Bridging the Gap between Truth and Reconciliation: Restorative Justice and the Indian Residential School Truth and Reconciliation Commission

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As suggested by the title *Bridging the Gap between Truth and Reconciliation: Restorative Justice and the Indian Residential Schools Truth and Reconciliation Commission*, this essay examines the potential gap between truth and reconciliation and suggests that the principles underlying restorative justice provide the necessary bridge. With respect to the goal of reconciling relationships, the author makes it clear that she is speaking of social relationships, not personal relationships. Restorative justice “is not about getting parties to hug and make up; rather, it strives to create the conditions of social relationships in which all parties might achieve meaningful, just, and peaceful co-existence.”

Jennifer brings her knowledge and experience with the South African truth and reconciliation process to the discussion. The South African commission identified different kinds of truth: factual or forensic truth; personal and narrative truth; social truth; and healing and restorative truth. While the factual approach to truth common within the legal system can strip away complexity and nuance, a focus on social truth and healing and restorative truth can transform social relationships. Jennifer’s contribution to this volume presents a strong argument in favour of viewing restorative justice as the compass needed to negotiate the winding road from truth to reconciliation.
INTRODUCTION

The Indian Residential Schools Truth and Reconciliation Commission (TRC) is essential to achieving the holistic and comprehensive response sought through the Indian Residential Schools Settlement Agreement. The commission is tasked with establishing a full picture of the abuses of the residential school system and its legacy. The commission will provide an opportunity to more fully understand the nature, causes, and extent of the harms caused by the residential school system, including the context, factors, motives, and perspectives that led to and supported the system and the abuses that occurred within it. Through the commission processes, the truths about the residential school system can be told, made known, and understood. The commission will create spaces in which Survivors, their families, and communities can come together to share their stories, relate the harms they have suffered, and think about what is required to heal these harms and to create new relationships in the future.

The scope of the commission’s mandate is essential to ensuring a holistic and comprehensive response to the abuses and legacy of residential schools. It is the vehicle through which the voices of all those involved in or affected by the residential school system can be heard. It is broadly focused on all the harms related to or flowing from the residential school system. As a result, it is well positioned to paint a comprehensive picture of the residential school system and its legacy. This will provide the necessary context to give meaning and legitimacy to the common experience payments and independent assessment process parts of the settlement. From this picture of the past, the commission will be able to recommend the way through to a future marked by new, reconciled relationships within Aboriginal communities and between Aboriginal and non-Aboriginal peoples.

It is this latter work that perhaps represents the commission’s most significant role in the settlement. The primary aim of the settlement is to deal with past abuses and their legacy in a way that forges a brighter future founded upon new relationships embedded in mutual recognition and respect. The burden of realizing this goal rests substantially with the Truth and Reconciliation
Commission (TRC), as its name suggests. If the commission is to succeed in its work and fulfill the ambitions of the Settlement Agreement, it must give serious and careful consideration to the meaning and work of reconciliation.

As the TRC begins its journey, it must figure out how to navigate the complex and difficult road of “truth” and map a course toward reconciliation. In doing so, it will face the substantial challenge that others who have travelled this path before have encountered: bridging the gap between truth and reconciliation.

This paper suggests that restorative justice may provide the bridge the commission needs to travel along the road from truth towards reconciliation. The principles and practices of restorative justice provide important direction and guidance for the journey upon which the commission has embarked. Restorative justice offers an important framework through which the commission’s mandate can be understood and undertaken. This paper considers the possibilities, opportunities, and challenges for the Indian Residential Schools TRC as a restorative justice institution.

RESTORATIVE JUSTICE AND THE MANDATE OF THE TRUTH AND RECONCILIATION COMMISSION

A quick read of the IRSTRC mandate provides some insight into the “truth” aspect of the commission’s work. The commission is charged with the responsibilities of statement-taking, historical fact-finding and analysis, report-writing, knowledge management, and archiving. Its mandate makes clear that the commission is not tasked with ascribing legal guilt or responsibility, but rather with establishing as clear a picture as possible of the residential school system and the experiences of those who survived it and live with its legacy. The commission is thus clearly charged with seeking the truth about residential schools. They are then tasked with ensuring this truth is widely known and understood. What is less evident from a reading of the commission’s mandate is what is entailed by the “reconciliation” part of its work. Indeed, neither the meaning nor means of reconciliation receive much attention in the mandate despite the hope reflected by its name that this body would be about both truth and reconciliation. The mandate simply states that:

