed in conflicts over sovereign rights. Thus, she claims, there is 'an agonistic heart to the self-determination Indigenous peoples affectively work out, a site of "intimate" painful political, social, and personal conundrums with the state' (3-4). Million argues that in the contemporary neoliberal environment, reconciliation discourses are now deployed to quell conflicts when Canadian Indigenous people have asserted self-

determination. This occurred during the 1990s in Oka, Quebec, when violent conflicts erupted between the Canadian government and the Kahnawa:ke Mohawk when they defended their ancestral burial grounds from housing development.

Neoliberal forms of bio-political power also dominate in Australia and have effectively stalled reconciliation politics. The vast majority of the recommendations of the *Bringing them Home* report, drafted in the reconciliatory rhetoric of the time, have not been implemented. Instead, self-determination has been rescinded and successive governments have shifted to the register of 'national emergency', seizing control of Indigenous individuals and communities through the implementation of the *Northern Territory National Emergency Response Act 2007* and *Stronger Futures* legislation, thereby 'reasserting white sovereignty over Indigenous peoples, their lands, laws and sovereignties' (Giannacopoulos 2009, 333). Referred to as the Intervention, this legislation suspended provisions of the *Racial Discrimination Act 1975*, implementing a regime of racialised control of Indigenous peoples.

The legislation was implemented in response to allegations of widespread sexual abuse of Aboriginal children and violence against Aboriginal women, followed by release of a report entitled *Ampe Akelyernemane Meke Mekarle,* '*Little Children are Sacred'* report (2007). Australian Indigenous legal scholar Nicole Watson (Mununjali and Birri Gubba) (2011) pointed out that there has been little debate among white feminist scholars about responses to the measures. She argues that these measures should be understood in the context of the long history of protectionist legislation that controlled Aboriginal women's lives, including their sexuality, relationships, children, employment, money and welfare payments. Similarly, Irene Watson (Tanganekald) argues that 'to view the contemporary crisis in Aboriginal communities without

reference to the violent colonial history of this country is to look too simply at a complex and layered landscape' (2007, 97).

Million's theorisation of the agonistic, but not necessarily contradictory, tension between affective politics of reconciliation and claims to self determination is useful for framing and understanding the context of Indigenous demand for decolonisation of settler colonial archives. Decolonisation of archives may be thought of as attempts to dislodge settler-colonial records as exclusive sites of historical knowledge by engaging in an 'historically-informed critical decolonial sensibility' (Fraser & Todd 2016). Indigenous peoples' mistrust of state and institutional archives, demand for ownership and control of archives, as well as orders for destruction of records are all responses to reconciliatory politics that challenge its affective mode.

It is well established that settler colonial archives are inherently problematic sources of historical knowledge (Kirkby & Coleborne 2001; Luker 2009; Perry 2005; Schwartz & Cook 2002). Settler colonial administrations amassed an enormous archive of documentation relating to the regulation of Aboriginal people. Bureaucratic record-keeping is a technology of control and settler colonial nations produce administrative records for national purposes in the affirmation of sovereignty. Indeed, it is these bureaucratic and legal records through which much of the force of colonial power and authority is wielded, functioning as 'the backbone of the nation-state', through the documentation of its existence, power and legitimacy (Adams-Campbell, Glassburn Falzetti & Rivard 2015, 109).

This has led some to argue for greater attention to oral sources of historical knowledge. Miranda Johnson, for example, suggests a practice of 'listening to documents', or interpreting the 'written-oral as *oral*' as ways of overcoming some of the assumptions embedded in the dichotomy written/oral (2008, 116). Examining the

New Zealand Waitangi Tribunal, Rachel Buchanan (2007) argues that in order to decolonise, new archives need to be created and the definition of what qualifies as archival must be broadened. Some see the settler colonial archive within a Derridean frame, as a site of memory and forgetting (Derrida 1996). For Kathleen Birrell, for example, Indigeneity is both the origin of colonial law and the origin of the colonial archive (2010). Honni van Rijswijk (2014) goes further to argue that it is the figure of the 'abused Aboriginal child' that is central to the state's control of Aboriginal people. She advocates the practice of reading law as archive, that is, taking up a position of 'readerly responsibility with respect to the practise of representation' by engaging in reading practices that '[interrupt] and [disorient] law's claim to violent jurisdiction over Aboriginal people' (117). Others, including myself (Luker 2016), have investigated the materiality of archival sources by examining contemporary creative work that redeploys archival documents as examples of counter archival practices.

However, in this article, I engage with the politics of archival decolonisation by documenting interventions into archival theory and practice. These interventions raise questions such as what is the origin, or provenance, of an archive and who should be recognised as its creator? Who should own public documents and should they be permitted to charge for access? Who should control access to settler colonial archives when they include intimate and personal information such as sexual abuse? Do the subjects of archives have the right to correct the record? Should there be a right to destroy records? These are all questions that have genesis in both Australia and Canada in state-managed legal inquiries into the removal and institutionalisation of Indigenous children. As 'archives of feelings', these legal proceedings mobilised affective politics of reconciliation that have become central to the formation of public

history and culture in each nation. At the same time, Indigenous cultural production, as well as legal and archival activism, challenge the presumed legitimacy and authority of colonial history and historiography by forging critical interventions in archival theory and practice. In the next section, I will identify Indigenous challenges to record keeping in Australia in the wake of the inquiry into the Stolen Generations as sites of agonistic tension between affective politics of reconciliation and claims to self determination.

