LIBERAL REGRETS: A CULTURAL STUDY OF CANADA'S REDRESS POLITICS

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ABSTRACT

This dissertation is an interdisciplinary study of the cultural and political struggles surrounding Canada's attempts to legitimize its sovereignty through redress practices. Despite contestation, Canada's redress politics, affectively mobilized through apologies, systematically silences significant feminist decolonial perspectives articulated in fiction by or on behalf of members of communities wronged by the state. Unsettling this silencing dynamic, this study de-centers the settler colonial logic of selected apologies through the lens of selected novels that narrate relevant wrongs differently. Drawing upon overlapping fields, including studies in the colonial nature of liberal democracy, state redress practices, and law and literature, Canada's 1998 merged statement and 2008 apology to Indigenous peoples as well as three apologies (in 2007 and 2017) to five Canadian citizens tortured abroad after 9/11 are juxtaposed with selected novels by Lee Maracle and Sharon Bala.

The rhetorical tactics in the 1998 merged statement and 2008 apology are analyzed as the affective dimension of Canada's reconciliation discourse, framing the government's settler colonial agenda for renewing its relationship with Indigenous peoples. I examine how Maracle's novels - *Sundogs*, *Ravensong*, *Daughters Are Forever*, and *Celia's Song* – deploy feminist decolonial narrative tools from Salish tradition that challenge anti-Indigenous violence perpetuated in these statements, situating them within Canada's broader settler colonial project. Similarly, the rhetorical tactics in the 2007 apology to Maher Arar, 2017 apology to Abdullah Almalki, Ahmad El Maati, and Muayyed Nureddin, and 2017 apology to Omar Khadr are analyzed as efforts to legitimize state sovereignty by affectively reinforcing the gendered racial logic of Canada's post-9/11 security discourse. I interpret Bala's *The Boat People*, which depicts the plight of Sri Lankan Tamil migrant aboard the MV *Sun Sea* that arrived in Canada in 2010, as contesting the gendered racial logic of these apologies. Although the experiences of these migrants differ significantly from those of Arar, Almalki, El Maati, Nureddin, and Khadr, reading this novel as contesting the narrative of state sovereignty in the apologies to these citizens highlights the differential yet interrelated harms that Canada's post-9/11 security discourse inflicts upon racialized citizens and non-citizens while situating this discourse within Canada's ongoing settler colonialism.

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Table of Contents

List of Acronyms

ACCAR: African Canadian Coalition Against Racism

ACE: Acknowledgment, Commemoration, and Education program

ACLC: African Canadian Legal Clinic

ADR: Alternative Dispute Resolution

AFN: Assembly of First Nations

AGS: Africville Genealogy Society

AHF: Aboriginal Healing Foundation

APG: Aboriginal Pipeline Group

BCSA: Black Canadian Studies Association

CBC: Canadian Broadcasting Corporation

CBSA: Canada Border Service Agency

CCNC: Chinese Canadian National Council

CEC: Canadian Ethnocultural Council

CEP: Common Experience Payment

CGL: Coastal GasLink Pipeline

CHRP: Community Historical Recognition Program

CHRT: Canadian Human Rights Tribunal

CIBPMA: Canadian Italian Business and Professional Men's Association

CJC: Canadian Jewish Congress

CNEOC: Council of National Ethnocultural Organizations of Canada

CPR: Canadian Pacific Railway

CRRF: Canadian Race Relations Foundation

CSC: Correctional Service of Canada

CSE: Communications Security Establishment

CSIS: Canadian Security Intelligence Service

DFAIT: Department of Foreign Affairs and International Trade

DOCR: Defence of Canada Regulations

DP: Dominion Police

FLQ: Front de libération du Québec

FTA: Free Trade Agreement

GCC: German Canadian Congress

HCI: Human Concerns International

HRM: Halifax Reginal Municipality

HRPs: Historical Recognition Programs

IAP: Independent Assessment Process

ICLMG: International Civil Liberties Monitoring Group

ILO: International Labour Organization

IRSSA: Indian Residential School Settlement Agreement

JAS: Justice for Africville Society

JCCC: The Japanese Canadian Cultural Centre

JCCP: Japanese Canadian Centennial Project

KIHC: Kitchener Immigration Holding Centre

MMIWG: Missing and Murdered Indigenous Women and Girls

NACOI: National Association of Canadians of Origins in India

NAFTA: North American Free Trade Agreement

NAJC: National Association of Japanese Canadians

NBCC: National Black Coalition of Canada

NCCC: National Congress of Chinese Canadians

NCIC: National Congress of Italian Canadians

NCJCR: National Coalition for Japanese Canadian Redress

NCTR: National Centre for Truth and Reconciliation

NEB: National Energy Board

NHRP: National Historical Recognition Program

NIEAP: Non-Immigrant Employment Authorization Program

NJCCA: National Japanese Canadian Citizenship Association

NRC: National Redress Committee

NWAC: Native Women's Association of Canada

NWMP: North-West Mounted Police

PBC: Parole Board of Canada

POW: Prisoners of War

PSC: Public Safety Canada

RCAP: Royal Commission on Aboriginal People

RCBB: The Royal Commission on Bilingualism and Biculturalism

RCMP: Royal Canadian Mounted Police

RNWMP: Royal North-West Mounted Police

SAP: Special Advocate Program

SCI: Security Certificate Initiative

SIRC: Security Intelligence Review Committee

TMX: Trans Mountain Extension project

TRC: Truth and Reconciliation Commission

UCC: Ukrainian Canadian Congress

UCCLA: Ukrainian Canadian Civil Liberties Association 1994

UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

UNGC: United Nations Genocide Convention

UNWGIP: United Nations Working Group on Indigenous Populations

Introduction

Making a Case for Works of Literature as Counternarratives to State Apologies

My dissertation is an interdisciplinary study of Canada's redress politics, drawing on conceptual tools and reading practices from overlapping fields of inquiry, including studies in the colonial nature of liberal democracy, studies in state redress practices, and studies in law and literature. While the point of overlap among these fields is analyzing different forms of gendered and racial subordination, they approach the question of subordination from different angles that complement one another and address different audiences. Drawing on these fields allows me to bring together their complementary angles and offer a complex analysis of how subordination is reproduced within Canada's redress politics and how it has been contested. My work is informed, on the one hand, by the theoretical approaches and structural critiques offered by studies in the colonial nature of liberal democracy and studies in state redress practices and, on the other hand, by the experiential take and creative approach of studies in law and literature. These different approaches enable me to engage with different kinds of texts related to my topic, including readings in history, government policies, and works of literature written by or on behalf of members of marginalized communities.

My broad research question is: How can works of literature that critically narrate Canada's atrocities be interpreted as challenging the consolidated logic of settler colonial domination in Canada's redress politics? I narrow down this broad question and focus on analyzing how selected novels offer sites of counter-discourse against settler colonial violence in Canada's redress politics pertaining to violence against Indigenous peoples and post-9/11 security-related human rights violations. What I call redress politics is described by scholars of historical injustice as the heterogeneous range of legal, political, and cultural activities deployed

by the nation-states that "orient to the past in considering the present" (Murdocca 2013, 10). Canada's redress politics entails different forms of top-down related activities that the Canadian state has deployed to ostensibly take responsibly for the wrongs it has inflicted upon different communities. I work with Canada's redress politics for its racial wrongs against Indigenous peoples and racialized communities,[1] focusing on the political implications of state redress practices for anti-Indigenous violence and post-9/11 security-related rights violations. Canada has predominantly framed its approach to addressing state violence against Indigenous peoples in terms of the discourse of reconciliation. Throughout my analysis, I underscore the significance of this discourse in understanding the complexities of Canada's redress politics.

Canada's responses to the calls for accountability from different wronged communities and individuals who have been targeted by systemics state racial violence are varied. But the overall objective of its redress practices, as I will explain in Chapter One, has been to consolidate the Canadian state's liberal settler colonial sovereignty through various tactics. These tactics aim to manufacture the façade of racial innocence and to deflect charges of institutional racism, particularly for the governments that deploy redress practices at present. Of course, analyzing and challenging the overall objective of Canada's redress politics should not be taken as denying the significance of different forms of state redress for the wronged communities or discounting the extensive histories of activist struggles within these communities to elicit state redress. As many scholars who have analyzed different aspects of Canada's redress politics through a

[1] The emphasis that I put on the racial dimension of Canada's wrongs should not be interpreted as denying the violence of the state's other forms of subordination such as discriminations based on gender and sexuality, among others. By putting emphasis on the racial dimension of state wrongs, I mean to indicate the limits of my present research: it does not include discussing significant wrongs that Canada has recently made a gesture of acknowledging it has committed by distinctly targeting sexual minorities and LGBTQ2 communities [For instance, see: (Women and Gender Equality Canada 2017)]. That said, I do examine the inherently gendered and sexual nature of Canada's violence against Indigenous peoples and those targeted as security threats after 9/11 in the pertinent chapters of this dissertation.

feminist and decolonial lens have pointed out, state acknowledgements of their wrongs are necessary for raising broad public awareness about these wrongs and even for the healing process of the wronged communities (Kwak 2017; McCall 2020). Likewise, as much as the Canadian state has deployed redress practices to perpetuate the gendered racial legacy of settler colonial domination, it is crucial to note that many political activists, writers, and artists in different wronged communities have directly engaged in redress negotiations with the state, treating these negotiations as sites of strategic bargaining to leverage the benefits for their communities beyond the confines of the state's redress mandates (Wakeham 2014; James 2015). Taking these nuances into account, exposing the state narratives of racial innocence fabricated through seemingly benign redress practices remains an imperative since these narratives make challenging the ongoing systemic racism increasingly more difficult. Consequently, I focus on dismantling these narratives and examining how selected novels speak back to and beyond such narratives even though by writing novels the writers do not directly engage with the state frameworks for redress.

The Canadian state's redress practices have taken different forms depending on the specific context of each wronged community. These specific forms include establishing governmental commissions (e.g., Commissions of Inquiry, Royal Commissions, and the Truth and Reconciliation Commission), responding to the recommendations of governmental commissions, deploying restorative justice measures such as making legislative changes (e.g., to the *Criminal Code*), reaching redress settlements, introducing and implementing redress policy frameworks and funding programs (for compensation, commemoration, and education), and offering apologies. The category of redress practices I refer to as state apologies include public statements made by the state representatives in their capacity as state representatives, expressing

some version of regret, remorse, sorrow, or grief on behalf of the state for the state wrongs inflicted upon certain people. Drawing on the scholarship on historical injustice, I view state apologies as the performative and affective dimension of Canada's redress politics, heavily invested in displaying the emotional sincerity of remorseful state representatives to evoke public trust in the state and to reassert the state's claimed moral authority to define and govern the nation (Trouillot 2000; Wakeham 2012a and b; Bentley 2015, 2016; Kwak 2017). These apologies are intertwined with other forms of state redress practices, such as governmental commissions, redress settlements, and redress funding programs, which provide top-down normative frameworks for how the wronged communities should remember state wrongs. I collectively refer to these normative redress practices entangled with state apologies as redress infrastructures.

In examining and contesting re-articulations of the logic of settler colonial domination in Canada's redress politics for violence against Indigenous peoples and for post-9/11 human rights violations, I take a two-fold approach. First, I trace the trajectory of Canada's redress infrastructures for Indigenous peoples and for racialized communities to show how these infrastructures function as normative frameworks to consolidate settler colonial domination. Against this backdrop, I explain how government apologies for anti-Indigenous violence and for post-9/11 rights violations deploy rhetorical tactics that reinforce relevant redress infrastructures by creating affective public spectacles to craft racial innocence for the government. I juxtapose the affective appeal of these apologies with the emotional depths of the lived experiences of subordination and resistance articulated in selected novels that narrate relevant state wrongs differently. In doing so, I interpret these novels as complex, discursive forms of political action that enable the creation of dynamic communities of readers who actively remember the state's

past wrongs and their reverberations in the present, despite and beyond the hegemonic narratives of the past in these apologies and relevant redress infrastructures.

The notion of affect that I work with in analyzing the novels and the state apologies is decidedly broad and is inspired by perspectives offered by affect theorists such as Sarah Ahmed and Lauren Berlant. Defining what different affect theories mean by "affect" and grappling with the challenges they seek to address is notoriously difficult (Carrière, Mathis-Moser and Dobson 2021, xv-xx). Nevertheless, affect theorists crucially emphasize dismantling traditional theoretical dichotomies between thinking and feeling, the mind and the body, and the individual/personal and the collective/political. This emphasis is vital for understanding both the processes that perpetuate and disrupt state ideologies in liberal societies. By challenging the neoliberal model of political subjects as rational actors who make objective calculations to maximize their personal benefits, affect theorists highlight the importance of emotions, feelings, and bodily responses to social situations in shaping a society's political life. Emphasizing the constitutive role of emotions and feelings in political life allows affect theorists to reveal how structures of domination in liberal societies are reinforced and maintained not just through the imposition of policies but also through the generation and management of affective atmospheres that foster cooperation in state policies beyond mere rational calculation. Echoing Ahmed's view, I understand affect as a conceptual framework for acknowledging how political subjects in neoliberal times are emotionally entangled in the political and economic systems they navigate. Ahmed posits affects as public emotions or visceral feelings that occur in response to "encounters" (Ahmed 2004, 7) with the social world and that circulate within and across communities, thereby emphasising their socially mediated nature. In this model, affect makes up a contested terrain, subject to top-down regulation but also a site of subversion, serving as a

catalyst for both structural domination and grassroots social transformation despite enduring structures of dominations.