Reconciliation is an ongoing individual and collective process, and will require commitment from all those affected including First Nations, Inuit and Métis former Indian Residential School (IRS) students, their families, communities, religious entities, former school employees, government and the people of Canada. Reconciliation may occur between any of the above groups. ²
The community events are intended to address “the needs of the former students, their families and those affected by the IRS legacy,” thus, they are implicitly meant to be reconciliatory. But there is no specific attention paid to this goal or how it might be achieved. The clearest contemplation of how the commission might be about reconciliation is contained in the introductory statement: “The truth of our common experiences will help set our spirits free and pave the way to reconciliation.” This sentiment borrows from the South African Truth and Reconciliation Commission’s slogan “Truth. The road to reconciliation.” The South African commission’s slogan was an attempt to respond to the same concern that might be raised about the Indian Residential Schools TRC—that it is heavy on truth and light on reconciliation. The South African slogan does serve as an important and necessary temper on unrealistic expectations. It cautions that truth and reconciliation are not one and the same. Distinguishing the two also makes clear that while truth may be necessary for reconciliation, it alone is not sufficient. There is a road toward reconciliation, and truth is a fundamental part of the journey, but there are other steps to be taken along the way. The lesson of this slogan for the South African commission was clear. They could not promise nor be expected to produce reconciliation. Indeed, no one process or institution could achieve this goal. This same conviction underpins the description of reconciliation in the Indian Residential Schools TRC’s mandate as an ongoing process.

While this slogan may be a helpful caution it also has the potential to mislead and strand those who would travel the road to reconciliation. Successful journeying requires closer attention to the route from truth to reconciliation.

The journey from truth is not an easy one. Zapiro, a South African political cartoonist, reflected upon this challenge about the South African commission in this cartoon.\(^5\)
Here we see Archbishop Tutu, the commission’s chairperson, leading the way to the edge of a cliff labelled “truth.” A huge gulf lies between “truth” and the other side, “reconciliation.” Tutu examines the map desperately seeking a way through this impasse. This is a poignant illustration of the difficult task of bridging the distance between truth and reconciliation that also faces the IRSTRC.

Many of the critiques of the South African Commission decried the sacrifice of justice it represented. Critics objected to the provision of amnesty and the failure to prosecute and punish that it entailed. In the process of responding to these justice critics, the South African TRC came to realize that justice was indeed the missing piece in their work and what was needed to bridge the gap they faced between finding the truth and reconciliation. It was not, however, justice of the sort the critics had in mind that the commission discerned was needed, the justice of prosecution and punishment would not assist in their journey towards reconciliation. Instead, the Commission sought restorative justice.

Restorative justice similarly offers an important framework for approaching the work of the Indian Residential School TRC. It is the missing piece along the road toward reconciliation.

Any bridge must pay close attention to the ground upon which it is anchored in order to plant a firm foundation for safe crossing. Restorative justice offers a clear picture of the nature of the ground on both sides of the bridge—of truth and reconciliation. It is also able to offer significant insight into the processes and mechanisms that are necessary to cross the gap between the two.

Reconciliation as Restored Relationships

Restorative justice is a theory of justice that sees justice as concerned with the harms to people and relationships resulting from wrongdoing. Justice on a restorative account requires the restoration of the relationships harmed. Starting from a relational view of the world, restorative justice recognizes the fundamental interconnectedness of people through webs of social relationships. When a wrong is perpetrated, the harm resulting from it extends through these webs of relationship to affect the victim and wrongdoer and their immediate families, supporters, and communities. As a result, wrongdoing also profoundly affects the fabric of the society.

Restorative justice resonates with and owes much to the insights of Aboriginal conceptions of justice. The resemblance between restorative and Aboriginal conceptions of justice is another factor to commend restorative justice to the Indian Residential Schools TRC. The work of the commission must respond

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I fear that it is not yet the right time. Not all Survivors are ready, and the churches may not be ready. Once the churches have paid off all the people their agents have harmed, then maybe the time will be right. It seems backwards, the approach, it is as if the victims are being asked to take the first steps to reconcile themselves with the perpetrators, and usually it is the wrongdoer who needs to step forward, to ask for forgiveness.

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to and resonate with Survivors’ sense of justice if it is to contribute toward reconciliation.