Provenance, Ownership and Control of Records

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (HREOC 1997) was directed to trace the history of laws, practices and policies that resulted in the separation of Indigenous children from their families in Australia. The process involved the creation of a significant archive of testimonial and documentary material about the forcible removal of children from their families and communities. Much of this material is highly personal and often includes traumatic accounts of separation, loss, distress and abuse. Many witnesses did not know of the existence or location of their families and communities. This is an area of particular significance for members of the Stolen Generations because access to information can provide avenues to re-establish connection with families and communities, revive Indigenous cultural traditions, obtain information for native title claims, and make sense of contemporary experiences (Smallacombe [1998]).

The Inquiry made a number of recommendations in relation to changes to archival records management practice, including a prohibition on destruction of records relating to Indigenous individuals, families or communities held by government or non-government agencies (HREOC 1997, 347). It recommended that all government record agencies be funded to preserve and index records and that these indexes and

finding aids be developed and managed in a way that protects privacy (347). The Inquiry proposed that measures of restitution should include language and cultural centres, family tracing and reunion services, and protection of records.

However, there are key issues concerning Indigenous rights to cultural and intellectual property in archival records which have been raised in Australia in the wake of the *Bringing them Home* report that have not been taken up, including responsibility for ownership and control, custodianship, and right to correct the record. These issues challenge some of the foundational principles in archival theory and practice, as I will go on to discuss.

A new model for provenance

Within archival science, a distinction is made between record creators as the principal parties to the record transaction and record subjects as third parties. This division between the primary role of record creator and the subsidiary role of record subject reflects the essentialising paradigm of Western intellectual thought in which subjects of knowledge are objectified. However, recent critical archival scholarship advocates a participant relationship model of rights that acknowledges all parties to the transaction with rights and responsibilities in relation to ownership, access and privacy of knowledge. Livia Iacovino, for example, argues that the traditional focus within archival science on the provenance—or the creator that captures and manages records—should be broadened to include all context entities involved in record formation. She suggests that a participant relationship model that recognises Indigenous co-creatorship or parallel provenance as an archival principle 'would be highly significant in providing evidence of claims in establishing Indigenous rights to records which capture their knowledge and identity' (2010, 360). Furthermore, Iacovino argues that a new legal right, 'a sui generis ownership right', should be

considered for Indigenous people to own personal information about them collected by the state or a private entity (364).

Archival theorist Michelle Caswell (2014) also argues for a revised approach to provenance in relation to records of human rights abuse. She advocates for survivor status as a form of provenance and argues that survivors of human rights abuse should maintain control over decision-making processes relating to records that document that abuse, irrespective of what type of institution maintains custody. Drawing on principles she identifies as key to community archives, Caswell argues that the participation of survivors and victims' family members in making decisions about appraisal, description, digitisation and access will 'most ethically serve communities coming to terms with violent pasts' (320).

These arguments are based on new approaches to ethics in archival practice and activism and are prominent in relation to human rights and community archiving contexts. They draw on feminist and queer approaches to archives where affect theory has been dominant. For example, archival theorist Marika Cifor (2016) argues that one of the ways the dimensions of social justice can be meaningfully engaged and confronted in the archival field is via affect theory. She draws on the work of key feminist cultural theorists of affect to argue that they 'provide tools for undertaking substantive analyses of power and its abuses, construction, distribution, mobilization and circulation' (8). According to Cifor, 'thinking through pain with Ahmed has much to contribute to practices and conceptualizations of witnessing across archival contexts' (21). In witnessing trauma, Cifor argues, archivists have an obligation to reframe their approach to the past through 'active engagement in the politics of now' (citing Harris 2014, 223).

The right of reply

New technologies can offer innovative approaches to engagement with archival records. Terri Janke and Livia Iacovino (2012) point out that the use of digital technologies has had a significant impact on the way records are created and maintained, resulting in a shift in archival thinking and practice. They suggest that this shift has potential to impact on the way ownership of government records is conceived (161). Critical appraisal of historical records has revealed that on their own, government records are generally an inadequate source of information about what happened in the past. However, some have advocated the use of new technologies to provide for a 'right of reply'. Indigenous cultural heritage expert, Kirsten Thorpe (2014), suggests that archival practices that allow for ongoing conversations and building collaborative projects enable subjects of archives to be active participants with potential to have far reaching therapeutic effects to heal past trauma (213).

A similar approach is advocated by Iacovino (2015), who proposes the rights of those who are subjects of the record to add their own narratives to records held in archival institutions and to participate as co-creators in decision-making about appraisal, access and control. She argues that 'retrospectively reshaping the archive to allow for individuals and groups to have their voices heard either through digital annotations or a virtual community space' is a way of enhancing cultural identity (30). Iacovino also alerts us to recent interest in a 'right to forget' or 'right to be forgotten', that is, the right to have personal data destroyed, and its potential to conflict with other public interest issues, as well as understandings of collective memory (32).