Both Ahmed and Berlant frame dominant national narratives in late-stage capitalism in terms of affective investment of political subjects in national ideals in the form of fantasies or empty promises of good life, happiness, or fulfilment. These socially and politically constructed investments or attachments ultimately turn into sources of suffering and disintegration in ways that perpetuate historically rooted gendered and racial power structures. Noting how "emotions can attach us to the very condition of our subordination," (Ibid, 12) Ahmed emphasizes that such affective attachments are the effects of social "repetition" and "the concealment of the work of this repetition" (Ibid). She explains how such attachments reproduce oppressive power structures by significantly impacting individual bodily feelings and orienting them toward national ideals, which in turn shape collective attitudes. Berlant aptly terms affective attachments to national fantasies "cruel optimism" (Berlant 2011, 1), highlighting how such attachments actively deny the complexities of one's own lived experiences in relation to others. Cruel optimism occurs when an individual's objects of desire is actually "an obstacle to [their] flourishing" (Ibid). The objects of desire that Berlant challenges are ideologically constructed aspirations that foster fake emotions of hope and motivation to keep individuals invested in collective stories that generate a sense of belonging to a progressive nation while helping sustain oppressive systems. She refers to these ideologically constructed aspirations as national fantasies and examines the neoliberal dynamics that sustain them by urging individuals to be self-managing, competitive, and constantly striving for self-improvement - promoted aspirations that are increasingly challenging to achieve in a context of heightened precarity and systemic inequalities (Ibid, 10-11). However, she also explores the possibility of transcending the social dynamics that generate cruel optimism

or ideologically constructed desires that ultimately perpetuate social oppression by reimagining the terms of one's affective relationship to the social world and reorienting it. Berlant turns to cultural productions as vehicles that provide the necessary affective knowledge to critically engage with these fantasies and to cultivate alternative, life-sustaining attachments (Ibid, 191-266). Likewise, Ahmed offers perspectives for transforming our relationship to constructed national ideals and forming alternative attachments through attending to and circulating the dismissed emotional responses of feminist and anti-racist activists and writers (Ahmed 2004, 168-89).

As far as the consolidation of Canada's sovereignty through its redress practices is concerned, this notion of affect helps note how top-down redress practices seek to reconfigure national ideals at an intimate level through regulating public feelings. Since the state apologies are repeatedly staged as performative rituals constituting the public face of the state redress practices, I specifically focus on analyzing the rhetorical tactics in the apologies as the affective dimension of state redress while linking these tactics to settler colonial violence perpetuated in relevant redress infrastructures. Therefore, I juxtapose the emotional landscapes articulated in selected works of literature with my analysis of apologies in relation to relevant redress infrastructures. To this end, I use conceptual tools from studies in the colonial nature of liberal democracy and studies in state redress practices to analyze how these apologies, in connection with redress infrastructures, seek to affectively consolidate Canada's settler colonial sovereignty. Against this backdrop, I analyze how selected works of literature have significant implications for Canada's redress politics by shaping alternative public feelings through providing emotionally rich portrayals of state violence against specific groups while contextualizing redress within Canada's larger structures of settler colonial domination.

By 2022, Canada offered ten federal apologies to Indigenous communities[2] and about a dozen to different racialized communities.[3] The 1998 merged "Statement of Reconciliation" and action plan as well as the 2008 apology to Indigenous peoples are framed as broad statements, whereas the other eight apologies are addressed to specific Indigenous communities.[4] Other federal apologies related to racial discrimination include three apologies to five Muslim citizens detained and tortured abroad after 9/11 for security concerns, including apologies to Maher Arar (2007), Abdullah Almalki, Ahmad Abou-El Maati, Muayyed Nureddin (2017), and Omar Khadr (2017); an apology to the families of the (mostly South Asian) victims of the 1985 bombing of Air India Flight 182 (2010); three apologies for wartime atrocities, including an apology for the Second World War internment of Japanese Canadians (1988), and two apologies for the Second World War internment of Italian Canadians (1990 & 2021); and four apologies for historical immigration restrictions and deportations, including an apology for the Chinese Head Tax (2006), two apologies for the *Komagata Maru* tragedy (2008 & 2016), and an apology for the MS *St Louis* tragedy (2018). I link Canada's 1998 merged statement and 2008 apology to Indigenous peoples as well as three apologies (in 2007 and 2017) to five Muslim citizens tortured abroad after 9/11 to their relevant redress infrastructure and analyze these redress

[2] Importantly, not all of Canada's regret statements to Indigenous peoples are labeled as apologies. The 1998 regret statement is titled "Statement of Reconciliation." It was presented alongside a detailed action plan, which served as a normative framework for Canada's proposed terms for renewing relationships with Indigenous peoples. Similarly, the two statements of regret issued to Tsilhqot'in First Nation (in 2018) and the Cree Poundmaker Nation (in 2019) for the wrongful treatment of their chiefs in the nineteenth century are titled "Statement of Exoneration."

[3] I will contextualize and provide more information about all these apologies in Chapter Two and Three where I synthesize the evolution of Canada's redress infrastructures for Indigenous peoples and racialized communities. But analyzing all these apologies is beyond the scope of my dissertation. I only analyze a selection of these apologies in Chapters Four and Five.

[4] These specific apologies speak to the residential school crimes in Newfoundland and Labrador (2017), the 1864 and 1865 hanging of six Tsilhqot'in chiefs (2018), the 1950s-70s forced relocation of Inuit people (2010 & 2019), the 1885 wrongful conviction of Cree Chief Poundmaker (2019), and the unmarked graves of former residential school students near former Marieval (Cowessess) residential school in Saskatchewan (2021).

practices alongside my interpretation of five selected novels (written by or on behalf of members of wronged communities).

Examining apologies and redress infrastructures related to violence against Indigenous peoples and post-9/11 violations of human rights helps gain insight into the major settler colonial functions of state redress practices. My decision to focus on these apologies and redress infrastructures and to analyze how relevant works of literature push back against their specific settler colonial functions reflects my own lived experience and academic work in the recent past. I came to Canada as a graduate student from Iran, during the first decade of the global "War on Terror." It was a decade of unleashed devastations in Iraq and Afghanistan and the subsequent tightening of the grip of Iran's totalitarian Islamic regime that had ruled for decades partly through the rhetoric of protecting Iranians from U.S. imperialism. Since then, I have lived through Canada's post-9/11 heightened surveillance in the name of national security that echoes the U.S.-led global "War on Terror." Concurrently, I have witnessed continued state violence against Indigenous peoples and racialized populations despite proliferating state apologies to different wronged communities and individuals.

The anti-Muslim racism of Canada's post-9/11 surveillance and security regulations has been inseparable from my life in Canada (even though I neither personally practice Islam nor identify as a Muslim and am aware that ongoing dispossessions in Iran are irreducible to the influence of Western imperialism). This topic has become integral to my academic as well as personal life since 2015, when I co-organized an international interdisciplinary conference in Edmonton (Unsettling Colonial Modernity: Islamicate Contexts in Focus 2015) to collectively examine the modern colonial nature of rising global anti-Muslim sentiments and to bring broader public and academic attention to it. After the conference, I moved to Toronto to pursue my PhD

at York University. I was taking my doctoral courses when the TRC's final report came out in 2015. It was highly publicized as Canada's major success towards reaching reconciliation with Indigenous peoples. Meanwhile, the suicide rate among Indigenous communities was quickly rising. In 2016, Attawapiskat declared a state of emergency over heightened suicide (especially among the youth), leading to a series of die-in events organized by the Idle No More and Black Lives Matter movements at the Toronto office of Indigenous and Northern Affairs Canada (INAC). This quickly grew into the nation-wide movement of #OccupyINAC (Fontaine 2016), which pushed Minister of Indian Affairs Carolyn Bennett to promise taking measures to prevent suicide in Indigenous communities. But more importantly, this movement brought the TRC's inadequacy to broad public attention and marked the urgency of learning about and standing with Indigenous resurgence. On the other hand, York University was then (and still is) an intellectual hotbed of discussions and debates about the complex links between Indigenous struggles for sovereignties and anti-racist movements in settler colonial societies, including Canada. This context has made me aware of the moral and political imperative of engaging with Indigenous decolonial perspectives and acting in alliance with them as a racialized citizen-settler, living on Indigenous lands in Turtle Island. At York, I also learned about the broad fields of study in the colonial nature of liberal democracy and state redress practices, from which I draw conceptual tools in my dissertation. Finally, I was privileged to have the support of my supervisor, Dr. Eva Karpinski, who consistently encouraged me to conjoin my political concerns with my passion for working with stories (even though academic studies in literature was new to me as someone previously trained in Western philosophy).

My dissertation contributes to the emerging body of work that challenges state-sanctioned redress practices and promotes ongoing conversations about the afterlives of settler

colonial state violence in Canada by engaging with the cultural productions of people in different wronged communities (e.g., Walcott 2011; Miki 2013; Chakraborty 2015; Hall and McCall 2015; Robinson and Martin 2016; McCall 2020; Authers 2021; Fachinger 2022). I frame my contribution to this body of work through the lens of a specific methodological approach, namely the law and literature approach, that I draw and expand upon to create a framework for bringing together different aspects of my research. The law and literature approach emerged in the 1970s as a broad and contested interdisciplinary field (primarily in the U.S.) to explore the potentials and tensions of bringing into conversation legal discourses and works of literature as different ways of meaning-making to address pressing social issues. This field's rubric has shifted over time and has implied different points of emphasis. Some major areas of study in this field include the study of representations of the rule of law in works of literature; the subject of literature in law or the need to educate students and practitioners of law to develop literary sensibilities and engage with the human meaning of core concepts of the law; and the subject of law and literature as objects of interpretation or as discourses that are subject to the norms of interpretative communities (Peters 2005; P. Brooks 2003; West 2011). The guiding vision that unites these different concerns is the premise that legal frameworks and practices shape and are shaped by rhetorical and imaginary aspects of literature and culture more broadly (Stern, Suzack, & Henderson 2013; Mezey 2015). I am interested in the approaches within the general field of law and literature that situate writings by members of marginalized communities in relation to liberal legal discourses (including laws and the social practices that uphold them), to foreground how these writings reflect the violence of liberal legal discourses as well as critical subjectivities that visualize alternative notions of justice. These approaches consider the works of literature as aesthetic expressions with the affective power that allows them to highlight lived experiences to

create a space for thinking through complex political problems and to identify and challenge liberal legal discourses through widening the reception of a politicized counter-discourse.

It is worth highlighting that there is no consensus among the scholars of the law and literature approach regarding whether the works of literature can meaningfully identify and challenge liberal legal discourses. Richard Posner's classic book *Law and Literature*, for instance, represents a major tradition in interpreting legal perspectives that perceives engaging with legal texts in relation to literature as a threat to the alleged truth, objectivity, and reality of the realm of law (P. Brooks 2010, 351; Peters 2005,445). However, as I will explain in Chapter One, liberal state laws and the discourses and practices that mobilize and sustain them, have been ideological tools for establishing heteronormative white supremacy in liberal settler colonial societies. For this reason, I am not sympathetic to methodological approaches that hold on to claims of objectivity and truth in liberal legal discourses. As Cheryl Suzack points out, privileging the "'extra-rational' power of narratives" has "led to an interpretive impasse" that she calls the "law as narrative dilemma," which gives rise to a misleading notion of law that limits our understanding of how the legal system operates (Suzack 2011, 448). Citing legal scholar Steven Winter, she warns us that considering law as one narrative among others risks failing to account for the law's "autonomy" as a "formalized, determining structure" that "plays a formative role" in "shaping the cultural processes that actively contribute in the composition of social relations" (Ibid), especially in relation to Indigenous peoples in Canada. To avoid this risk, she highlights the importance of noting both the presumed social autonomy of legal practices and what she refers to, borrowing from legal scholar Allan Hunt, as "the law's transpositioning capacities" (Suzack 2011, 452). The law's transpositional capacities explain why legal discourses are "paradoxical in their effects" (Ibid) and open up the possibility for "resignification" or the

"reinvention of social meaning," (Ibid 453) enabling us to engage with works of literature as counternarratives to relevant legal discourses. With this caveat in mind, I consider the law and literature approach as a methodological framework for offering politicized readings of stories to reveal the violence of liberal legal discourses that erase the complexity of socially and politically embedded human problems and to make space for imagining alternative notions of justice. Shoshana Felman aptly explains the transformative power of stories by contrasting the "literary and legal goals" (Felman 1997, 738). She contends that unlike the legal approach to truth and evidence in a trial which is premised on aiming for "a decision [..], a finality: a force of resolution," a literary text strives to bring to light complex moral and existential dimensions of social reality through searching "for meaning, for expressions, for heightened significance, and for [..] understanding" (Ibid). In the context of interrelating Tolstoy's novella *The Kreutzer Sonata* and the highly publicized 1990s trial of O. J. Simpson for the murder of his ex-wife, Felman argues that a story has the power to turn the blindness that is essential to the execution of liberal law into a "revolutionary seeing" (ibid, 776), and she attributes this power to the "poetic justice" of stories (Ibid, 787).