Doing justice in a restorative way requires attending to the full range of relational harms related to a wrongful act. On a restorative understanding of justice, the harms resulting from wrongdoing are most significantly harms to relationships. The harms suffered by individuals are not however insignificant. They must be identified, understood, and addressed if relationships are to be restored. Understanding the relational nature of the harms resulting from wrongdoing also provides context and definition to the harms individuals within those relationships have suffered.9

The aim of justice envisioned restoratively is to “restore” relationships between and among the parties involved to a state in which all parties are treated with equal concern, respect, and dignity. The quality of relationship sought by restorative justice is equality in these basic elements of human relationship that reflect our equal moral worth. These elements of relationship are the building blocks of peaceful and productive human relationships.10

The word “restore” also leads some to mistakenly hear restorative justice as a call for a return to the way things were before the wrong occurred. If this was the goal of restorative justice, it would be obviously problematic since there is seldom a prior state of equality to be restored. The goal of restorative justice is not a return to the past but rather the creation of a different future founded on relationships of equal concern, respect, and dignity.11 The aim of restorative justice is thus to realize an ideal of human relationship. These elements of relationship are fundamental to peaceful co-existence and human flourishing.

Some misunderstand the focus on relationships and assume that the aim of restorative justice is the restoration of personal or intimate relationships. Such restoration, while not precluded by the idea of restorative justice, is not its goal. Restorative justice is concerned with ensuring equality in social relationships, not intimate relationships, between individuals. Social relationships are those relationships that result from the fact that we all exist in networks of relationships—some personal and intimate—but the great majority of which result from the fact that we share the same physical or political space. Restorative justice then is not about getting parties to hug and make up; rather, it strives to create the conditions of social relationships in which all parties might achieve meaningful, just, and peaceful co-existence. Restorative justice identifies respect, mutual concern, and dignity as the conditions of relationships that will assure such co-existence.12
The idea of restored relationships that animates restorative justice might help us achieve a better understanding of the reconciliation at which the Indian Residential Schools TRC aims. It is not reconciliation in the thick sense. It is not the stuff of greeting cards and intimate reunions for which the TRC strives, as this surely would be both inappropriate and impossible to achieve. Rather, what is meant by reconciliation in the context of the TRC is restored relationships of the sort restorative justice seeks. Reconciliation as the goal the TRC directs itself toward seeks a peaceful, productive, and just future in which Aboriginal and non-Aboriginal peoples live together with respect, dignity, and mutual concern for one another. The goal of reconciliation is then to restore relationships.

This understanding of reconciliation accords with the conviction expressed in the Indian Residential Schools TRC mandate that reconciliation is an ongoing process. If reconciliation is about restoring relationships, it is more akin to a process than an end point to be achieved. Relationships are dynamic and ever-changing. They require constant attention and adjustment in order to ensure that they reflect the values and qualities of equal respect, concern, and dignity. Establishing such relationships and then maintaining them will take ongoing commitment, time, and effort. Understanding this makes clear the contributions that a finite process like the Indian Residential Schools TRC can make to reconciliation. The commission will be able to lay the necessary foundation for such relationships by discovering the truth of past wrongdoing, its implications for relationships, and what will be required to address the related and resulting harm and equip parties to live together differently in the future. The commission might also make another significant contribution to reconciliation by providing an opportunity to bring the involved parties together in a process that reflects and models the values of reconciled relationships. Restorative justice principles and practices provide guidance and insights into how the commission might realize its potential in this regard.

**Relational Truth**

Understanding the goal of reconciliation through the lens of restorative justice also helps clarify the relationship between truth and reconciliation and how to bridge the gap between them. If reconciliation as restored relationships is the animating goal, then the role and nature of the truth that is to be sought by the Commission can be better understood. The commission’s mandate is focused largely upon the work of finding truth. However, the absence of clarity about the meaning and goal of reconciliation makes it difficult to understand the motivation and parameters of this search for truth. From an understanding of reconciliation as restored relationships, one can work
back and ask what role truth plays in this goal and what truth is required. Restorative justice places significant weight on truth-telling as a necessary step towards restored relationships. It requires all parties to participate voluntarily in the hopes that they will be open to the process and willing to be truthful. The process is predicated upon parties telling their truths about the nature and extent of the harms they have suffered, their needs with respect to redress and recovery, their role and responsibilities for what occurred, and their capacity to assist in repairing the harms and restore relationships. It is also through the sharing of their truths that parties come to know and understand one another’s experiences, perspectives, and needs. Such understanding is crucial to reconciliation.