However, intellectual property legal scholars, Kathy Bowery and Jane Anderson, point to the competing interests at stake in the principle of public access for

Indigenous owners of intellectual property when applied to material held in cultural institutions around the world (2009, 494). The current privileging of the discourse of the public domain and the principle of freedom of access fails to recognise the way de-contextualisation and disembodiment of cultural objects outside of local context can serve against Indigenous interests. Important information is often missing and institutions may use information for digitisation based on culturally inappropriate classificatory grids. This results in reproduction of 'old colonial frameworks' (494). These concerns have led to important Indigenous-driven initiatives to identify the location of cultural heritage and knowledge in museums and archives, such as the Mukurtu Wumpurrarni-kari Archive, which uses digital technology to provide access to digital materials held in museums and archives through a restricted access arrangement (Christen 2008). This project is an example of Indigenous self-determination in cultural and intellectual property management that provides digital repatriation in support of capacity building of Indigenous knowledge and research.[2]

Self-determination in records

The Trust and Technology Project is the most significant research project on Indigenous rights in archival knowledge to have been conducted in Australia in recent years.[3] The project found that there were divergent, possibly irreconcilable, views regarding the propriety of institutional archival records containing information about Indigenous people. Many Indigenous people view these records as distinctly Indigenous records and that as such, 'control and access should be vested with Indigenous people as the owners'. On the other hand, archival institutions, particularly government bodies, having received the records as documents of government operations, view them as belonging to the government because within

archival frameworks, collecting institutions take custody of the records on behalf of the creator (McKemmish, Faulkhead & Russell 2011, 219).

Responding to this research finding, Janke and Iacovino suggest a complete revision of the definition used within archival science of 'records creator' to include 'everyone who has contributed to the record's creative process and has been affected by its action' in recognition of an expanded notion of rights and obligations (discussed in McKemmish et al 2012, 100). In this way, the related right to know and the right of reply would involve archival institutions disclosing to Indigenous people and communities that they hold records relating to them, and developing systems to allow Indigenous people to add their perspectives and stories to 'set the official record straight' (102).

The Trust and Technology Project developed a series of principles. This includes 'recognition of rights in records', that acknowledges the rights of Indigenous people to 'make decisions about the creation and management of their knowledge in all its forms, including knowledge contained in records created by non-Indigenous people and organisations about Indigenous people'. It also advocates for recognition of Indigenous people's right to challenge "official" records, by providing mechanisms for Indigenous peoples to 'set the record straight', that is, to 'comment on inaccuracies or limitations, contribute family and individual narratives, and present their version of events alongside the official one' (McKemmish, Faulkhead & Russell 2011, 230-1). The right to 'set the record straight' was identified as 'one of the most loudly and consistently expressed desires of participants in the project' and points to the value of 'differing versions of events co-existing and informing each other' (232).

The participants describe this approach as a form of archival reconciliation, involving 'a re-conceptualisation of the "archive", amongst other things, a recognition

and acknowledgement of mutual rights in records, the development of frameworks for the respectful coexistence of Indigenous and non-Indigenous records, and exploration of the concept of a community or individual as an archive' (McKemmish, Faulkhead & Russell 2011, 220). The research conducted by the Trust and Technology project has reaffirmed the urgent need to implement the recommendations of the *Bringing Them Home* report in relation to community control of historical documentation 'as a central component of future frameworks for Indigenous archiving' (218). This call to action also raises the question of the location, custody, condition and access arrangements of the archives from the Inquiry itself. Who should own and control access to the records of the *Bringing Them Home* inquiry, which contains a significant archive of documentary evidence and oral testimony about the history of Indigenous child removal in Australia?

Ownership and control of records

The archives of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families were transferred to the National Archives of Australia (NAA) once the inquiry was completed, where they are permanently retained but exempt from open access. The material, other than confidential evidence and submissions, is available for access, subject to an application to the Commission under the *Freedom of Information Act 1982* (Cth) (FOI). In some cases, a suppression order has been placed over the names of witnesses who provided evidence to the Inquiry, which must be redacted prior to release of the documents.[4]

This arrangement means that access to records of the Inquiry is mediated by the Human Rights Commission (HRC) and the NAA. The HRC regularly receives requests for access, from witnesses to the Inquiry or their relatives, legal counsel of potential litigants and native title claimants, as well as from researchers. The process

of recalling the files can be time consuming and resource intensive, particularly if redaction is required. All files from the Inquiry are paper-based and as they are approximately 20 years old, may have deteriorated, been lost or misplaced, despite the fact that they are in the custody of the NAA.

However, this arrangement does not provide ready access to information, nor does it reflect principles of Indigenous control or management and therefore does not address the recommendations of the law reform and research communities. The records from the Inquiry have not been transferred into Indigenous community management or control, nor are there opportunities for critique or correction of the record. Despite the distinctive character and status as records of a reconciliatory and reparatory process engaged in by the nation state with Indigenous people, the records of the Inquiry have a status no different from other government records.

The specific dynamics at play in relation to cultural heritage and record keeping within settler colonial contexts have led to valuable consideration of the role of archives in sustaining the discourse of the nation. For example, historians Melissa Adams-Campbell et al argue that settler archives perform a special work to maintain the story of the nation state, in particular, 'its relationship to the "placeness" of the nation, and the simultaneous double move of acknowledging and disavowing Native communities' (2015, 110). They point to a logic of incorporation at work, such that 'information collected about colonized others is not organized separately from the rise of the state; rather, the story of the dispossession and dispersal of indigenous peoples is subsumed within the story of the state' (110). Indigenous people have fought to regain control over physical and intellectual property that has been removed from them and often held in public and private museums. As Bowrey and Anderson argue (2009, 489), while there is a surge in interest in the principle of open access to

knowledge and the concept of public information, this same argument has been used against repatriation of Indigenous cultural property, such as human and non-human remains, on the basis that repatriation 'denies' the possibility of future research.