The works of literature written by Indigenous peoples and members of racialized communities in Canada have created powerful publics for hearing the lived experiences of enduring settler colonial violence and envisioning different futures. By contextualizing these writings within specific legal discourses, the politicized readings of these writings amplify the authors' insights but also extend the reach of their messages and broaden their audience, promoting critical reflections and dialogue on a spectrum of different emerging political conflicts. In her book, *Indigenous Women's Writing and the Cultural Study of Law*, Suzack provides a detailed model for a law and literature approach in engaging with intellectual and

political achievements of Indigenous women's writings in North America. Building on the formative conceptions that interconnect law and literature (Thomas 1991; Hunt 1992; Felman 1997; Crane 1997; Sarat and Simon 2003; Henderson 2006; P. Boorks 2010), she conceptualizes Indigenous women's writings as "a source for imagining social transformation and community decolonization" (Suzack 2017, 16) in the face of Canadian and Anglo-American legal frameworks that are premised on confining and eliminating Indigenous sovereign ways of living. Suzack argues that "knowledge claims embedded within Indigenous women's cultural practices are essential to conceptualizing Indigenous justice" (Ibid, 5) and describes Indigenous storytelling as a form of social activism that "calls into question" the "objectivity of law" (Ibid, 53). In engaging with Indigenous-authored novels that address legal injustices, she analyzes them within their legal context to illustrate the failure of legal decisions in addressing the colonial nature of social challenges in Indigenous communities and refers to this side-by-side reading of literary and legal texts as "dialectically interrelating law and literature" (Ibid, 7). Suzack's work is in conversation with other scholars who have analyzed significant social and political aspects of Indigenous storytelling and writing in examining Canada's ongoing anti-Indigenous violence (e.g., Maracle 1990, 2007; Suzack 2005, 2011; McCall 2011, 2016; Million 2001, 2013; LaRocque 2015; Hargreaves 2017; Justice 2011, 2018). A central theme in this scholarship is articulating Indigenous storytelling as a form of exercising Indigenous sovereignties in the face of Canada's continued colonization of Indigenous cultures, languages, and lives.

Other scholars have offered politicized readings of the writings of people in different racialized communities by anchoring these writings in the context of relevant confining state regulations. They have foregrounded Canada's other systemic forms of settler colonial state violence, including anti-Black violence (e.g., Chariandy 2002; Walcott 2007; Clarke 2010;

Sharpe 2016), and violence against different diasporic communities, especially Jewish and Muslim communities and (im)migrants and refugees from East and South Asia, Middle East, and North Africa (e.g., Razack 1998, 1999, 2007; Cho 2007; Wong 2008; Jiwani 2009; Pirbhai 2009, 2015; Miki 2011; Gagnon and Jiwani 2012; Kim, et al 2012; Kim 2012, 2016, 2019; Lee 2012; Lai 2014(a) & (b); Fachinger 2014; Phung 2015; Singh 2015; Authers 2016).[5] Their work has shed light on how narrated lived experiences of subordination in the writings of people in racialized communities unveil the dynamic reproduction of heteronormative white supremacy within Canada's metanarrative of national belonging, articulated through racial laws and social practices that embody these laws.

Framing my work through the methodological lens of these politicized readings of the works of literature enables me to draw and build upon the rich interdisciplinary reading practices of this field to address the specific ways in which settler colonial violence is reproduced within Canada's redress politics. Some helpful reading practices of this filed include analyzing liberal legal discourses to highlight their inherent heteronormative white supremacist assumptions and juxtaposing the elements of these discourse analyses with the narratives of community members impacted by pertinent legal discourses. Importantly, these reading practices both enable emphasizing the constraining nature of liberal legal discourses as the political context for the writings of people impacted by these discourses and centring community voices that speak back to them but are often not considered politically significant. Given the affective power of narratives in creating public spaces for meaning-making, centering narrative voices of marginalized communities within liberal discursive hegemonies helps create counter-hegemonic

[5] My cited list of politicised readings of the works of literature that expose Canada's different forms of racial state violence is far from exhaustive. There is an extensive work done in this area that I am not familiar with. Here, I selectively refer to leading figures in this field whose work has inspired and informed my own doctoral research.

spaces for thinking through liberal settler colonial violence and imagining social justice differently. This approach also helps avoid inadvertently reproducing the dominance of state-sanctioned narratives and ideologies by solely focusing on these prevailing epistemologies, while disregarding the dynamic ways in which racialized people within these hegemonic structures have already adeptly crafted alternative narratives that transcend mere opposition to hegemonic forces. I work with and amplify these reading practices by bringing in perspectives from studies in state redress practices and studies in the colonial nature of liberal democracy. I also explain (in the Conclusion) how deploying these reading practices that tap into the affective power of stories brings fresh perspectives to both fields.

The works of literature that I have selected are novels that depict the significance of widely known social and political events from a fictional perspective. In particular, I engage with Lee Maracle's four novels and Sharon Bala's debut novel, which challenge Canada's ongoing settler colonialism by foregrounding violence against Indigenous peoples and post-9/11 racial security regulations respectively. I analyze how these novels go beyond the confines of Canada's redress politics not by promising to represent facts about state wrongs but rather by using the author's imagination to narrate widely known political events beyond a strict factual gaze that is often shaped by hegemonic narratives. In this sense, in my current research on challenging Canada's redress politics, novels seem to be better candidates than other literary genres such as memoirs that imply at least some degree of commitment to factual representation. Likewise, novels easily accommodate narrating the same events from different standpoints and perspectives that are not necessarily in agreement but nonetheless complement one another. This multiplicity of perspectives, too, makes room for sidestepping oversimplified hegemonic narratives that tend

to flatten the complexities of social and political contexts and thereby constrain cross-cultural conversations about them.

In Chapter One, I unpack my dissertation's conceptual tools and contexts. The initial section underscores the dual process of liberal settler colonial nation-building in North America: the theft of Indigenous lands and resources alongside the exploitation of racialized labour from other geographies. It unpacks how this process has relied on establishing a carceral logic through interconnected but shifting gendered racial structures of domination that serve to normalize a Euro-centric notion of the human. In Section Two, I draw on the concepts introduced in the previous section to build a genealogy of Canada's settler colonization, highlighting the interconnectedness of the carceral logic of the racial wrongs that Canada has made gestures of acknowledging through its redress practices. Section Three situates Canada's redress politics within the global postwar turn to state-sanctioned redress practices. It explicates how state-sanctioned redress projects often serve to reproduce settler colonial violence under the guise of taking moral responsibility for state injustices. I draw on the scholarship on state redress practices to identify interrelated tactics deployed in state apologies, as significant affective rituals to consolidate state sovereignty. Additionally, I point out how state apologies act in concert with what I term as redress infrastructures, which share similar functions. Lastly, in Section Four, I briefly connect the conceptual tools developed in this chapter to the law and literature field, elucidating how the reading practices within this field enable me to merge analyses of strategic consolidation of state sovereignty in relevant apologies and redress infrastructures with selected novels.

In Chapter Two, I examine the trajectory of the government's redress infrastructures for Indigenous peoples, setting the stage for Chapter Four where I juxtapose Canada's 1998 merged

statement and 2008 apology to Indigenous peoples with Lee Maracle's novels. I show how the first redress settlement with an Indigenous community, namely the 1996 High Arctic Relocation Reconciliation Agreement, consolidates Canada's post-Constitution sovereignty by seeking to strategically separate the past from the present while legitimizing the ongoing violence against Indigenous peoples. Next, I analyze Canada's redress infrastructures for Indigenous peoples since 1996, including the 1998 *Gathering Strength* [Canada's combined "Statement of Reconciliation" and action plan for renewing its relationship with Indigenous peoples in response to the final report of the Royal Commission on Aboriginal Peoples (RCAP)][6], the 2006 Indian Residential School Settlement Agreement (IRSSA) and its major component, the 2009-15 Truth and Reconciliation Commission (TRC), and the state's responses to the TRC's Calls to Action since 2015. I argue that these infrastructures deploy different means to re-enact the same tactics that shape the 1996 redress settlement.

In Chapter Four, I explain how the rhetorical tactics in the 1998 *Gathering Strength* add affective force to this statement's normative framework that I previously examined in Chapter Two, namely invoking the RCAP's narrow normative model for the state's renewed relationships with Indigenous peoples. Likewise, I unpack the rhetorical tactics in Harper's 2008 apology to Indigenous peoples to show how they build an affective foundation for the normative framework of the TRC's discourse of reconciliation and the government's subsequent engagement with it. I highlight how this apology, too, enacts the tactics introduced in Chapter One to consolidate state sovereignty. Against this backdrop, I interpret Maracle's *Daughters are Forever* (2002) and

[6] Since the *Gathering Strength* is a combined statement, consisting of a "Statement of Reconciliation" and an action plan, I analyze its text in detail in Chapter Four. In Chapter Two, I only analyze what I consider to be its main normative constraint which is acknowledging the RCAP's asymmetrical normative model that allows the state to unilaterally determine the terms of a renewed relationship with Indigenous peoples, based on the constitutional framework for Indigenous rights.

Sundogs (1992) as offering counternarratives to the rhetorical tactics in *Gathering Strength*, and her *Celia's Song* (2014) and its prequel, *Ravensong* (1993) as offering counternarratives to the similar, but differently articulated tactics in the 2008 apology. Through my interpretations, I explain how, unlike the 1998 statement and 2008 apology that seek to foreclose conversations about Canada's ongoing anti-Indigenous violence and deny commonalities among different forms of state violence, Maracle's novels underline, from an Indigenous feminist perspective, the open-ended nature of these conversations and lay out the intertwined gendered racial structures of Canada's settler colonialism.

Similarly, in Chapter Three, I set the stage for Chapter Five where I juxtapose Sharon Bala's novel, *The Boat People* (2018) with Canada's three apologies (in 2007 and 2017) to five Muslim citizens namely Arar, Almalki, El Maati, Nureddin, and Khadr, who were targeted by the state's anti-Muslim racism and subsequently tortured abroad after 9/11. I explain the tactics through which the government's first redress settlement with a racialized community, namely the 1988 redress settlement with the Japanese Canadians, consolidates state sovereignty. Following that, I unpack the evolution of Canada's redress infrastructures for racialized communities since 1988, including two time-limited conditional funding frameworks, the Acknowledgement, Commemoration, and Education (ACE) and the Historical Recognition Programs (HRPs), and a few forms of redress outside this program. I analyze how the ACE and HRPs as well as the forms of redress outside these frameworks deployed different means to legitimize the state's ongoing settler colonial violence. The ACE and HRPs sought, both directly and indirectly, to impose the terms of remembering the past wrongs against racialized communities in ways that legitimize the state's ongoing settler colonial project. On the other hand, the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, its subsequent funding

program, and the three redress settlements (in 2007 and 2017) with Arar, Almalki, El Maati, Nureddin, and Khadr deployed different means to legitimize the gendered racial logic of Canada's post-9/11 national security discourse.

In Chapter Five, I explain how the three apologies to the five citizens tortured abroad build upon relevant redress settlements through rhetorical tactics that add more affective force to these settlements. They also construct a notion of national progressive time to separate the past from the present while isolating these citizen's ordeals from the gendered racial structures of settler colonial domination in Canada. Leveraging this analysis, I offer an interpretation of Bala's novel as providing timely counternarratives to the rhetorical tactics that consolidate state sovereignty in the 2007 and 2017 apologies. This novel is about Canada's treatment of the MV *Sun Sea*, carrying hundreds of Tamil asylum seekers who had survived the civil war in Sri Lanka, upon its 2010 arrival in Vancouver. It depicts the experiences of the Tamil passengers aboard the MV *Sun Sea* within Canada's heightened securitization of immigration. The ordeals of Arar, Almalki, El Maati, Nureddin, and Khadr differ significantly from the experiences of the Tamil passengers detained in Canada. However, by reading Bala's novel alongside the 2007 and 2017 apologies to these Muslim men and their associated redress settlements, I emphasize the interrelatedness of the struggles faced by both citizen and non-citizen terrorist suspects, highlighting them as different faces of the gendered and racial discourse of Canada's post-9/11 national security. In doing so, I underscore how this novel opens up a powerful space for challenging the settler colonial violence inherent in the national security discourse as perpetuated through these apologies and settlements.

Chapter One

Liberal Settler Colonial Nation-Building and State-Sanctioned Redress Practices: Canada in Focus

In this chapter, I lay the groundwork by introducing the conceptual tools and contexts essential for analyzing specific apologies and selected novels examined in my subsequent chapters. This endeavor is guided by Dorothy Smith's emphasis on exploring the social world from our local vantage points while recognizing the interconnectedness of our experience with those of others "elsewhere and elsewhen" all influenced by "what we cannot know directly" (D. Smith 2007, 409). Smith refers to these influential factors that shape social structures and experiences as "translocal forces," (Ibid, 412) which she defines as structures operating across different geographical locations and institutions, manifesting as interrelated power dynamics within individual and institutional interactions. By engaging with specific local lived experiences while maintaining an awareness of the translocal forces that have shaped them, Smith argues, we contribute to the feminist project of raising consciousness about and problematizing reproduced structures of power that continue to alienate women and racialized peoples.

I elaborate the translocal forces that have shaped Canada's redress politics as a background for engaging, in my subsequent chapters, with how these forces are manifested in specific state apologies and how selected novels speak back to and beyond these manifestations. Section One elaborates the dual process of liberal settler colonial nation-building and its carceral logic, which serves to normalize a Euro-centered notion of the human. Section Two offers a localized genealogy of the carceral logic of Canada's settler colonization to highlight the interconnectedness of state wrongs related to Canada's redress politics. Section Three analyzes state-sanctioned redress practices as serving to further this settler colonial project. It also

identifies interrelated strategies used in state apologies, working in tandem with other forms of state redress, to manufacture the façade of innocence for the state. In Section Four, I draw connections between the conceptual tools developed in this chapter and the law and literature methodology. I elucidate how the reading practices of law and literature enable me to merge my analyses of selected novels with pertinent apologies and redress infrastructures.

1-1 Atlantic Capitalism and Liberal Settler Colonial Nation-Building

A growing number of major theoretical developments on the origins of British liberal thought as a political philosophy and a mode of governance underline the inseparability of the emergence of liberal democracy from the formation of the capitalist modes of production and various colonial processes of globalizing capitalism (Cooper and Stoler 1997; Linebaugh and Rediker 2000; Stoler 2006; Sharma 2006; Goldberg 2009; Lionnet and Shih 2011; Byrd 2011; A. Smith 2011; Walia 2013, 2021; Ferguson and McNally 2015; Lowe 2015; Day 2016; Kelly 2017; Ince 2018). Drawing on these theories, I briefly explain liberal thought as a white supremacist heteronormative political philosophy, intertwined with parallel formations of capitalism and modern nation-states in Europe and their global dominance through different modes of colonial expansions.