While truth is important in restorative justice, and thus to achieving reconciliation, a search for the truth can actually impede restoration of relationships. Differing perspectives and experiences make the idea of one single identifiable truth on any matter problematic. Further, the search for and determination of the truth presents either/or choices that are more likely to be fractious than relationship-building. Reconciliation requires a truth that is able to contain the complexities borne by our interconnectedness and interdependence. A restorative approach makes clear that the goal of reconciliation will be best served by relational truth. This is not to be confused with the claim that all truth is relative. Relational truth is truth with all of its nuances and complexities. The legal system, one of the most familiar arbiters of truth, is called upon to make determinations with respect to guilt, culpability, or liability and, in that context, must often strip away the complexity of the truth and make a judgement about what part of the truth matters to resolve a conflict or controversy. But the Indian Residential Schools TRC is not charged with the same task as a court. Its concern and aim is reconciliation and, as such, it cannot afford to strip away or ignore the messiness or complexity of truth.

Finding relational truth requires the creation of spaces and processes in which truths can be told and heard in which perspectives can meet one another head-on to challenge, integrate, and illuminate the truth about what happened, why it happened, and what are its implications. The South African TRC recognized the need to create space for different kinds of truth: factual or forensic truth, personal and narrative truth, social truth, and healing and restorative truth.13 Central to the commission’s work were social truth and healing and restorative truth. These understandings of truth reflect the relational nature of truth central to restorative justice. Social truth as described by the commission references the way in which truth is to be found. Social truth is what emerges through dialogue and interaction with others. This is the kind of truth that the commission names as required for healing or restoration.
Healing and restorative truth is “the kind of truth that places facts and what they mean within the context of human relationships – both amongst citizens and between the state and its citizens.” The Commission recognized that its task was to:

help establish a truth that would contribute to the reparation of the damage inflicted in the past and to the prevention of the recurrence of serious abuses in the future. It was not enough simply to determine what had happened. Truth as factual, objective information cannot be divorced from the way in which this information is acquired; nor can such information be separated from the purposes it is required to serve.

A restorative lens helps shed light on the nature of the truth the Indian Residential Schools TRC seeks and the sorts of processes and methods through which the truth is to be found if it is to advance the journey towards reconciliation.

**Restorative Justice: Bridging the Gap**

Through the lens of restorative justice the goal of reconciliation comes into focus and the nature of the truth that might be needed to pave the road to reconciliation is clearer. But the cartoonist’s taunt still hangs in the air. What about the gap? Even if you can walk the path of truth and you know where reconciliation is, how are you going to bridge the distance between knowing the truth and achieving reconciliation? Restorative justice principles and practice are instructive for those who seek to traverse this distance and offer building blocks for this bridge.

Restorative justice principles and practices will be important tools for the Indian Residential Schools TRC as they begin their work and design the processes and mechanisms through which they will carry out their mandate. Restorative justice, however, should not be looked to for ready-made institutional processes to simply adopt or employ. No matter how tempting, it would be unwise and problematic to do so from both a principled and practical perspective. Restorative justice is committed to the importance of flexible and contextually responsive processes. If such processes are to restore relationships among the parties concerned, it is essential that the context and circumstances be taken into account to shape the design and implementation of restorative processes. If the TRC is to embrace a restorative justice framework, it should look to the principles and elements of practice for guidance. It will also be crucial to...
involve the parties concerned in designing the processes so that they reflect and meet their needs and circumstances.

**Restorative Justice Principles**

Restorative justice practices and processes bridge the distance between truth and reconciliation by providing opportunities for all stakeholders to come together and understand the nature and extent of the harms suffered and to plan for a way to address these harms with a view to establishing restored relationships in the future. The following restorative justice principles and practices might prove a useful guide for the commission on its path from truth toward reconciliation.17

- **Restorative justice is forward-looking in its orientation.** It is focused on the implications and consequences of a wrongful act for the future. Restorative justice seeks redress for harms with a view to creating the conditions for restored relationships.