The requirement that the records of the Inquiry be transferred to the NAA where they are treated in the same way as any other government records functions to negates the role of the Inquiry process in reconciliation and fails to recognise the significance of the archives as a form of reparations. Significantly, another project, the Bringing Them Home Oral History Project, was conducted after the Inquiry was completed and involved the collection of testimonial accounts by members of the Stolen Generations as well as missionaries, police and administrators that were then published as a book (Mellor & Haebich 2002). As Paulette Regan argues: 'Public history representations that involve remembering historical wrongs and cultural trauma in highly visible ways that honour victims inevitably disrupt the more laudatory version of national history and its attendant myths' (2010, 73). The production of public history facilitates a practice of public memory which, as Roger Simon suggests, has the potential to instigate 'the formation of a new public, one committed to supporting the work that needs to be done in order to further just policies and practices regarding issues that matter dearly to Aboriginal communities' (2013, 139).

Disclosure and Destruction of Records

In North America, a similar history of settler colonialism included the removal and institutionalisation of Aboriginal children from First Nations, Inuit and Métis communities in residential schools (Jacobs 2009). It is estimated that between the 1870s and 1980s around 150,000 children were institutionalised (Morse 2008, 42). As in Australia, the removal of children from their parents had a decimating impact on the transmission of cultural traditions, languages and knowledge, and an ongoing

effect for generations into the present. In November 2005, the Canadian government announced the Indian Residential Schools Settlement Agreement (IRSSA), a Federal Court approved agreement which recognised the damage inflicted by Indian residential schools (IRS) and established a $2 billion compensation package for people who were forced to attend these schools. As part of the agreement, in June 2008, a Truth and Reconciliation Commission (TRC) was established.

Of course, reparations did not simply emerge as noble expressions of state commitment to reconciliation. Aboriginal groups pursued the federal government for compensation and by the 1990s, numerous individual and class actions had been initiated by people who were survivors of abuse perpetrated while they were in residential schools. The IRSSA was reached as a result of the negotiations between the Canadian state, various plaintiffs, the Assembly of First Nations, Inuit representatives and Anglican, Presbyterian and Roman Catholic churches. Notably, the IRSSA did not cover residential and day schools that did not receive federal government funding, thereby excluding from reparations and apology many members of the Métis Nation, the Nunatsiavut Inuit and the Innu Nation, because the schools they attended were funded by provincial governments. As Robyn Green argues, Canada's reconciliation process can be characterised as contradictory, where 'redress movements are acknowledged by the settler state, yet responses to these claims are limited by the power of sovereign law' (2012, 131).

As it claims on its website, the TRC was tasked with 'acknowledging residential school experiences, impacts and consequences', to document 'the truth of survivors, families, communities and anyone personally affected' in order to 'put the events of the past behind us'. The reconciliatory discourse of apology leading to forgiveness for the atrocities of the past in order to move into the future has been soundly critiqued by

First Nations activists and scholars. Glen Coulthard (Yellowknives, Dene), for example, argues against the logic of the TRC, where 'Indigenous subjects are the primary object of repair, not the colonial relationship.' (2014, 127) He suggests, rather, that 'Indigenous peoples' anger and resentment can generate forms of decolonized subjectivity and anticolonial practice that we ought to critically affirm rather than denigrate in our premature efforts to promote forgiveness and reconciliation on terms still largely dictated by the colonial state' (128).

The TRC had as a goal the creation of 'as complete an historical record as possible of the IRS system and legacy'. The records were to be preserved and made accessible to the public for future study and use. However, significant disputes emerged in relation archival records in the context of reparations processes for survivors of residential schools under the IRSSA and through the TRC. In particular, there was litigation concerning the federal government's obligation to provide access to records for the purposes of the IRSSA, as well as actions that resulted in an order for the destruction of records. I argue that these conflicts reveal the tensions between affective politics of reconciliation and claims to self-determination in the settler colonial state. As Million points out, it is the treatment of Aboriginal children—their removal, institutionalisation, neglectful treatment and sexual abuse—that has become the 'defining truth of Canada's legacy' (5). It is not surprising therefore that the records of sexual abuse produced in the IRSSA became a site for conflict between First Nations people and the Canadian state.

During these reparatory processes, disputes coalesced on two issues: the Canadian federal government's document disclosure obligations in relation to archival documents held at Library and Archives Canada (LAC) and the disposition of records once the processes were completed. Document disclosure is an obligation placed on

parties to provide all the relevant information to resolve a dispute. In the context of a reparations process, resistance on the part of the settler state to providing relevant information is a proprietary right that it is able to assert as the owner and controller of the records. However, where access to information is specifically identified as essential to the process of reconciliation, refusal to live up to this obligation reveals a level of speciousness on the part of the settler state.

Document disclosure

Under the terms of the IRSSA, the Canadian government had document disclosure obligations to provide information: about IAP claimants, the residential schools attended, as well as any documents mentioning sexual abuse at the school and alleged perpetrators of assaults (IRSSA Schedule D, Appendix VIII). Where there were student-on-student abuse allegations, the federal government had an obligation to provide information from any legal or dispute resolution processes and other IAP decisions relevant to the claim. Access to information was also identified as essential to the efficacy of the TRC process. The Canadian federal government and the churches were to provide all relevant documents in their possession for the use of the TRC, subject to the privacy interests of an individual and in compliance with privacy and access to information legislation.

Demands for disclosure signify prominently in these disputes. Truth commissions operate 'within an economy of crisis, disclosure, and catharsis'. The belief is that when victims of state violence speak their truth in the presence of oppressors, a new story will emerge, a reconciled national history' (Million 2009, 3). However, while reparations processes were contingent on Aboriginal people disclosing their experiences of abuse, the agent that was ultimately responsible for these crimes resisted its own document disclosure obligations, resulting in legal actions taken by

the TRC against the Canadian federal government. This double standard exposes inequity in relation to control of records that is at odds with the reconciliatory logic of the TRC, where the state asserted an ongoing proprietary right to determine access to colonial records. It also demonstrates, following Million, the way the concept of victimhood and the affective articulations of trauma, or public feelings, underpins the logic these of these reconciliation processes.