The formation of the capitalist modes of production in Europe has been premised on separating producers from their means of production for the sake of generating surplus value for those who came to forcefully possess the means of production. Generating surplus value as the governing rule of capitalism has depended on the exploitative possession of natural resources and the mass creation of dispossessed populations that had no choice but to submit to the hierarchies of the wage-labour system (Ince 2018, 19-23). Karl Marx describes this process as

the “primitive accumulation of capital” (Ibid, 19). The processes of capital accumulation began to expand beyond Europe since the Sixteenth century, through various modes of colonial practices to establish Eurocentric domination and political control over Africa and the so-called New World of the Americas. As a result, European colonial rivalries became increasingly dependent on sailing the Atlantic Ocean. In this period, “the Atlantic maritime states of Northwest Europe (France, the Netherlands, and England) challenges and overtook the Mediterranean kingdoms and city-states of Spain, Portugal, Algiers, Naples, and Venice as the dominant forces in Europe and increasingly, the world” (Linebaugh and Rediker 2001, 15). The new giant of “English Atlantic capitalism” (Ibid) was developed through the British empire’s assertion of dominance over the Atlantic (Ibid, 145-75) after defeating the Dutch (1651-75) and the French (1688). British-dominated Atlantic capitalism began by using the ships as “the machine[s] of empire” (Ibid, 150) that “combined features of prison and factory” (Ibid, 328). It continued by deploying different modes of colonialism around the globe, to connect Britain to the Americas, Africa, and later, Asia. While British colonial practices outside Europe aimed to establish political dominance over non-European countries, different modes of colonialism were applied in different regions. In much of Africa (such as Sierra Leon, Nigeria, and Uganda) and Asia (such as India), British colonization was focused on exploiting the labour and resources of local populations through imposing colonial rules to benefit Britain, without the intent of permanently inhabiting these territories. By contract, in South Africa and North America, Britain established political dominance through settler colonialism, a mode of colonialism intended to claim the lands inhabited by local populations as its own and to settle there permanently.

For centuries, the primary relationship of North American settler colonization to Indigenous peoples has been to render their lands and resources open to non-consensual

appropriation for Euro-centric settlement. The very presence of Indigenous peoples and their land-based ways of living, therefore, was perceived as a threat to British Christian civilization in the "Anglo-American settler imperial imagination" (Lowe 2015, 8). North American settler colonization was premised on the dual logic of stealing Indigenous lands and resources and eliminating Indigenous lives on the one hand, and the mass exploitation of racialized labour power from across the globe on the other hand to sustain capitalism as an increasingly globalized economy (Walia 2013, 28-32). Susan Ferguson and David McNally explain the capitalist need for "the reproduction of the global working class sufficient to meet the demands of accumulation" in terms of the capitalist "law of population" according to which "capital does not directly produce labour power and therefore requires some specific social process to ensure adequate supplies of that crucial commodity" (Ferguson and McNally 2015, 3). In other words, the continued accumulation of capital in the North American settler colonies required creating a global "surplus population" or a "substantial reserve army of labour" (Ibid, 4) through uprooting racialized bodies from other geographies and transporting them in masses into the Americas. There have been shifts in patterns of global mass movements of labour through time, but the major ones include the seventeenth to nineteenth-century cross-Atlantic trade of enslaved Africans, the nineteenth-century so-called coolie labour system that imported millions of workers for indentured servitude from China, India, and other parts of South Asia, and several waves of migration including the contemporary hyper-precarious migrant worker system (Ferguson and McNally 8; Lowe, 5).

Since the early stages of the development of English Atlantic capitalism, however, differently dispossessed populations by various colonial processes have continually formed powerful alliances to disrupt these processes across the globe—starting from the very ships that

worked like “machine[s] of empire” (Linebaugh and Rediker 2001, 150). The ideological demonization and the suppression of this constant resistance was part and parcel of establishing global capitalism. Peter Linebaugh and Marcus Rediker provide a key metaphor for globalizing English Atlantic capitalism and the ever-present resistance against it. They examine major historical references in British colonial archives to the Greek mythology of Hercules and Hydra, metaphorically glorifying British colonization across the Atlantic as heroic battles of Hercules to establish law and order in the allegedly chaotic so-called New World of the Americas against the monsterized many-headed Hydra of dissent (Ibid, XI-XIII, 1-7). They extend the Hydra metaphor beyond its classical Greek myth ending where Hercules kills Hydra by defeating all of its nine heads and use it to trace the patterns of otherwise unnoticed interconnected mobile global subversive traditions and struggles against the globalization of Atlantic capitalism. The development of liberal thought as an ostensibly universal justification for expanding capitalism beyond Europe through the ideological construction of the supremacy of the British imperial nation and denouncing as monstrous all resistance against this supremacist ideology provided a philosophical foundation for the glorifying metaphor of Europe’s Herculean conquest of the Americas against the Hydra of dissent.

Early liberal British philosophers played a key role in settling public and parliamentary debates in European metropoles about the morality of British colonial treatment of Indigenous peoples in the Americas and the trade and transportation of enslaved Africans across the Atlantic. By constructing a Euro-centric notion of the human that represented Indigenous peoples and enslaved Africans as less than human, they helped “reconcile the liberal British self-image” (Ince 2018, 19) as an empire committed to the universal rule of law to promote equality and freedom through “private property, market exchange, and free labor” (Ibid, 9) with the colonial violence

of British capitalist political economy**.** John Locke's capitalist account of private property, for instance, famously justified colonial seizures of Indigenous lands in the Americas by putting emphasis on the "productive capacities of [agricultural] labour for transforming nature into an ever-expanding domain of value" (Ibid, 39). His argument for property rights recognized European agricultural labour (the labour of the European Christian man, more specifically) to improve the land for capitalist production as the only kind of labour that would entitle one to own land. Indigenous peoples' non-exploitative relationship to land that was primarily based on hunting and gathering rather than farming was dismissed as unproductive and unsovereign (Ibid, 42-5). Likewise, Locke's theory of private property influentially justified commodifying enslaved Africans and their mass transportation to the Americas (Lowe 2015, 11). The ideological construction of the superiority of the British empire and its Christian agricultural civilization by imposing colonial divisions of humanity disguised as liberal core values was pivotal in globalizing capitalist relations through colonial expansions.

The formation of modern nation-states in parallel with the global expansion of capitalism constituted the political dimension of liberal thought, institutionalizing heteronormative white supremacy by legalizing and enforcing normative colonial hierarchies of humanity (Walia 2013, 37-49). Modern liberal nation-states are premised on producing a sense of belonging to the nation as a privileged ideologically constructed society that both supports and is supported by the ruling power of the state. In Nandita Sharma's terms, "liberal styles of governance unlike previous historical domains of ruling, are particularly concerned with the ideological construction of a civil society *for* whom the state is said to rule" (Sharma 2006, 57). The formation of the British imperial nation and its expansion to the colonies in the early stages of English Atlantic capitalism rested on defining white identity as free by contrasting the condition

of the European Christian man with the imposed condition of enslaved Africans and dispossessed Indigenous populations. Famously, the seventeenth-century British laws such as the 1661 *British Slave and Servant Code* defined whiteness as a legal category to protect British Christian colonists by differentiating between white servants as "freeborn Englishmen" capable of earning their freedom and Indigenous and Black slaves legislated as unfree (Linebaugh and Rediker, 132-137; Sharma, 62-3). Christian colonizers who claimed their legal privileges as white people and demanded the state to act on their behalf strengthened the grip of legally constructed white supremacy. Legal glorification of whiteness as the valuable labour of the European Christian man and the complicity of those constructed as white within this framework solidified the state's colonial categories of humanity in nationalized labour markets.

In other words, normative hierarchies of humanity reflected in liberal state laws had to be socially reproduced by those benefiting from these laws who conformed to them. The social reproduction of normative notions of humanity has been constitutive to maintaining the ideological construction of the nations. As Sharma rightly points out, emphasizing the causal role of the state in enforcing normative colonial hierarchies of the human does not undermine the formative role that social practices and organizations play in establishing these hierarchies. She uses Antonio Gramsci's notion of "hegemony" and Dorothy Smith's notion of "relations of ruling" (Sharma 2006, 54) to explain that what gave content to liberal state abstract racial legal categories and made them hegemonic were relations of ruling based on human social practices that pushed aside the standpoint of lived experiences in favour of legally constructed colonial normative categories of humanity. In this sense, the hegemony of liberal state racial legal categories and the social practices that upheld them obscured potentials for building solidarity across differently dispossessed populations. These legal categories and social practices,

therefore, animated the Atlantic capitalist Herculean ideal of overcoming the Hydra of dissent by pre-empting cross-ethnic solidarities.

Normative colonial hierarchies of humanity, reflected in liberal state laws as well as social practices and organizations that ideologically construct and sustain liberal nations, have been articulated through shifting but related racial categories at different times. As Lisa Lowe notes, "liberalism comprises a multifaceted, flexible, and contradictory set of provisions that at once rationalizes settler appropriation and removal differently than it justifies either the subjection of human beings as enslaved property, or the extraction of labour from indentured emigrants, however much these processes share a colonial past and an ongoing colonial present" (Lowe 2015, 10-11). David Goldberg describes these processes as relational models for understanding racialization, which helpfully captures the multifaceted nature of liberal colonial violence. A relational model, he contends, explicitly points out deep reproductions of similar but not identical forms of racism across different geographies and times and reveals how recent forms of racism always already look to "older modes of repression for resources of control and domination" (Goldberg 2009, 1277). Emphasizing that liberal racial categories of humanity are linked, but not identical, Lowe draws on C.L.R. James to explain how the nineteenth-century expansion of British colonial endeavors in India and China and importing so-called coolie labour (or work under contracted servitude) to the Americas was geared towards finding substitutes for slave labour after the 1807 abolition of slave trade and the 1834 abolition of slavery in the British empire (Lowe 2015, 162).

The Atlantic capitalist Herculean ideal of overcoming the Hydra of dissent gained a new momentum in this period's imperial expansion of trade in India and China that was primarily focused on opium, produced and packaged in India and exported to China in exchange for the

British tea import (Ibid, 96-109). These imperial trades were initiated after the 1783 end of the American Revolution through a "counterrevolution" (Linebaugh and Rediker 2001, 236) that formed the U.S. as a new white supremacist liberal imperial nation-state (Ibid, 227-47) and consolidated the first "Anglo-American imperial" (Lowe 2015, 80) trade integration. The opium trade operationalized this period's rise of the criminalizing discourse of security, surveillance, and discipline in the name of advancing international free trade. It induced "docility and dependence" in Chinese labourers (Ibid, 103) and paved the way for increased surveillance in the name of security, criminalized Chinese labourers as deviant and diseased, and used mass export to the Americas (as indentured labourers) as a disciplining tool for the surplus population it thereby created in South Asia (Ibid, 121-133). The nineteenth-century liberal discourse of criminality was a direct expansion of the seventeenth-century British liberal thought that justified stealing Indigenous lands and enslaving African people in the Americas. But in the nineteenth century, this discourse was further developed through John Stuart Mill's conception of liberty that emphasized securitizing free trade through despotism, discipline, and forced education (Lowe 2015, 15, 105-110).

The liberal discourse of security has sustained and normalized heteronormative white supremacy in liberal societies by establishing carceral measures to criminalize and spatially confine Indigenous peoples and differently racialized populations. Making racialized bodies susceptible to spatial confinement, and using martial laws, state police, and different carceral modes to detain and imprison, have been routine processes for maintaining the liberal state's sovereignty by marking the boundaries of national belonging. Legalizing state practices of dehumanizing racialized people marked as criminals have longed served as a means to grant the liberal state the authority to decide which lives are worthy of being legally protected. Giorgio

Agamben conceptualizes this legalized procedure as a marker of liberal sovereign power through creating liminal figures that he terms bare life. Building on Michel Foucault's notion of biopower, or the claim that modern government is structured around disciplinary practices that demarcate life and death, Agamben describes allegedly threatening people excluded from the liberal state's legal protection as humans reduced to "bare life" (Agamben 1998, 8) or human bodies lacking any significance except for their exclusion from legal protection. He refers to the liberal state's ability to suspend the law as its power to create a "state of exception," "state of emergency," or "state of siege" (Agamben 2005, 4-5). According to Agamben, the assertion of state sovereignty requires continual affirmation and implementation through various exclusionary practices initially justified as temporary measures during times of political crisis or emergency, purportedly to protect the nation. However, these measures gradually become normalized and ultimately turn into "the rule" (Ibid, 9). Thus, the continued creation of states of exception is an unexceptional rule to uphold the liberal state sovereignty by denying the humanity of certain bodies and expelling them from the realm of political life.