- **Restoring relationships requires attention to the particular wrongful acts at issue while paying careful attention to the context and causes of these acts.**

- **Restorative justice processes are inclusive, bringing together all those affected by wrongdoing and with a stake in its resolution.** As a relational theory of justice, restorative justice recognizes the broad range of individuals, groups, and communities that might have been harmed by or have an interest in the resolution of a situation. The parties extend beyond the victim and wrongdoers to include communities of harm, communities of care and support, and the wider community/society.

- **Restorative justice processes involve encounter between the parties involved.** Such processes provide opportunities for dialogue aimed at the development of a shared understanding of the consequences and implications of a wrong and a common commitment to address the harms related to the wrong with a view to establishing different relationships in the future. Encounter provides an opportunity for parties to come to know and understand each other’s perspectives and stories. It provides space for parties to work together constructively to envision and realize a better future. Significant work must, however, be done to prepare and equip parties to participate in an encounter. While encounters can make important contributions to the restoration of the relationships involved, there remains much work to be done after the encounter, namely, executing
the plan for restoration. This requires ongoing support and supervision as part of a restorative justice process.

- Restorative processes are democratic and participatory. Such processes must reflect the values of inclusion, respect, concern for others, and dignity that they seek to achieve in their design and operation. Each party must be invited and enabled to participate fully in a restorative justice process. Care must be taken to ensure that diverse and marginalized individuals and groups are included within processes where appropriate. It is important that power imbalances be acknowledged and addressed within the process, and that the legal rights of all parties must be respected within the process.

- Attention to context should be paid in both the design and implementation of processes aimed at restoring relationships. Such processes should also be designed through inclusive, dialogical, and participatory processes. The context will determine exactly which parties should be involved in a given process, and it will also determine the structure of the process itself, such as whether there needs to be a large-scale process at a national level or a smaller scale process addressing more localized wrongs. Context is also a key factor that must be taken into account for each process when designing the outcomes of restorative processes—that is, when determining what must be done to restore the relationships at stake. Inclusive and participatory design is also important so that processes are responsive to the context and to the needs of the parties. It also ensures that parties are committed to and invested in the success of the process.

- Restorative justice gives a more central role to victims than what the current justice system offers; however, it is not focused on them alone. It is also concerned with restoring the community and the wrongdoer in its bid to restore relationships. Focus on one party cannot come at the expense of the other, or the process will move further away from the goal of equality in relationships.

- Restorative justice processes are committed to restoration of relationships over retribution, to reintegration over isolation. Reintegration of wrongdoers, victims, and communities is essential to the restoration of relationships.

- Restorative justice recognizes the role of communities and society generally in both the creation and resolution of social conflict. Community involvement is thus essential to restorative justice processes. To that
end, restorative justice processes should be public. Communities should be involved in both the facilitation and operation of restorative justice processes and programs. They must also be included as parties within these processes with a stake in the outcome. The harm resulting from wrongdoing extends through the web of relationships to affect the immediate parties and those connected with them. This harm to relationships weakens the fabric of the communities involved and ultimately to societies. Restorative processes should thus involve members of the public as both participants and witnesses to the process. This is essential for restorative justice for the very reason the current justice system places value on public processes—it is important not only for justice to be done, but for it to be seen and known to be done. In the case of restorative justice, this is perhaps even more important given its aim of establishing restored relationships in society. Such processes should be public unless there is some overriding reason to keep them confidential. These reasons should be consistent with the principles of restorative justice. For example, if there is a likelihood of further or continuing harm to individuals or relationships if the proceedings are public, steps should be taken to protect the parties.

• Restorative justice processes must be voluntary for all parties. The task of restoring relationships—of treating others with respect, concern, and dignity—is not something that can be imposed upon individuals; rather, it requires a willingness to do so.

• Restorative justice requires that the wrongdoer accept responsibility for the act(s) at issue. While restorative justice requires that the wrongdoer acknowledge that he/she was involved and responsible for the events that occurred, the meaning, significance, and implications of these events can, however, be in dispute. Indeed, restorative justice processes are commendable for their ability to deal with the moral nuances and to achieve a full and relational understanding of the context, causes, and consequences of wrongdoing from which a plan to address it can be developed.