In one case where the TRC took legal action against the Canadian federal government with respect to archived documents at Library and Archives Canada (LAC), the court found that the settlement agreement clearly required that the Canadian government provide access to these documents.[5] In another case, nine applicants, some of whom have settled their claims for compensation under the IRSSA, sought the court's advice about whether Canada had complied with its disclosure obligations. In this case, the court granted the request that the federal government be compelled to conduct additional searches for documents relevant to an alleged assault in one of the residential schools. The court found that the government had breached its document collection obligations under the IRSSA and ordered that it produce the documents.[6]

Document disclosure obligations on the part of the federal government as parties to litigation are connected to democratic principles of accountability and transparency. These same principles are often invoked as key to information management and archival practice. Professional understandings of the custodial role of archives stress the importance of preservation of and access to records, once they are transferred from the generating agency. However, when governments refuse to provide evidence held by record-keeping authorities under their control, they reveal the power of settler colonial archives in maintaining inequitable relations of power.

Destruction of records

Another significant dispute over records concerned the destruction of recordings, transcripts and decisions produced in the confidential IAP hearings, where over 38,000 residential school survivors pursued compensation claims for serious assault and sexual assault. Importantly, at the time survivors gave their testimony, it was not made clear to them what would happen to the records. Nevertheless, as a condition of participation, they were required to sign forms that included information about privacy and to make confidentiality agreements (Cunliffe 2017).

The Chief Adjudicator of the IAP, Dan Shapiro, sought a court order for destruction of the documents at the end of the process in order to protect the privacy of the survivors and perpetrators. This was supported by the Assembly of First Nations, the Twenty-Four Catholic Entities, the Nine Catholic Entities, the Sisters of St. Joseph and Independent Counsel.[7] The Assembly of First Nations argued that the IRSSA is more than a private agreement, but a resolution of 'a complex political, cultural, and collective dispute and courts should not second-guess the accord reached by the parties'. However, the TRC sought an order that the documents be archived at LAC, on the basis that the narratives produced for the hearings are an irreplaceable historical record of the Indian Residential School experience. For its part, the Canadian federal government maintained that the documents were government records subject to government regulation, including disposition. It maintained that the parties were aware at the time of the negotiated agreement that some of the IAP documents would be archived at the LAC. Government records cannot be destroyed without the consent of LAC.[8]

When the dispute appeared in the provincial Superior Court of Ontario, it granted the Chief Adjudicator's request that the IAP documents be destroyed, on the grounds

that it would protect the confidentiality and privacy of the information.[9] The court ordered that this would be subject to a 15-year retention period, during which time there was to be a court-approved notice program to advise survivors of the right to direct that their documents be transferred for archiving at the National Centre for Truth and Reconciliation (NCTR). If survivors did not make contact with the NCTR, all records would be permanently destroyed after 15 years.

On appeal, the Ontario Court of Appeal upheld this decision. The court affirmed that the IAP documents were not government records and therefore not subject to the same legislative provisions in relation to privacy, access and archival retention. The case is subject to further review in the Supreme Court of Canada, where the court will decide what will happen to the records.[10] The Coalition to Preserve Truth, an alliance of Indigenous individuals, organisations and supporters, has been granted Intervenor status in the case.[11] The coalition advocates for the preservation of the IAP records, while honouring individuals' rights to privacy. It argues that the destruction of records is part of an ongoing pattern of systematic erasure of the truth and that the permanent loss of documents will further deny descendants the opportunity to heal. Importantly, the coalition argues that the process for managing IAP records must consider the place of Indigenous laws in processes that involve Indigenous records (Johnson 2017).

As Emma Cunliffe (2017) points out, the framing of the court's decision as a narrative of freedom of contract and individual choice fails to interrogate the requirement that former students engage in standardised procedures and sign agreements that 'defined confidentiality purely in Canadian legal terms', thereby excluding the possibility of alternative arrangements, including the possibility of the operation of Indigenous legal orders. The contestation over the potential destruction

of the records has inflamed the TRC process, raising questions about the integrity of the process of gathering the testimony and the place of Indigenous laws in the management of the records. By intervening in the legal contest over destruction of the records as a responsibility to future generations and their right to know, the Coalition argues that the dispute should be reframed to take account of Indigenous legal orders.

Decolonising Archives

In Canada, the TRC was tasked with establishing a national research centre, where all materials created or received throughout its existence were to be preserved and archived and made accessible to the public, subject to continued confidentiality of some records (Section 12). During the course of its proceedings, over 1 million archival documents were disclosed by the Department of Aboriginal Affairs and Northern Development, approximately half of which had been provided by LAC. The University of Manitoba was selected to become the permanent host of the National Centre for Truth and Reconciliation (NCTR) to hold all the material and make it accessible to survivors, their families and communities, as well as the general public. The NCTR maintains that it is governed in accordance with national and international ethical research and archiving principles and best practices for Indigenous and human rights research and archiving. The governance structure is comprised of a majority of people who identify as Aboriginal, with specified positions for First Nations, Inuit and Métis representation. The structure also includes a Survivor's Circle comprised of survivors of the residential school system, their families or their ancestors, providing advice to the centre.