Agamben primarily uses the example of the twentieth-century concentration camps (Agamben 1998), where the Nazi regime in Germany detained and ultimately murdered Jewish people deemed as an inferior race posing a threat to the nation, to explain the concept of a state of emergency or exception necessary for producing bare life. The camp demarcates a space for excluding denationalized people (or those deprived of political life within the nation) who still live in relation to the sovereign power of the state by virtue of their exclusion from the state's rule of law. In this case, the state's sovereign power is exercised through maintaining administrative control over the human lives that are excluded from the protection of the law. Describing the camp's condition as that of "inclusive exclusion" (Ibid, 8) from the state's rule of

law, Agamben characterizes this condition of legal indistinction as an "extreme form of relation by which something is included solely through its exclusion" (Ibid, 18). But he extends the realm of legal indistinction that characterizes the inclusive exclusion within the camp to more routine carceral practices of the liberal states that create similar zones of confinement, targeting bodies perceived as dangers to the nation without denationalizing them. In these passages, Agamben notes how the authorization of the states of exception is far beyond the space of the camp. He says, "if the essence of the camp consists of the materialization of the state of exception and in the subsequent creation of a space in which bare life and the juridical rule enter into the threshold of indistinction, then we must admit that we find ourselves virtually in the presence of a camp every time such a structure is created independent of the kinds of crime that are committed there and whatever is denomination and specific topography" (Ibid, 174). Here, Agamben distinguishes between the camp and regular prisons, but also emphasizes that these spaces constitute entangled structures and processes of denationalization and criminalization that work together to deny the very humanity of certain groups of people with the aim of normalizing the state's sovereign power to protect the lives of a privileged group. Elsewhere, he draws on Hannah Arendt to analyze the figure of the refugee, someone rendered stateless or otherwise victimized by the nation-state to which they are affiliated and seeking refuge in another nation-state, as the original figure of the inscription of bare life in the legal-political order of the nation-state (Agamben 1995, 116). Although Agamben does not focus on examining the functions of national borders, he implies that border control practices represent normalized mechanisms for creating states of exception to the liberal state's purported commitment to the rule of law, enabling exercises of sovereignty through inscribing bare life on non-national subjects and controlling their mobility.

Agamben's concept of the state of exception as the biopolitical cornerstone of the contemporary exercise of state sovereignty has been widely used in identifying how practices of inclusive exclusion play a constitutive role in upholding the sovereign power of liberal states. But this concept has also faced criticism for its Euro-centric scope of analysis and its tendency toward generalization. The limitations of this concept often stem from Agamben's treatment of it as an abstract, ahistorical, unified notion underlying all exclusionary practices of the liberal states rather than acknowledging the heterogeneity of camp-like carceral spaces and the different logics of liberal governance that these diverse spaces entail (Isin and Rygiel 2007; Aitken 2008; Rygiel 2010; Nguyen and Phu 2021; Spengler, et al. 2021). Modifying Agamben's account is particularly relevant in analyzing settler colonial contexts such as Canada. Such modifications require paying close attention to the varied ways in which concrete historical practices, entangled with the intertwined global racial logics of settler colonialism and imperialism, constitute the criminalization of racialized bodies through a combination of the suspension of the rule of law within national borders and the enforcement of the rule of law to control the mobility of racialized populations that are not national subjects. Historicized and contextualized uses of Agamben's account reveal how different mechanisms of creating legal spaces for criminalizing Indigenous peoples and racialized subjects within national borders and controlling the mobility of non-national racialized subjects through border control have enabled settler colonial states, in contradictory ways, to sustain their alleged commitment to the rule of law.

Establishing heteronormative white supremacy through this criminalizing discourse, as Indigenous and women of color feminists remind us, has always been a gendered and sexual process based on the violent imposition of Euro-centered notions of proper gender roles. Through the notion of "the modern/colonial gender system," Maria Lugones elucidates how the

imposition of heteronormative gender roles has been integral to the process of European colonization aimed at expanding capitalism globally. She highlights how "the imposition of the European patriarchal and heteronormative gender system was as constitutive of the coloniality of power as the coloniality of power was constitutive of it" (Lugones 2008, 12). The patriarchal and heteronormative European gender system, as Lugones articulates it, is centered on a binary understanding of gender, with man and woman delineated as separate and opposing categories, each associated with pre-described social roles that align with purportedly opposing male and female sexes. Within this framework, heterosexuality defined as the exclusive sexual attraction between male and female is regarded as the norm. Lugones stresses that the domination of this gender system was premised on suppressing alternative notions of gender among colonized people. She observes that this suppression has led to "disintegrating communal relations, egalitarian relations, ritual thinking, collective decision making, collective authority, and economies" (Ibid). The enforcement of this gender paradigm in North American liberal societies necessitated various settler colonial strategies to normalize gendered and sexual violence, impacting Indigenous peoples and other racialized communities disparately over time.

1-2 A Genealogy of Canada's Liberal Settler Colonization

The nation-state that is now called Canada did not exist before the 1867 Confederation when British North American colonies of Nova Scotia, New Brunswick, and the Province of Canada joined to form the British Dominion of Canada. The 1867 formation of Canada, however, was set in motion even before the *1763 Royal Proclamation Act* when France surrendered its North American Maritime colonies to Britain, and increasingly after the 1812 end of the British-American wars and the imposition of the U.S.-Canada border. The genealogy of Canada's settler

colonial state violence that I present here is inevitably selective and reflects my focus on pointing out the interconnected carceral logics of the racial wrongs against Indigenous peoples and racialized communities that Canada has made gestures of acknowledging through its redress practices. In constructing this genealogy, I highlight the carceral logic of Canada's dual settler colonial nation-building processes of genocide against Indigenous peoples[7] and violence against racialized communities while linking these processes to the pre-Confederation liberal settler colonial practices that initiated them. In doing so, I contextualize the current national security discourse that targets, primarily but not exclusively, Muslim and Arab communities, and demonstrate that it builds upon and reinforces other carceral racial state practices that seek to normalize white supremacy.

Although securitizing migration is by no means new in Canada, the post-9/11 security discourse marks a major shift towards an increased use of immigration control to regulate national security (Antonius, et al. 2007; Macklin 2009; Dhamoon and Abu-Laban 2009; Rygiel 2012; Hernandez-Remirez 2019). Therefore, while I primarily trace Canada's carceral logic of establishing white supremacy through different modes of criminalization to eliminate Indigenous peoples and to confine racialized populations within the nation, I also point out the carceral logic of the white supremacist immigration regulations that seek to keep targeted racialized

[7] It is crucial to characterize Canada's treatment of Indigenous peoples as constituting full-fledged genocide, particularly considering that the final report of Canada's Truth and Reconciliation Commission (TRC), in a contradictory way, refrains from framing Canada's treatment of Indigenous peoples as genocide. Instead, it uses the term "cultural genocide" that fails to capture the extent of the harms inflicted upon Indigenous communities (Truth and Reconciliation Commission of Canada 2015, 1:1). Throughout this dissertation, I use the phrase "genocide" according to the legal definition of the term articulated in Article 2 of the UN Convention on Genocide (*Convention on the Prevention and Punishment of the Crime of Genocide*, UN General Assembly, Resolution 260 A (III), A/RES/3/260. (December 9, 1948), Article II: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-prevention-and-punishment-crime-genocide). This Article defines genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group."

populations out of the national borders. Also, while Canada's settler colonial project has arguably always been steeped in heteronormative notions of gender and sexuality, I only highlight the gendered and sexual dimension of Canada's anti-Indigenous violence and post-9/11 national security discourse.

1-2.1 Pre-Confederation Stage

Canada's main legal means for controlling most aspects of Indigenous lives (e.g., controlling who is and who is not an Indian and managing Indigenous governance, education, health, land, and natural resources) has been the *Indian Act*, introduced in 1876. However, violence against Indigenous peoples in what is now called Canada goes as far back as the seventeenth century and is inseparable from practices of slavery in the area (King 2019). Before the Confederation, what is now known as Canada was made up of different colonies under French and British rule in North American Maritimes. The entangled development of settler colonial practices of enslaving African and Indigenous peoples, turning treaty negotiations with the First Nations into colonial tools for confining Indigenous peoples, and criminalizing and segregating Black people in these colonies set the stage for the formation of the Dominion of Canada.

Indigenous peoples had used treaties for thousands of years as protocols reflecting specific tribal values, laws, and ceremonies to exercise sovereignty and make inter-tribal interactions based on respect and reciprocity for coexistence (McNeil 2007, 6). They deployed the same treaty tradition in negotiating agreements with European empires that began to assert authority in the Americas since the sixteenth century. These early treaties included agreements with Dutch and French governments in Acadia (the place now known as Maritimes Canada, including Nova Scotia, New Brunswick, and Prince Edward Island) and with Britain increasingly

after the 1713 Dutch Treaty (Treaties and Aboriginal Government 2010, 4). The early treaties mostly involved reciprocal terms for commercial and military alliances and were not yet turned into colonial means for Indigenous land theft (Vowel 2016, 244).[8] After the American Revolution, however, when thousands of defeated British Loyalists sought to settle in the North, the British used administrative leverages such as the Indian Department (established in 1755) to shift treaty-making practices toward seizing Indigenous lands and resources for establishing an agricultural colony in Upper Canada (mostly in what is now called Ontario). This colonial shift in treaty-making is evident, for instance, in the 1781-1862 Upper Canada Land Surrender Treaties that required, for the first time, the surrender of First Nations lands in exchange for a one-time payment. Only some of these treaties included parcels of lands, called Indian reserves, offered primarily to secure the continued military alliance with Indigenous warriors against the potential threat of the newly formed American State. While Indigenous allies were critical for the British during the 1812 British-American war, after the establishment of peace between Britain and the U.S., the Indian Department rapidly changed its relationship with Indigenous peoples to forced Christianization to purportedly civilize them.

The imposition of the American border divided many traditional Indigenous territories, and the pace of the Land Surrender Treaties increased to open land for farming. The passage of the 1839 *Crown Land Protection Act* legalized Canada's "guardianship" over all Crown lands, including Indian reserves (Crown-Indigenous Relations and Northern Affairs Canada 2017), and further solidified Canada's colonial land seizure. Mining licences were also issued to address developing industrial interests among settler colonizers, without the consent of Indigenous

[8] For instance, the eighteenth-century treaties between Britain and the Mi'kmaq that are known as the Peace and Friendship Treaties (1725-1779) were crucial for Britain in settling colonial conflicts with France (Vowel 2016, 246). Likewise, Indigenous allies were crucial for Britain against the possible "conflicts with the new American State" (Treaties and Aboriginal Government 2010, 5).

peoples. These seizures of land and resources caused fierce confrontations between Indigenous peoples and British colonial government in the 1840s, leading to a new era of treaty negotiations (Aboriginal Affairs and Northern Development Canada 2013a). Resulting from these negotiations were the 1850 Robinson Treaties (covering parts of what is now Ontario) and the 1850-54 Douglas Treaties (covering parts of what is now British Columbia) that formalized setting aside reserve lands and promised ongoing hunting and fishing rights for Indigenous peoples. The government vaguely framed the terms of these negotiations and often violated them, raising many conflicts. These treaties were used as models for later treaties that continued the carceral logic of spatially confining Indigenous peoples to reserve lands.

The enslavement of Indigenous peoples was also one of the earliest forms of enslavement in North American Maritimes. It was commonly practiced in New France (what is now Cape Breton Island) before the first enslaved Black person was brought to the region. Enslaved Indigenous people, called the "Panis," were often captured during colonial wars or brought to New France by fur traders from Western territories (Rushforth 2012, 138). People of African descent were also enslaved in the Maritimes. Until recently, there was a systemic silence around slavery in Canada (Whitfield 2020, 37), partly because slavery was abolished before the Confederation and partly because discussions about slavery have been dominated by U.S.-focused accounts that represent Canada as a place of refuge for Black people, either through the Underground Railroad[9] or Loyalist settlement narratives. The enslavement of Black people in the North American Maritimes began in New France and continued well after the 1763 *Proclamation Act*. As more African enslaved people were brought to the Maritimes, the desirability and the number of Indigenous slaves began to decline, reflecting the racial logic of cross-Atlantic slavery

[9] The Underground Railroad was a nineteenth-century network of abolitionists who facilitated the escape of enslaved Africans in Southern U.S. (through different modes of land and water transportation).

that normalized the enslavement of Black people (Rushforth 2012, 170-80). In 1783, the defeated British Loyalists brought hundreds of enslaved Black people from the U.S. to the Maritimes through Nova Scotia (Maynard 2017, 26). Thousands of Black Loyalists who were nominally freed (as the property of White Loyalists) by the British also came to Nova Scotia.[10] Later and following the 1812 British-American War, more African enslaved people fled from the U.S. to Nova Scotia and Upper Canada, as refugees[11] (Whitfield 2005, 2006, 2010, 2016, 2020; Cooper 2006; Wesley 2018). It was not until the 1834 abolition of slavery in the British empire that enslavement was officially ended in the Maritimes after over 200 years of slavery in the region (Whitfield 2020, 329). But the famous Underground Railroad used the abolitionist climate of the North to bring fugitive slaves to Northern American states as well as Upper and Lower Canada (Shadd, Cooper and Frost 2002). The passage of the 1850 *Fugitive Slave Act* in the U.S. that allowed slave-owners to pursue fugitives in the U.S. increased the number of people of African descent in Canada during the last decades of slavery in the U.S.

By the time of the Confederation in 1867, there were thousands of people of African descent in Canada facing Black subjugation after the official abolition of slavery in the British empire (Cooper 2006; C. Nelson 2016). Criminalizing Black people in the nation-state that would become Canada began to take root in this period. The carceral logic of criminalizing Black people can be traced back to fugitive slave advertisements (Maynard 2017, 40). This racial logic was evident in rape laws aimed at safeguarding white women from alleged assault by Black men (Ibid, 44) and in prostitution laws primarily focusing on prosecuting Black women for

[10] An invaluable source of information about the names and descriptions of the Black Loyalists and enslaved Africans who were taken out of America by British Loyalists is The Book of Negroes that was produced in this period (Library and Archives Canada 2019). Lawrence Hill provides an amazing, fictionalized narrative of Black Loyalists (Hill 2007).