• Restorative justice processes should be aided by a trained facilitator(s) responsible for:
  • identifying the parties who should be included within the process;
  • preparing the parties for the encounter process;
  • guiding the parties through the encounter process and ensuring that the process reflects the values of relationship it seeks to achieve, namely, that all parties are accorded equal concern, respect, and dignity;
identifying and addressing potential or actual power imbalances within the process;
• ensuring participation is voluntary at the beginning and throughout the process;
• ensuring diverse voices are included, heard, and respected within the process;
• protecting parties’ legal rights;
• assisting the parties to set ground rules regarding participation in the process (norms about acceptable behaviour during the process); and
• ensuring fair and equitable participation by all parties in the process.

**The Indian Residential School Truth and Reconciliation Commission: A Restorative Institution?**

Restorative justice holds significant promise as a framework for the IRS Truth and Reconciliation Commission to structure and approach its work. Within this framework, the goals of truth and reconciliation can be understood and a route between the two forged. The commission has much potential as a restorative process; however, it will face some challenges when trying to bridge the gap between truth and reconciliation through restorative justice. This section identifies some of the issues that the commission will have to address in this regard.

**Encounter Processes**

A restorative framework makes clear how important it is for the commission to involve inclusive and participatory encounter processes if it is to ascertain the truth in a way that will pave the way to reconciliation. The national and community events planned as part of the commission’s work have the potential to fulfill this role. In order to play its necessary part in the work of truth and reconciliation, the commission should pay careful attention to ensuring that standards and principles for community events reflect the importance of inclusive, participatory, democratic, and dialogical processes. The same must be assured as the commission plans and implements the national events within its mandate. These national events need to create a forum for more than reporting the truth the commission has discovered. These events must also create space where the parties involved can encounter one another and where truths can be told, relational truth can emerge, and the journey towards reconciliation can begin.
Working toward reconciliation will require inclusion of all those involved or affected by the residential school system. Herein lies a potential challenge for the commission. Ensuring inclusivity may be difficult with respect to individual and institutional wrongdoers. Many of the individual wrongdoers are no longer able to participate in encounter processes either owing to ill health or because they are no longer living. The commission has no power to compel their participation in the process because participation is voluntary. This is in keeping with restorative justice principles. Voluntariness of the parties is essential to restorative processes since it is not possible to require or enforce restoration of relationships. There is no incentive in this case for individual offenders to take part as there is no exemption from criminal or civil liability. The commission will then have to consider ways to ensure that the truths that can only be accessed by these individuals are included within the process. Institutional wrongdoers are a slightly different case. They can be represented in the process and indeed may be able to counteract the absence of individual wrongdoers to some extent. However, despite the fact that they have secured immunity from civil suits out of the Settlement Agreement (at least in relation to the Survivors who choose to take part), they cannot be compelled to take part in the commission processes. As parties to the Settlement Agreement, though, the government and the church organizations have committed themselves to take part in the process and to provide access to documents and other information. It will be important for the commission to ensure that there is room for their participation and inclusion within encounter processes if reconciliatory goals are to be met.

The community and public are also important parties in restorative processes. The Indian Residential Schools TRC is clearly designed to present the truth to the public through events, education campaigns, the media, reports, and public archives. The public will thereby be witness to the abuses and legacy of residential schools. However, it will be important to engage communities and the public at a deeper level in order to work toward reconciliation. The mandate clearly provides avenues for the involvement of communities through community and national events. Engaging the non-Aboriginal public in the processes as parties and not simply witnesses will be more of a challenge for the commission. Nevertheless, it is an important one to address; it is through their engagement and involvement that the reconciliatory process might begin.

**Design Process**

The goal of reconciliation is more likely to be served through processes that not only adhere to restorative principles in operation but are designed through processes guided by restorative values. In particular, this requires planning
and design processes that involve and take into account the interests and needs of all those affected. That the commission is the result of a negotiated settlement process among the Assembly of First Nations, Inuit representatives, legal representatives for some of the Survivors, the federal government, and the various church organizations that operated the residential schools is an important start in terms of inclusive design. This settlement process alone, however, will not be sufficient if the commitment and satisfaction of all the parties to the commission process is to be assured. In the interest of reconciliation, the commission will have to be very intentional about ensuring inclusive and participatory design processes for the national and community events. Mechanisms to assure such participation in the community events already exist in the form of the Indian Residential School Survivor Committee (IRSSC), which will advise the commission on the principles and criteria for the community processes. The community processes will also be planned and implemented by communities in consultation with the commission. These processes will provide an opportunity for a high level of community participation in the planning stages of these events. These processes will not, however, engage the other parties involved in the design phase and thus may not provide space to develop relationships with other parties during the design phase. They are nevertheless an important and essential element of the commission’s structure from the perspective of reconciliation. The commission should make broader use of the Survivor committee for consultation on other issues related to the commission’s work, including the statement-taking processes, national events, archives, and the preparation of the report.