The establishment of a national archive and library to house the records of the TRC provides a wealth of documentation about the nature and effect of residential school

policies that may be of use to survivors, families and communities as well as researchers and policy makers. It also serves to document and memorialize the reconciliatory process of the TRC and to facilitate the ongoing collection of testimonial accounts. Paulette Regan argues that the process of truth telling has pedagogical potential in public history education and can work as a decolonizing praxis. As a previous IRS claims resolution manager and then the director of research at the TRC, she advocates a 'restorying of Canadian history through ethical testimonial encounters, public history dialogues, and commemoration of the IRS history and legacy' (2010, 13-14). She argues that this process of history-making, or restorying, involves the public remembering of a contested past through the establishment of the NCTC and that other mediums, including exhibitions, art works and political acts can contribute to decolonization (78).

Conclusion

In this article, I have investigated debates about responsibility for archival records relating to the history of removal, institutionalisation and abuse of Indigenous children in the 'reconciling' settler colonial contexts of Australia and Canada. Following Dian Million (2013), I have suggested that when settler colonial polities have established avenues for reparations as part of processes for reconciliation with Indigenous people, this has resulted in feminist historiography that has been characterised by attention to the production of affect and trauma in the production of public culture. However, these affective politics have also been the catalyst for Indigenous demand for decolonisation of settler colonial archives and have resulted in developments in archival theory and practice, including the assertion of Indigenous sovereignty in records. Indigenous interventions in settler colonial archives have important ramifications for feminist approaches to historiography because they resist

forms of ‘affective governance’ that are produced through reparative justice (Simpson 2016a). I have argued that Indigenous feminist analyses of the tensions between affective politics of reconciliation and claims to self determination, such as those offered by Million (2013) and Simpson (2016), provide valuable frameworks for the future of feminist modes of history. I have drawn on these frameworks to analyse critical interventions in archival theory and practice that challenge the presumed legitimacy and authority of colonial history and historiography.

In Australia, I have identified the key role of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families in triggering initiatives in archival practice, particularly in relation to changes designed to enhance Indigenous people’s access to records. While these initiatives can be seen as a form of recognition on the part of the settler colonial state of Indigenous human rights, they do not function as reparations within a decolonising framework. Provision of access to records, without an engagement with questions of ownership, repatriation and control, operates through a logic of incorporation, which risks the continued prioritisation of the narrative of settler colonial conquest and belonging (Adams-Campbell, Glassburn Falzetti & Rivard 2015, 110). Indigenous knowledge, as an intrinsically valuable source of historical, intellectual and cultural information, has not acquired sui generis status in Australia.[12]

In Canada, a more formal and legalistic process of reparations to residential school survivors gave rise to legal disputes about archival record disclosure and destruction. These disputes demonstrate the role of the settler colonial state as the gatekeeper of archival information, including when subject to legal document disclosure obligations, and the power of recordkeeping as the source of legal evidence. Throughout the article, I have identified Indigenous interventions in archival theory

and practice in Australia and Canada as sites of contention where the affective politics of reconciliation have been challenged by claims to sovereignty in relation to records management. In Canada, the recently established National Centre for Truth and Reconciliation, with its stated commitment to accessibility, legitimation of Indigenous knowledge and autonomous First Nations, Inuit and Métis control and management, exemplifies a potential path towards decolonisation of settler colonial archives.

References

Adams-Campbell, Melissa, Ashley Glassburn Falzetti and Courtney Rivard. 2015. "Introduction: Indigeneity and the Work of Settler Archives." *Settler Colonial Studies* 5 (2): 109-116.

Ahmed, Sara. 2004. *The Cultural Politics of Emotion*. New York: Routledge.

Berlant, Lauren. 1997. *The Queen of America Goes to Washington City: Essays on Sex and Citizenship*. Durham: Duke University Press.

Biber, Katherine and Trish Luker. 2014. "Evidence and the Archive: Ethics, Aesthetics, and Emotion." *Australian Feminist Law Journal*, 40 (1): 1-14.

Birrell, Kathleen. 2010. "'An Essential Ghost': Indigeneity Within the Legal Archive." *Australian Feminist Law Journal* 33: 81-99.

Bowrey, Kathy and Jane Anderson. 2009. "The Politics of Global Information Sharing: Whose Cultural Agendas are Being Advanced?" *Social and Legal Studies* 18 (4): 479-504.

Buchanan, Rachel. 2007. "Decolonizing the Archives: The Work of New Zealand's Waitangi Tribunal." *Public History Review* 14: 44-63.

Burton, Antoniette. 2003. *Dwelling in the Archive: Women Writing House, Home, and History in Late Colonial India*. New York: Oxford University Press.

Caswell, Michelle. 2014. "Towards a Survivor-Centred Approach to Records Documenting Human Rights Abuse: Lessons from Community Archives." *Archival Science* 14: 307-322.

Christen, Kimberly. 2008. "Archival Challenges and Digital Solutions in Aboriginal Australia" *SAA Archaeological Recorder* 8 (2): 21-24.

Christen, Kimberly. 2011. “Opening Archives: Respectful Repatriation.” *The American Archivist* 74: 185-210.

Cifor, Marika. 2016. “Affecting Relations: Introducing Affect Theory to Archival Discourse.” *Archival Science* 16: 7-31.

Coulthard, Glen. 2014. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. Minneapolis, Minnesota: University of Minnesota Press.

Cunliffe, Emma (2017) ‘2 thoughts on “#StandForTruth, or, What is the place of Indigenous Laws in Truth and Reconciliation? (a bit of a rant)’ <reconciliationsyllabus.wordpress.com/2017/04/30/standfortruth-orwhat-is-the-place-of-indigenous-laws-in-truth-and-reconciliation/>.