[11] Unlike the U.S., there was no plantation slavery in the Maritimes, but many Black people remained enslaved for domestic purposes and faced many forms of abuse including sexual abuse (Webster 2020, 4).

purported involvement in prostitution offences (Ibid, 46). Most Black people were placed in segregated neighborhoods. Robyn Maynard calls this period that marked the beginning of segregationist immigration, education, housing, and employment policies "Canada's Jim Crow era" (Ibid, 33). These segregationist policies resulted, for instance, in the 1816-1850 formation of Nova Scotia's "African schools" to ostensibly protect white children against the danger of Black children (Ibid, 33). Segregated education for Black children was practiced well into the twentieth century, until 1983 when the last segregated school was closed in Nova Scotia (Ibid, 34). The 1840s establishment of the famous neighbourhood of Africville in Halifax is a good example of Black segregated neighbourhoods.

1-2.2 Post-Confederation Stage

The early settler colonial practices of enslaving Indigenous peoples, turning treaties with the First Nations into colonial tools for confining Indigenous populations, and enslaving and/or confining people of African descent in the North American Maritimes, continued in different forms after the Canadian Confederation. While immigration regulations sought to keep different racialized people or the so-called undesirable races out of the nation, the carceral logic of the early anti-Indigenous and anti-Black settler colonial practices was extended, in different ways, to other racialized communities who managed to enter what became the Dominion of Canada despite racial immigration regulations. The nineteenth-century liberal carceral discourse of criminalizing different racialized peoples to protect the property and trade rights of those legally constructed as white was particularly influential in forming Canada as a British Dominion. I trace interrelated policies and discourses that shaped Canada's immigration regulations and security measures within national borders in four major periods: nineteenth-century Westward

expansions, the early twentieth century and the wartime period, the Cold War era, and the neoliberal era.

1-2.2.1 Nineteenth-Century Westward Expansions

After the 1867 *British North American Act* and the creation of the Canadian Confederation (the Dominion of Canada) and under Section 91(24) of this *Act*, which gave the federal government the "exclusive legislative authority" to legislate in relation to "all matters coming within the Classes of subjects [..] Indians, and lands reserved for the Indians,"[12] stealing Indigenous lands and confining Indigenous peoples became the primary focus of Canada's relationship with Indigenous peoples. These practices were always met with Indigenous resistance, but when the 1868 *Rupert's Land Act* allowed Britain to transfer the ownership of Rupert's Land to Canada without Indigenous consent or even consultation, Indigenous resistance took the form of open revolt (Royal Canadian Geographical Society 2018, 2:23). This revolt, known as the Red River Resistance, was led by Louis Riel who had formed a Métis provisional government in the Red River area (what is now Manitoba). Canada violently suppressed this resistance in 1870 and established the province of Manitoba, which led to the dispossession of Métis communities who fled to the U.S. or the Northwest Territories (including what is now Alberta and Saskatchewan).[13] The post-Confederation treaties with the First Nations started with eleven treaties, called the Numbered Treaties (Crown-Indigenous Relations and Northern Affairs Canada 2023). The first seven (1871-77) sought to open land for Canada's Westward expansion, and the last four (1889-1921) sought to facilitate government's access to Northern Canada for its natural resources.

[12] *Constitution Act,* 1867 (UK), 30 & 31 Vict, c 3, s 91 ss 24: https://laws-lois.justice.gc.ca/eng/const/page-3.html#h-18.

[13] When the 1875 *Northwest Territories Act* was assented to, however, no provisions were made for the Métis who had already established their local self-government in this area (Royal Canadian Geographical Society 2018, 4:36).

Canada's westward expansion importantly included the construction of the Canadian Pacific Railway (CPR), initiated in 1881 (shortly after the completion of the U.S. Pacific Railway) and completed in 1885. The CPR and the expansion of trade it facilitated in Western provinces formed important sites that directly connected settler colonial practices of dispossessing Indigenous peoples and exploiting racialized immigrant labour while strictly segregating differently racialized populations (Mawani 2002, 2009; Day 2016; Maynard 2017). Canada's major means for controlling the flow of immigrants has been border control practices through immigration regulations. In an important sense, immigration policies inevitably include transnational considerations since the movement of people across borders always involves more than one nation state (Abu-Laban and Gabriel 2002, 54). That said, in Canada, early immigration policies (before the Cold War) were mostly regulated as a domestic issue, geared towards the perceived needs of domestic labour market and informed by Canada's white supremacist cultural preference to attract immigrants only from Britain and the U.S.—although not African Americans (Ibid, 37-8). The first *Immigration Act* was passed in 1868, allowing the CPR to recruit and employ immigrants from China for long hours of difficult but low-paid labour of completing the railroad, especially its Western section. By 1885 when the CPR was completed, however, the *Chinese Immigration Act* was passed, restricting immigration from China by imposing a "head tax" on Chinese immigrants until 1923, and completely banning Chinese immigration until 1946.

This race-based form of migration control invoked "the concept of imperial citizenship" (Nguyen and Phu 2021, 12) to assert Canada's national dominance as a British Dominion long before Canada gained autonomy as a nation-state (Anderson 2013). Besides excluding Chinese people from entering Canada, this immigration policy was used to label Chinese migrants who

managed to cross the borders as illegal subjects and to confine them in prison-like detention facilities called "Chinese detention sheds."[14] The origins of Canada's immigration detention should be traced back to these early detention sheds. Within these detention sheds, the Chinese migrants lived under the carceral condition that Agamben terms "inclusive exclusion," exposed as bare life to the state's sovereign violence through administrative control while being excluded from the state's legal protection. Canada's early anti-Chinese immigration policy was a key step in legalizing racism against (im)migrants from East Asia in Canada, through "a wide-ranging framework of racially discriminatory legal measures designed in conception and implemented in practice to disadvantage Chinese Canadians" (Backhouse 2005, 24). Alongside the rise of anti-Chinese racism, Canada's Black subjugation and confinement remained prevalent in this period.

Meanwhile, the *Indian Act* was passed in 1876, creating the legal category of status Indian as the only recognizable category of legitimate relationship between Canada and Indigenous peoples and establishing a paternalistic framework for this relationship. This *Act* was initially considered a transitional assimilationist provision to regulate the First Nations, or Indigenous peoples who had treaty agreements with Canada, by setting the terms of the "Indian status" and "Indian rights." It has been amended many times, but in essence it has remained the government's main legal tool for undermining Indigenous sovereignties. Following Leanne B. Simpson, I refer to Indigenous sovereignties as diverse forms of "authentic power coming from a generated consensus and a respect for dissent rather than sovereignty coming from authoritarian power or power-over style of governance" (Simpson 2015, 19). Simpson articulates how diverse forms of Indigenous knowledge root sovereignty in "good relationships, responsibilities, a deep respect for individual and collective self-determination, and honoring diversity" (Ibid).

[14] The carceral logic of the Chinese detention sheds is only recently beginning to be examined. For more details on these sheds, see: (Cheung 2021; Schwinghamer 2021).

Sovereignty in this sense arises from the place-based knowledge belonging to each specific Indigenous community, which is focused on "caretaking of the land and ensuring that coming generations inherit healthy and clean land so that life, all life, may perpetuate itself" (Ibid). This place-based sovereignty grants each community the right to self-determination or the authority to determine the normative political terms for governing their communities without intervention from other governments. Simpson specifies that this notion of self-determination is based on non-hierarchical political cultures and maintaining relationships "through balance, care, and nurturing rather than coercion" (Ibid). From the perspective of the First Nations, treaty agreements include tacit or explicit acknowledgement of their sovereignty as self-governing nations. Canada's legitimacy as a nation, from this perspective, is based on its full compliance with the terms of the treaties (Niezen 2000; Henderson 2002; Maracle 2017). Seeking to homogenize the diverse terms and specific contexts of treaty agreements with the First Nations and determining their terms of legitimacy, therefore, is one way in which the *Indian Act* undermines Indigenous sovereignties. As Dale Turner points out, Indigenous philosophies (ways of knowing), including their understanding of social life, political power, and political agreements, are rooted in oral traditions that are dynamic in nature (Turner 2006, 81-8), and therefore are at odds with this *Act*'s goal of claiming final overall authority over defining the parameters of legitimacy for political practices of the Firth Nations. In this sense, Canada's main law concerning Indigenous peoples has continually enacted the inherent conflict between Indigenous and colonial perspectives on the terms of the treaties.

Besides causing many dispossessions among the First Nations, this *Act* has also resulted in dismissing the grievances of Indigenous populations not registered as status Indians, including the Métis (Lawrence 2003, 6). Early on, Métis land claims protesting the 1875 *Northwest*

Territories Act were ignored until 1884 when the Métis (and their First Nations allies) took arms again in a series of battles known as the Northwest Resistance. The government used Canadian arms and the newly created (in 1873) Northwest Mounted Police (NWMP) to suppress this resistance. The formation of the state police was foreshadowed by the 1868 passage of the *Militia Act* and allowed the government to use security measures to forcefully govern outside the constraints of regular law by temporarily suspending the civil rights of allegedly threatening people under the circumstances that were declared "exceptional" (Scheppelle 2006, 216). Suppressing the 1885 Métis resistance was the NWMP's first major task and the first post-Confederation substantial domestic use of military forces (Ibid, 217-8). It was foundational to the establishment of what later became Canada's national police. This shows that Canada's commitment to carcerality through policing and imposing different modes of criminalization against racialized bodies to construct them as what Agamben calls bare life is historically rooted in suppressing Indigenous resurgence. After 1885 and fearing Indigenous uprisings such as the Red River and Northwest Resistance, the government introduced the "pass system," requiring members of the First Nations to acquire travel documents from Indian agents to leave and return to their reserves (Barron 1988).

The *Indian Act*, therefore, has been used to perpetuate Indigenous confinement not just through establishing the reserve system (initiated from before the Confederation) but also by extending this carceral logic to suppress Indigenous resurgence and to criminalize Indigenous peoples off reserves. Mark Rifkin explains the government's legal approach to negating the authority of Indigenous peoples to determine their normative political principles as a circular and self-validating performance to establish "a monopoly on the legitimate exercise of legitimacy" or an "exclusive, uncontestable right to define what will count as a viable legal or political

form(ul)ation" (Rifkin 2009, 91). His explanation of the government's use of law to undermine Indigenous sovereignties highlights the carceral nature of this practice by framing it as enacting states of exception, in Agamben's terms. Adjusting the individualized notion of bare life in Agamben's thought, he introduces the notion of "bare habitance" to capture the ways in which settler colonial states situate Indigenous lives outside the protection of the law while subjecting them to the violence of colonial rule by regulating legitimate modes of collectivity and occupancy in Indigenous communities (Ibid, 90). The (re)production of a national space, he contends, depends on "coding" Indigenous peoples (Ibid, 95) as bare habitance[15] and defining the parameters of legitimacy among Indigenous collectivities.

The *Indian Act*'s carceral logic of regulating the legitimacy of Indigenous lives also importantly included the active destruction of Indigenous cultures and languages. A key element of this genocidal treatment[16] was establishing church-run, government-funded Indian residential schools legalized by the 1884 amendment to the *Indian Act*. Residential school forced Christian education was intensified by broader explicit bans on Indigenous cultural practices such as the Potlatch and Sundance ceremonies (Crown-Indigenous Relations and Northern Affairs Canada 2017).[17] Residential schools' education was deeply embedded in the heteronormative interpretations of Christian proper gender roles. The imposition of heteronormative notions of gender preceded the introduction of the *Indian Act*, through laws such as the 1869 *Gradual*

[15] The context of Rifkin's analysis is the U.S. legal regulation of Indigenous peoples, but his main point about the carceral nature of the settler colonial use of law to confine Indigenous lives is applicable to Canada as well.
[16] Crucial pre-Confederation laws like the 1851 *Gradual Civilization Act*, prefigured Indigenous assimilation by encouraging members of the First Nations to become British subjects and receive promised governmental healthcare, education, and land title provisions in exchange for giving up their lands and existing treaty rights while accepting to speak either English or French and choosing government-approved surnames (Royal Canadian Geographical Society 2018, 2:38-42).
[17] These bans were effective until after the Second World War when Indigenous peoples attended the 1946 Special Joint Committee of the Senate and the House of Commons to take direct legal action (without the mediation of the Indian Department) to confront the state's genocidal policies (Crown-Indigenous Relations and Northern Affairs Canada 2017).

Enfranchisement Act declaring that Indian women who marry white men would lose their Indian status and rights to band membership (Lawrence 2003, 7). The *Indian Act* built upon this definition of "Indianness" (Ibid) by adding the "marrying out clause" and denying Indian rights to Indigenous women who married men without Indian status. These sexist laws were reinforced by early impositions of the Christian monogamous marriage, especially in Western Canada. Normalizing monogamy was often carried out by federal bureaucracies, missionaries, and residential schools that sought to "create dutiful and obedient [Indigenous] wives" (Carter 2008, 189) and to "prohibit [..] nonconformist marital arrangements" (Ibid, 284) for Indigenous women. On this model, divorce was strictly prohibited, and the chances of a "widowed" or "deserted" Indigenous wife to inherit anything from the husband were very limited (Ibid, 285). Christian normative gender provisions were also reflected in the girls' curriculum in residential schools (e.g., in 1910-70 "Girl Guides") preparing Indigenous girls for Canadian integration while ironically conveying the image of an "authentic Indian" (McCallum 2014, 4). Residential school Christian gendered training played a major role in Indigenous women's overrepresentation as domestic servants in urban contexts (Ibid, 225-27).