**Future Orientation**

The commission’s mandate reflects the forward-looking orientation of restorative justice as it is charged with finding the truth in order to pave the way toward reconciliation. The commission is to look to the past in an effort to lay the foundation for a different future. The commission will face some challenges in fulfilling its forward-looking responsibility. First, the *Settlement Agreement* mandates that the commission will give its report two years into its five-year term. This report will follow the completion of the national events, but will be required while the individual statement-taking process and community events are ongoing. Given this timing, it will be a challenge for the commission to ensure that the insights and information flowing from these other processes are not lost. If the commission is to be forward-looking in its orientation, then the individual statement-taking process and community events must have some means of communicating what has been learned about the past and the implications for the future.
Another challenge relates to the nature of the commission’s powers. The commission is only empowered to report what they find and make recommendations about what should be done in response. Further, they are to limit themselves to recommendations on matters other than personal compensation. Compensation is dealt with through the common experience payments and individual assessment process portions of the agreement. This is an atypical ordering of things as far as previous experience with truth commissions is concerned. Typically, truth commissions precede and then recommend the terms of individual compensation. In the case of the Indian Residential Schools TRC, the terms of such compensation are already set by the Settlement Agreement and, in all likelihood, will be substantially distributed by the time the commission issues its report and recommendations. While this is not the standard order of things, it is not necessarily problematic. Indeed, the provision of compensation to Survivors of residential schools may serve as an acknowledgement of responsibility and indicates a willingness to participate in good faith in truth and reconciliation processes.

What will be a problem is if the individual compensation already provided for is viewed as the sum total of the reparation required to address the harms related to and resulting from residential schools. Without a serious commitment by government and others to act upon the recommendations of the commission with respect to what is required to address the harms and restore relationships, the cause of reconciliation will be seriously hampered. The individual compensation provided through common experience payments is a significant part of reparation, but this alone is insufficient to repair the harms of residential schools. This does not address the harms to communities and future generations. Further, individual compensation can only go so far to address the non-material harms caused by residential school abuse and its legacy. The commission is charged with understanding these harms in their fullness and recommending a response. Such a response will include, among other possibilities, reparations for communities and others affected by the legacy of residential schools, commemorative actions, and education plans and programs.

It will also pose a significant hurdle in the bid for reconciliation if the commission approaches its work with a view to bringing final closure to the issue. If the commission seek to write the final chapter on residential schools with the intention to bury the issue once and for all, the cause of reconciliation could be seriously hampered. The truth the commission finds will aid in the work of reconciliation only if it is made known, understood, and responded to. Thus, it is important that the commission recommend ways forward that respond to the harms related to and resulting from residential schools. It is

Typically, truth commissions precede and then recommend the terms of individual compensation.
equally important for these recommendations to be acted upon by those with the power to do so. The truth commission report cannot be taken as an end in and of itself. If the truth is told and goes without response, this might result in further harm to the relationships involved. A restorative lens helps make clear the necessity for the commission to make plans for reconciling relationships in the future. The commission cannot hope to achieve reconciliation within the span of its five-year mandate; thus, its work must be about preparing and equipping people for the journey that must be walked into the future.

CONCLUSION

The Indian Residential Schools Truth and Reconciliation Commission will play a key role in providing a holistic and comprehensive response to the experience of residential schools and its legacy. In order to realize its full potential, the commission must figure out how to travel the road from truth to reconciliation. Restorative justice provides an essential guide for this journey. Through its lens, the starting point and the ultimate destination of the journey can be identified and the mode and means of travel can become clear. The commission will face significant challenges along the road, but its efforts will pave the road toward reconciliation for Canada and serve as a compass for others around the world that will try to travel this same road in the future.

NOTES

2 IRSRC (2006:1).
4 IRSRC (2006:1).

8 Llewellyn (2002).

9 Llewellyn and Howse (1998); Llewellyn (2002).


12 Llewellyn and Howse (1998); Llewellyn (2002); Llewellyn (2007).


16 Llewellyn (2007).