Cvetkovich, Ann. 2003. *An Archive of Feeling: Trauma, Sexuality, and Lesbian Public Cultures*. Durham: Duke University Press.

Damousi, Joy. 2002 “History Matters: The Politics of Grief and Injury in Australian History.” *Australian Historical Studies* 33 (118): 100-112.

Dever, Maryanne, Sally Newman and Ann Vickery. 2009. *The Intimate Archive: Journeys Through Private Papers*. Canberra: National Library of Australia.

Edmonds, Penelope. 2016. *Settler Colonialism and (Re)Conciliation: Frontier Violence, Affective Performances, and Imaginative Refoundings*. Palgrave Macmillan.

Eichhorn, Kate. 2013. *The Archival Turn in Feminism: Outrage in Order*. Philadelphia: Temple University Press.

Fourmile, Henrietta. 1989. “Who Owns the Past? Aborigines as Captives of the Archives” *Aboriginal History* 13:1-8.

Fourmile, Henrietta. 1992. “The Need for an Independent National Inquiry into State Collections of Aboriginal and Torres Strait Islander Cultural Heritage.” *Aboriginal Law Bulletin* 1 (56): 3-4.

Fraser, Crystal and Zoe Todd. 2016. *Decolonial Sensibilities: Indigenous Research and Engaging with Archives in Contemporary Colonial Canada*. *L'Internationale*.

Giannacopoulos, Maria. 2009. “The *Nomos* of Apologia.” *Griffith Law Review* 18 (2) 331-349.

Gilliland, Anne and Michelle Caswell. 2016. “Records and their Imaginaries: Imagining the Impossible, Making Possible the Imagined.” *Archival Science* 16: 53-75.

Green, Robyn. 2012. “Unsettling Cures: Exploring the Limits of the Indian Residential School Settlement Agreement.” *Canadian Journal of Law and Society* 27 (1): 129-148.

Harris, Verne. 2014. “Antonyms of our Remembering.” *Archival Science* 14 (3-4): 215–222.

Human Rights and Equal Opportunity Commission. 1997. *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Canberra.

Iacovino, Livia. 2010. “Rethinking Archival, Ethical and Legal Frameworks for Records of Indigenous Australian Communities: A Participant Relationship Model of Rights and Responsibilities.” *Archival Science* 10: 353-372.

Iacovino, Livia. 2015. “Shaping and Reshaping Cultural Identity and Memory: Maximising Human Rights through a Participatory Archive.” *Archives and Manuscripts* 43 (1): 29-41.

Jacobs, Margaret. 2009. *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940*. Lincoln: University of Nebraska Press.

Janke, Terri and Livia Iacovino. 2012. "Keeping Cultures Alive: Archives and Indigenous Cultural and Intellectual Property Rights." *Archival Science* 12: 151-171.

Johnson, Miranda. 2008. "Making History Public: Indigenous Claims to Settler States." *Public Culture* 20 (1): 97-117.

Johnson, Rebecca. 2017. '#StandForTruth, or What is the place of Indigenous Laws in Truth and Reconciliation? (a bit of a rant)' <reconciliationsyllabus.wordpress.com/2017/04/30/standfortruth-orwhat-is-the-place-of-indigenous-laws-in-truth-and-reconciliation/>.

Kennedy, Rosanne. 2011. "An Australian Archive of Feeling." *Australian Feminist Studies* 26 (69): 157-279.

Kirkby, Diane and Claire Coleborne. eds. 2001. *Law, History, Colonialism: The Reach of Empire*. Manchester: Manchester University Press.

Luker, Trish. 2009. "Reading the Evidentiary Void: The Body at the Scene of Writing." *Griffith Law Review* 18 (2): 298-312.

Luker, Trish. 2014. "Animating the Archive: Artefacts of Law." In *Law, Memory, Violence: Uncovering the Counter-Archive*, edited by Stewart Motha and Honni van Rijswijk, 70-96. Abingdon: Routledge.

McKemmish, Sue, Livia Iacovino, Lynette Russell and Melissa Castan. 2012. "Editors' Introduction to Keeping Cultures Alive: Archives and Indigenous Human Rights." *Archival Science* 12: 93-111.

McKemmish, Sue, Shannon Faulkhead and Lynette Russell. 2011. “Distrust in the Archive: Reconciling Records.” *Archival Science* 11: 211-239.

Mellor, Doreen and Anna Haebich (eds). 2002. *Many Voices: Reflections on Experiences of Indigenous Child Separation*. Canberra: National Library of Australia.

Morse, Bradford. 2008. “Government Responses to the Indian Residential Schools Settlement in Canada: Implications for Australia.” *Australian Indigenous Law Review* 12 (1):41-59.

Million, Dian. 2009. “Felt Theory: An Indigenous Feminist Approach to Affect and History.” *Wicazo Sa Review* 24 (2): 53-76.

Million, Dian. 2013. *Therapeutic Nations: Healing in an Age of Indigenous Human Rights*. Tucson: University of Arizona Press.

Northern Territory. Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. 2007. *Report. Ampe Akelyernemane Meke Mekarle: Little Children are Sacred.* Darwin: Government Printer.

O’Neal, Jennifer. 2015. “’The Right to Know’: Decolonizing Native American Archives.” *Journal of Western Archives*, Native American Archives Special Issue 6 (1): <http: //digitalcommons.usu.edu/westernarchives/vol6/iss1/2>.