1-2.2.2 Early Twentieth Century and the Wartime Period

The early twentieth century was a period of heightened genocidal violence against Indigenous peoples through forced Christian education of Indigenous children and intensified land seizures while halting treaty negotiations altogether. When the 1920 Amendment to the *Indian Act* was passed, and Indigenous peoples became subjects of Canadian law without their consent, residential school attendance was made mandatory for Indigenous children at school age without providing sufficient staff and space to accommodate them (Truth and Reconciliation

Commission of Canada 2012, 17). The 1930s Depression brough further funding cuts to the schools and further deteriorated their already poor conditions. By the 1940s, it was clear that this system was a failure, and the government planned to "phase out" the schools and transfer the education of Indigenous people to the provinces (Ibid 19). But the long and complex process of closing residential schools did not begin until after the Second World War. Likewise, Indigenous land seizures intensified after the turn of the century; while Canada was negotiating the Numbered Treaties with Indigenous peoples, there were rising concerns in Indigenous communities in the 1910s about existing treaties in Ontario. Responding to these concerns, Canada signed the Williams Treaties (among the most problematic treaties in Canada) with the First Nations of the region in 1923 and took land negotiations back to the Upper Canada Land Surrender era (Aboriginal Affairs and Northern Development 2013b). Treaty negotiations were terminated at this point until 1973 when they resumed in response to Indigenous uprisings against Canada's Northern Industrialization through the Mackenzie Valley Pipeline (Coulthard 2014, 57). Meanwhile, the passage of the 1930 *Natural Resource Transfer Act*, solidified Canada's grasp of Indigenous natural resources.

Concurrently, new white supremacist immigration laws (such as the 1906 and 1910 *Immigration Act*s) gave the government enhanced power to racially control the borders and prevented court reviews of the (im)migrant admissions process, reclaiming the sovereign power of reducing racialized migrants to bare life. Apart from Chinese immigrants, other categories of discouraged or prohibited immigrants in this period included Black Americans (Shepard 1991; Maynard 2017) and immigrants from Japan and India (Mongia 2019). At this stage, Canada focused on attracting immigrants, mostly agricultural workers, from Southern and Eastern Europe (Abu-Laban and Gabriel 2002, 37). Robyn Maynard notes that Canada proactively

prevented Black immigration from the U.S. and the Caribbean but mostly concealed it behind "polite euphemism[s]" (Maynard 2017, 35) that explained immigration exclusions as being in the interest of Black people.[18] Other racist immigration regulations in this period included the 1908 *Gentlemen's Agreement* with the Japanese Government that severely restricted immigration from Japan and the *Continuous Journey Regulation* that effectively blocked immigration from India (Mongia 2019, 104-5). In fact, after the enforcement of the *Continuous Journey Regulation*, only a few immigrants from India, namely the 56 passengers of the *Panama Maru* in 1913 managed to successfully enter Canada through Victoria by Challenging the Board of Inquiry of the Department of Immigration for the incompatibility between this *Regulation* and the language of the 1910 *Immigration Act* (Ibid, 107). Inspired by their court success, Indian passengers of the famous *Komagata Maru* sought to enter Canada via Vancouver in 1914, but the incompatibility between Canada's regulations to prohibit immigration from India were resolved by then and the 375 passengers of the *Komagata Maru* were deported back to India where many of them were tragically shot (Kazimi 2011).

Immigration was mostly halted during the First World War. Shortly after the War, the rapid rise of Bolshevism and the 1917-20 domestic labour revolts sparked the government's fear of a domestic socialist revolution. The combination of this fear and the economic problems of the First World War resulted in more restrictive (im)migration regulations, enabling Canada's state police to monitor (im)migrant and refugee applications (Whitaker 1987, 33-7). Excluded (im)migrant groups in this period included the Communists and immigrants from countries that had fought against Canada during the First World War (Canadian Museum of Immigration at Pier

[18] For instance, Maynard explains two euphemistic tropes in Canada's early anti-Black immigration policies, including the language of Canada's "climatic unsuitability" for people of African descent and the framework of avoiding "the 'Negro problem' that existed in the U.S." (Maynard 2017, 36).

21 n.d.). Antisemitism also became particularly strong then; immigration officers deliberately manipulated immigration regulations to keep out the Jewish people, regardless of their country of citizenship or place of birth (Abella and Troper 1983, xii-xiii). Meanwhile, in 1931, at the onset of the Great Depression and its resulting widespread unemployment, the state passed *Order-in-Council 695*, Canada's tightest immigration policy till then, and restricted immigration to American and British subjects or agricultural workers with sufficient means to support themselves until they find permanent jobs. In the years leading to the Second World War, despite evidence of rising antisemitism and persecution of Jewish people in Nazi Germany and pressures from Jewish communities in Canada, mobilizing under Jewish Immigrant Aid Society (JIAS) and the Canadian Jewish Congress (CJC) to save Jewish refugees (Ibid 33), Canada's antisemitic immigration policies did not alter (Ibid, 16). After Germany's *Kristallnacht* horrors, protests emerged across Canada to promote pro-refugee changes in state policies. Yet, in 1939, the state denied entry (based on the 1931 *Order-in-Council* immigration regulations) to the 907 Jewish refugees on the famous M.S. *St Louis* who had fled the Nazi Germany's rising antisemitism and returned them to Europe where most of them faced death (Grzyb 2012). Canada's overtly racist immigration exclusions were in effect until the 1960s.

Likewise, the state's rising fear of a domestic socialist revolution since the 1910s reinforced the government's wartime use of police force, state surveillance, and martial laws against racialized communities within national borders. In 1914, with the beginning of the First World War in Europe, Canada also declared a state of war and denied exit from Canada to immigrants of Austro-Hungarian (mostly Ukrainian) descent. Laws passed under this declaration, including the *War Measures Act* (used for the first time in Canada), gave a wide emergency executive power to the government to monitor what they called "aliens of enemy nationalities"

or residents from nations that Canada was fighting against[19] (Kardon and Mohavsky 2004, 12). The Dominion Police (DP) from eastern Canada and the Northwest Mounted Police (NWMP) were deployed to arrest the so-called "enemy aliens" (Ibid) as Prisoners of War (POW). Under these extended measures and responding to difficulties of labour market, arrested POWs were used as cheap labour for difficult and dangerous government public projects such as road and national park construction (Ibid 78). The state's policing and intelligence further escalated when the First World War ended. After having played a key role in handling the interment of "enemy aliens" during the war and the 1919 Winnipeg General Strike, the NWMP merged with the DP and formed the Royal Canadian Mounted Police (RCMP) in 1920. This period's heightened surveillance also further intensified anti-Black racism, especially through the 1920s "sundown laws" that enforced Black people to be indoors and out of public space before sundown (Brand 1991), echoing a logic of racial segregation not unlike one imposed on Indigenous communities through the "pass system" that had been in effect even before the Confederation. The RCMP Security Service that was RCMP's intelligence section was officially established in 1936 with the mandate to identify radical organizations and prevent dissent. It was in operation for about fifty years until the 1984 creation of a civilian national intelligence service (Kealey 2017, 169).

At the beginning of the Second World War in 1939, under the authority of the *War Measures Act* (enacted for the second time) and the extensive power of the Defence of Canada Regulations (DOCR), the civil rights of targeted racialized groups were suspended again in a new state of emergency, and a new empowering phase began for the RCMP and its Security Service (Forcese and Roach 2015, 146). The RCMP recommended outlawing the Communist

[19] At the beginning, this *Act* was limited, specifying that enemy aliens who pursue "their ordinary avocations" would not be interfered with (Kardon and Mohavsky 2004, 13). But it got extended in a few months through the creation of registry offices for "enemy aliens" and making provisions for interning them.

Party under the *War Measures Act* and particularly suspected Communists in trade-unions (Kealey 2017, 147-153). The RCMP Security Service also played a notorious role as the state's agent in initiating the Second World War internments of "enemy aliens" (even though running the internments was not RCMP's responsibility), including Jewish refugees and immigrants of German, Italian, and Japanese descent. Registering the Second World War "enemy aliens" accelerated the expansion of the RCMP's surveillance database (Ibid, 157) and set the stage for the following Cold War security measures (Ibid, 201). The wartime was a period of police intensification that enriched the RCMP and thereby perpetuated Canada's legacy of suppressing Indigenous resurgence, first practiced by the newly formed NWMP in 1885 against the Métis resistance. It is also crucial to note that the state's racial logic of planning wartime internments was closely linked to the logic of genocide against Indigenous peoples. Mona Oikawa notes, "the administrative body in charge of the expulsion of Japanese Canadians, considered using residential schools such as the United Church institutions in Edmonton and Brandon, and the Catholic school in Kamloops for the internment of Japanese Canadians" (Oikawa 2006, 21). Residential schools were not eventually used for interning Japanese Canadians, but this planning process reveals the common function of spatially confining racialized populations and colonizing Indigenous peoples; they both reproduce white supremacy through the carceral logic of dividing the space into "respectable" white-dominated zones separated from colonized and racialized zones outside it (Ibid, 17-8).

1-2.2.3 The Cold War Era

Contradictory global and local changes shaped Canada's postwar period, setting the stage for its increased participation in the neoliberal phase of global capitalism. On the one hand, with the

beginning of the Cold War Anti-Communist hysteria in North America, a new period of increased surveillance and national security measures and destructive technological competition with Communist countries started in Canada. This increased surveillance was in fact a return of the state's 1917-25 fear of the labour revolts and the perceived domestic threat of a Communist-led revolution (Kealey 2017, 5). On the other hand, the global postwar rise in human rights discourses and multiple local pressures from grassroots movements pushed the state to introduce a local Charter of Rights and implement a Keynesian model of welfare state towards expanding social security and assistance (Battle and Torjman 2001, 11-20) that gave rise to major parliamentary debates in the lead-up to the 1982 *Constitution Act***.** This period's carceral logic of maintaining white supremacy that further dispossessed Indigenous, Black, and other racialized communities in different, yet related ways developed through the postwar discourses of national security and welfare state social security.

The Cold War started in Canada in 1945-6 with the defection of Igor Gouzenko from the Soviet Embassy in Ottawa and the arrest of suspected Soviet spies. It lasted until the fall of the Soviet Union in the 1990s (Whitaker, Kealey and Parnaby 2012, 179-80). This period granted the RCMP a new phase of power extension to further develop its white supremacist ideology with a renewed focus on the alleged "Communist threat" (Ibid, 180). This phase of the RCMP power extension had a sharp anti-Indigenous edge (mirroring, of course, this institution's historical roots in suppressing Indigenous insurgence) that caused lasting harms in Indigenous communities. These harms included the 1950s RCMP-aided forced relocations of the Inuit to the High Arctic to establish the so-called Canadian Sovereignty in the Arctic in competition with the Soviet Union,[20] and the 1950-70s RCMP-aided sled dog slaughters to force the Inuit to

[20] For more details about these harms, see the government's 1994 report on them (Royal Commission on Aboriginal Peoples 1994). Also see, Section 11 of the RCAP's 1996 Report, Volume 1, Looking Forward, Looking Back

permanently settle.[21] Likewise, the Cold War strategy of rapid industrial development brough major dispossessions in Black communities. This strategy was the main framework for the demolition of the deliberately underserviced historical neighbourhood of Africville in the 1960s by Halifax Regional Municipality (HRM) to make room for new profit-making sites, symbolizing the state's continued active devaluation of and violence against Black lives (Maynard 2017, 77). As Ted Rutland puts it, "postwar planning in Halifax was a local expression of a broader process of planned change in cities across North America, Europe, and much of the world" (Rutland 2018, 117) toward (Fordist) economic expansion by supporting "domestic industry" and reproducing economically productive urban labour force and consumer market (Ibid, 120).

On the other hand, severe internal military conflicts and the postwar global discourse of human rights brought the corruption of police and intelligence services under closer scrutiny and paved the way for "accountability reforms" that earned Canada international praise without altering the white supremacist carceral logic of state policing (Whitaker 2012, 14). This period's major military crisis was the implementation of the *War Measures Act*, for the third and last time, in response to what is now known as the October Crisis. In 1970, the Front de libération du Québec (FLQ) kidnapped British diplomat James Cross and Quebec Cabinet Minister Pierre Laporte. Prime Minister Pierre Trudeau enacted the *War Measures Act* outside the context of an official war to handle this crisis. Following this announcement, federal troops occupied Quebec, in response to which the FLQ killed Laporte. The Parliament then voted to outlaw the FLQ, criminalized its membership, and authorized the arrest and detention of the suspects. Laporte's

(Royal Commision on Aboriginal Peoples 1996b, 1:395-522). The RCAP's 1996 Report specifies that Indigenous forced relocations began as early as 1911 and were common throughout the twentieth century (Ibid, 396).

[21] For a good analysis of these harms, see the 2013 report of the independent Qikiqtani Truth Commission (Qikiqtani Inuit Association 2013).

killer was eventually found, the army withdrew from Quebec, and the *War Measures Act* expired in 1971 (Scheppelle 2006, 230-1). The implementation of the *War Measures Act* and the RCMP's subsequent involvement to allegedly prevent other terrorist attacks in the lead up to the 1976 Montreal Olympics caused major harms (Forcese and Roach 2010, 39) and raised many public and parliamentary criticisms. Eventually, a public inquiry, the 1977-81 McDonald Commission, or the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police,[22] was held regarding the RCMP activities, the final report of which came out in 1981. It recommended new accountability measures to hold the police legally responsible by creating a civilian security agency (detached from the RCMP) and the Canadian Security Intelligence Service (CSIS), subject to "precisely defined legislative mandates, ministerial controls, and review" to replace the RCMP Security Service (Ibid 40). Despite initial resistance to its creation (Ibid 41), the CSIS was created in 1984 and the Security Intelligence Review Committee (SIRC) was established to oversee CSIS. A year later, The *Privacy and Access of Information Act* was passed, giving the public access to government intelligence records for the first time (Kealey 2017, 4). In 1988, the *War Measures Act* was replaced by the more moderate *Emergencies Act* that restricted the state's power to announce states of emergency by allowing the Parliament to revoke declarations of emergency (Scheppelle 2006, 230).