Perry, Adele. 2005. “The Colonial Archive on Trial: Possession, Dispossession, and History in Delgamuukw v. British Colombia.” In Antoniette Burton (ed) *Archive Stories: Facts, Fictions, and The Writing of History*. Durham and London: Duke University Press.

Povinelli, Elizabeth. 2002. *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism*. Durham: Duke University Press.

Probyn, Elspeth. 2005. *Blush: Faces of Shame*. Sydney: University of New South Wales Press.

Regan, Paulette. 2010. *Unsettling the Settler Within: Indian Residential Schools, Truth Telling, and Reconciliation in Canada*. Vancouver: UBC Press.

Rivard, Courtney. 2015. "Archival Recognition: The Pointe-au-Chien's and Isle de Jean Charles Band of the Biloxi-Chitmacha Confederation of Muskogees' Fight for Federal Recognition." *Settler Colonial Studies* 5 (2): 117-127.

Schwartz, Joan and Terry Cook. 2002. "Archives, Records, and Power: The Making of Modern Memory." *Archival Science* 2: 1-19.

Simon, Roger. 2013. "Towards a Hopeful Practice of Worrying." In *Reconciling Canada: Critical Perspectives on the Culture of Redress* edited by Jennifer Henderson and Pauline Wakeham. Toronto: University of Toronto Press.

Simpson, Audra. 2014. *Mohawk Interruptus: Political Life Across the Borders of Settler States*. Durham. Duke University Press.

Simpson, Audra. 2016a. "Consent's Revenge." *Cultural Anthropology* 31 (3) 326-333.

Simpson, Audra. 2016b. "Whither Settler Colonialism." *Settler Colonial Studies* 6 (4): 438-445.

Simpson, Audra. 2016c. "Reconciliation and its Discontents: Settler Governance in an Age of Sorrow", talk delivered University of Saskatchewan, 12 March 2016. https://www.youtube.com/watch?v=vGl9HkzQsGg&t=3749s.

Smallacombe, Sonia. [1998]. "Accessing Personal and Family Records: Contesting the Gatekeepers" *Indigenous Law Bulletin* 4.

Stoler, Ann Laura. 2009. *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense*. Princeton: Princeton University Press.

Thorpe, Kirsten. 2014. "Indigenous Records: Connecting, Critiquing and Diversifying Collections." *Archives and Manuscripts* 42 (2): 211-214.

Trust and Technology: Building Archival Systems for Indigenous Oral Memory. Final report of the Australian Research Council Project. 2009. http://www.infotech.monash.edu.au/research/centres/cosi/projects/trust/final-report/.

Van Rijswijk, Honni. 2014. "Archiving the Northern Territory Intervention in Law and in the Literary Counter-Imaginary" *Australian Feminist Law Journal* 40(1) 117-133.

Watson, Irene. 2007. "Aboriginal Women's Laws and Lives: How Might we Keep Growing the Law?" *Australian Feminist Law Journal* 26: 95-107.

Watson, Nicole. 2011. "The Northern Territory Emergency Response: Has it Really Improved the Lives of Aboriginal Women and Children?" *Australian Feminist Law Journal* 35 (1), 147-163.

NOTES

[1] This work was supported by UTS Chancellor's Postdoctoral Research Fellowship 2012-16, 'Reading the Archive: Use of Historical Documents as Evidence in Law' (2012000681) and an ARC Discovery Project, 'The Court as Archive: Rethinking the Institutional Role of Federal Superior Courts of Record' [grant number DP130101954].

[2] In the North American context, there is also Plateau Peoples' Web Portal: http://plateauportal.libraries.wsu.edu and the Great Lakes Research Alliance for the Study of Aboriginal Arts and Cultures: https://grasac.org.

[3] Based at Monash University, Centre for Organisational and Social Informatics and is a joint project with the Centre for Australian Indigenous Studies, the Public Record Office of Victoria, the Koorie Heritage Trust Inc., the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group: http://infotech.monash.edu/research/about/centres/cosi/projects/trust/about.html.

[4] Amendments to the Australian *Archives Act 1983* (Cth) which have recently come into force has resulted in a reduction of the open access period from 30 years to 20

years, meaning that records of this Inquiry may soon be subject to access, subsequent to a Freedom of Information request (personal communication, Michelle Lindley, Deputy Director, Legal, Australian Human Rights Commission, 29 January 2016).

[5] *Fontaine v Canada (AG)* (2013) ONSC 684. Within the terms of the IRSSA, legal actions were to be pursued as a 'request for directions' from the court that had mandated the terms of the agreement, the Ontario Supreme Court.

[6] *Fontaine v. Canada (Attorney General)* (2015) ONSC 3611.

[7] *Fontaine v. Canada (Attorney General)* 2014 ONSC 4585.

[8] *Library and Archives Canada Act,* SC 2004, c. 11, s 12(1).

[9] *Fontaine v. Canada (Attorney General)* 2014 ONSC 4585

[10] *Attorney General of Canada v. Larry Philip Fontaine in his personal capacity and in his capacity as the executor of the estate of Agnes Mary Fontaine, deceased, et al.* <www.scc-csc.ca/case-dossier/info/sum-som-eng.aspx?cas=37037>, to be heard on 25 May 2017.

[11] Coalition for the Preservation of Truth <www.standfortruth.ca/>.

[12] This critique forms the basis of other initiatives in Indigenous pedagogy, such as the National Indigenous Research and Knowledge Network, which aims to build and support an Indigenous research agenda through the use of Indigenous knowledges and expertise: http://www.nirakn.edu.au.