These changes to policing and intelligence services are often referred to as accountability reforms, but the government's response to this period's major terrorist attack (the largest mass murder in Canada) revealed deep racism within the newly formed CSIS. This major terrorist attack was the 1985 twin bombings of Air India that killed all 392 passengers of Air India Flight 182 mid-air over the Atlantic Ocean and two Air India luggage handlers in a Tokyo airport. Yet,

[22] This Commission published its findings in three reports between 1979 and 1981 (McDonald 1979-81).

the RCMP-led criminal investigations that followed this tragedy completely lacked the urgency to reflect the scope of this loss and only charged three men for participating in a terrorist plot that led to these bombings, two of whom were acquitted by 2005 for lack of evidence that the CSIS was in charge of providing (Forcese and Roach 2015, 45-50). It was only after the families of Flight 182 victims pressured the government to explain its investigation failures that a Commission of Inquiry was formed to examine the investigations and revealed that the CSIS had enough intelligence information before the bombings to prevent them but kept it secret and then destroyed it in post-bombing investigations to protect government secrecy (Ibid). While the government's failure in "converting intelligence to evidence" (Ibid, 53) in actual cases of security threat that came to the surface in light of the Air India bombings remained unaddressed, as I will explain shortly, disproportionate criminalization of Indigenous, Black, and other racialized communities continued in this period and gained a new momentum after 9/11.

Canada's postwar immigration regulations also reflected the ways in which the postwar human rights discourse and the welfare state model, in contradictory ways, furthered the carceral logic of sustaining white supremacy; the 1947 *Citizenship Act* granted citizen status to "qualified" residents for the first time (prior to that, "naturalized" immigrants and those born in Canada were categorized as British subjects). Disenfranchisement regulations against the Chinese, Indian, and Japanese Canadians were also withdrawn (Abu-Laban and Gabriel 2002, 43). The first notable departure from pre-welfare state immigration regulations was introduced by the 1962 *Order-in-Council 86* that proposed eliminating overt racial discrimination in immigration criteria and replacing it by new criteria based on skills. This proposal was legislated in 1967 and is now known as the "point system." The state's rhetoric for this period's (im)migration liberalization was fostering human rights, multiculturalism, and cultural diversity

(Ibid, 45). It was reflected in the 1969 signing of the UN Convention Relating the Status of Refugees[23]; the 1971 introduction of the first multiculturalism policy; the 1973 introduction of the Non-Immigrant Employment Authorization Program (NIEAP) that created the category of migrant worker; and the 1976 passing of the *Immigration Act* that defined refugees, for the first time, as a distinct group of immigrants. As a result of this shift, there was an increase in the number of (im)migrants from countries outside Europe, especially from East Asia (Ibid, 55). In the context of the Cold War, however, (im)migration remained closely restricted by police surveillance in the name of national security (Ibid, 41). Despite the state's rhetoric of diversity and human rights, a new hierarchy of national belonging emerged through highly racialized differential categories of citizens, immigrants, migrant (foreign) workers, refugees, and asylum seekers that embedded a racial segregation of economy without overt racial exclusions (Sharma 2006, 7-19; Maynard 2017, 64-71). The majority of those who entered Canada in this period came under the subordinated status of undocumented or temporary foreign workers (rather than permanent residents) and were required "upon arrival" to have "temporary employment authorizations" (Sharma 2006, 19).The precarious racial logic of migrant labour programs and their carceral and punitive consequences considerably intensified Canada's anti-Black racism.

The government's child welfare system that remarkably grew in this period was another white supremacist carceral measure particularly detrimental to Black and Indigenous communities. The federal child welfare was created in 1920 based on racialized eugenics principles to put racialized immigrant communities under surveillance (Maynard 2017, 186-92). The mid-twentieth century increase in under-funded child welfare centres and later out-adoptions

[23] *Protocol Relating to the status of the Refugees,* UN General Assembly, United Nations Treaty Series, Vol. 602. (January 31, 1967): https://www.refworld.org/legal/agreements/unga/1967/en/41400.

[by white adopters who self-identified as liberals (Ibid, 190)] brought lasting harms to Black and Indigenous families, causing numerous cases of child abuse and beating. The government was also planning to close residential schools in the South, but it extended this system in the North[24] and recruited Inuit children. While most residential schools were closed by the 1980s, the last ones (including Saskatchewan's Gordon's Student Residence and Prince Albert Student Residence), did not close until the mid-90s (Truth and Reconciliation Commission of Canada 2012, 20). As a result, residential schools were in operation for over 160 years. As the grip of residential school mandatory attendance began to loosen in the 1950s, a new series of federal policies known as the Sixties Scoop was introduced to hold Indigenous children in foster care outside Indigenous communities and sometimes outside Canada (Hargreaves 2017, 13). It resulted in a rapid increase in child removal and out-adoption in Indigenous families (often without the consent or even the knowledge of the parents) in the 1960s and lasted until the 1980s (Vowel 2016, 181).

The compulsory enfranchisement of Indigenous people in the early twentieth century, such as the 1920 amendment to the *Indian Act* that announced Indigenous peoples as British subjects contrary to the treaties that recognized some Indigenous peoples as British allies (Woo 2003, 3-7), as well as increased child removals and accelerated extraction of natural resources for increased energy production during the Cold War led to new waves of Indigenous protests. In

[24] This change of policy reflects the 1939 Supreme Court decision, which ruled that the Inuit peoples (referred to as "Eskimos" at the time) "Were a federal, not a provincial responsibility" (Truth and Reconciliation Commission of Canada 2015, 2:179), thereby resolving the conflict between the federal government and the provincial government of Quebec, both of which had been refusing to take any responsibility for the Inuit peoples. (*Reference as to whether "Indians" included in s. 91(24) of the B.N.A. Act includes Eskimo in habitants of the Province of Quebec*, [1939] SCR 104: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/8531/index.do.) This decision announced the Inuit as "Indians" within the meaning of the Section 91(24) of the 1867 *Constitution Act* that granted the federal government "exclusive legislative authority" to legislate in relation to "Indians, and lands reserved for the Indians". Therefore, the ruling did not include recognizing the Inuit as "status Indians" who would be governed under the *Indian Act.*

response to these protests the government eventually proposed to abolish the *Indian Act* in 1969 (in the so-called *White Paper*) and eliminate even the limited terms of Indigenous rights recognized in Canadian law. The *White Paper* faced a backlash and was withdrawn, but it revealed that Canada's only alternative relation to Indigenous peoples other than claiming to define the parameters of legitimacy in Indigenous lives through the *Indian Act* was to deny that there is a relationship altogether. These Indigenous uprisings also pushed the state to resume negotiating treaties with Indigenous peoples (halted since 1921). These treaties (initiated in 1973) are known as the modern treaties or Comprehensive Land Claims Agreements and are ongoing.[25] In addition to the modern treaties, Canada is now negotiating what is called Specific Land Claims that are related to the administration of land and the fulfillment of historic treaties.[26] But, as I will show in Chapter Two, the government's modern treaty negotiations were initially mostly about securing capitalist profit-making to continue colonial land seizure while creating deep divisions within Indigenous communities. Both modern treaties and Specific Land Claims have been continually used as mechanisms for undermining Indigenous peoples' place-based sovereignties by limiting Indigenous jurisdictions or governing laws over their ancestral lands, in exchange for a narrow set of rights explicitly outlined in Land Agreements. Moreover, while the major rise in Indigenous women's activism in this period (detailed in Chapter Two), pushed the government to repeal the *Indian Act*'s "marrying out" clause in 1985, the decades-long impact of this sexist law did not end then. The lingering traumas arising from centuries of violence against Indigenous women facilitated by the "marrying out" clause, the imposition of Christian monogamy, and Christian gendered education in residential schools, to name just a few, have

[25] For more details about these treaties, see: (LAND CLAIMS AGREEMENT COALITION 2017-24).
[26] For the differences between modern treaties and Specific Land Claims, see: (Crown-Indigenous Relations and Northern Affairs Canada 2024).

directly caused the disproportionate social violence against Indigenous women manifest in the ongoing tragedies of Missing and Murdered Indigenous Women and Girls (MMIWG).

Indigenous feminist activists and writers in the 1960s and 1970s who confronted the sexist nature of the *Indian Act* and the government's approach to Indigenous women made major interventions in conceptualizing Indigenous sovereignties by highlighting the issue of gender, sexuality, and kinship in their analyses of the impact of colonialism in Indigenous communities. For instance, in her influential non-fiction *I Am Woman*, Lee Maracle emphasizes the inseparability of her work as an activist and as a writer and underlines how in their struggle for Indigenous sovereignty, Indigenous women had to push back against both Canada's sexist laws against Indigenous women and Indigenous male leaders who were complicit with it. She articulates sovereignty or self-determination in terms of Indigenous people's struggle to undo Canada's systemic destruction of Indigenous knowledge and laws and to restore the teachings of elders about how to live as "the caretakers of this land" (Maracle 1996, 42), according to standards and principles that "prohibited the exploitation of the land or people in the interest of profit" (Ibid, 41). Putting particular emphasis on the 1960s and 1970s as a period of revival in Indigenous sovereignties, Maracle emphasizes how Indigenous women had to challenge elite Indigenous male leadership in order to put the fight against gendered and sexual violence against women front and centre in Indigenous struggles for sovereignty. Likewise, Dian Million explains the double struggle of Indigenous women to craft a space for narrating their experience of colonization as a foundation for fighting Canada's ongoing violence. She frames sovereignty in terms of Indigenous people's struggle to regulate themselves as independent nations and examines how Indigenous women used their writings to negotiate their highly political "conditions of speaking" (Million 2013, 77). In doing so, Million notes how Indigenous women

had to challenge both "Canadian state's sexist *Indian Act* and their nation's exclusion of women who had lost Indian status through that act" (Ibid, 75).

1-2.2.4 The Neoliberal Era

In the 1980s and 1990s, Canada began to increasingly participate in neoliberal globalization processes with a more explicit focus on keeping Canadian business competitive in the global markets. In preparation for, and later responding to, the Free Trade Agreement (FTA) and the North American Free Trade Agreement (NAFTA), Canada departed from the postwar Keynesian welfare model and used more explicit business rationales for its social policies (Abu-Laban and Gabriel 2002, 171). Canada's constitutive commitment to carcerality, manifest in segregating and criminalizing Indigenous and Black communities and putting racialized populations under surveillance, further expanded in this period, especially through escalated national security measures after the U.S.-led global "War on Terror" following the September 11, 2001 terrorist attacks in New York and Washington. The state's neoliberal turn to business rationalization of politics that ended the welfare state rhetoric, and the post-9/11 highly racialized intensified national security regulations have been two determining factors in shaping the carceral logic of Canada's white supremacy in the past few decades.

In the first decade after the Constitution, the exclusion of Indigenous peoples (especially women) from major constitutional amendments clearly declared the ongoing colonization of Indigenous lives in Canadian law. Also, although hard-won treaty negotiations were ongoing and despite the newly added Section 35 to the Canadian Constitution that "recognized and affirmed" the existing rights of Indigenous peoples[27], the state's non-consensual seizure of Indigenous

[27] *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11, s 35.: https://laws-lois.justice.gc.ca/eng/const/page-13.html#h-53. This section includes: "Recognition of existing aboriginal and treaty

lands and resources never stopped (Coulthard 2014, 51-78). The 1990 so-called Oka crisis (detailed in Chapter Two), during which Canada used heavily armed forces to stop the months-long blockade of the Mohawk nation of Kanesatake in Quebec to defend their ancestral territory, was a highlight of Indigenous protests since the repeal of the *White Paper* against the state's ongoing destruction of Indigenous lands and ways of living. Canada's use of military forces and the RCMP to shut down the Kanesatake land defense in Oka was a full-fledged re-enactment of a state of emergency in Agamben's terms without invoking the *Emergencies Act*. It re-confirmed the carceral nature of Canada's subordination of Indigenous sovereignties and criminalization of land defense. Although the Oka crisis is often referred to as an exceptionally violent confrontation between Indigenous peoples and the state after the Constitution, but in fact it is quite representative of the state's ongoing policing of many other Indigenous land defenders, most recently used against *1492 Landback Lane*, the powerful movement that Haudenosaunee land defenders started in July 2020 on the unceded Six Nations territory to protest Canada's ongoing land-theft and to renew land negotiations (Deer 2020). State violence against Black populations also consolidated in this period by racial police profiling and renewed association between Blackness and crime that authorized the police to do higher rates of identity checks and arrests in Black communities (Maynard 2017, 86-90). Likewise, the announcement of the "War on Drugs" since the late 1980s enforced by prohibition laws such as the 1996 *Controlled Drug and Substance Act*, granted expanded power to the RCMP and contributed to ongoing large-scale incarcerations in Black communities (Ibid, 92-9).

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rights: 35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. Definition of *aboriginal peoples of Canada*: (2) In this Act, *aboriginal peoples of Canada* includes the Indian, Inuit and Métis peoples of Canada. Land claims agreements: (3) For greater certainty, in subsection (1) *treaty rights* includes rights that now exist by way of land claims agreements or may be so acquired. Aboriginal and treaty rights are guaranteed equally to both sexes: (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons." Subsections 35(3) and 35(4) were added in 1983, during a Constitution conference after 1982 (Hanson 2009).

Important structural changes were also made to immigration regulations in this period. In 1993, immigration policies explicitly shifted away from deploying the welfare state rhetoric and became focused on neoliberal economic ideals of self-sufficiency, competitiveness, and commodification. The state took a de-centralized role and began to "partner with business" (Abu-Laban and Gabriel 2002, 80) in (im)migration decision-making. To make Canadian businesses competitive, the state prioritized meeting business owners' immediate needs through facilitating their access to the devalued labour of racialized populations. New immigration regulations reflected this goal as well as the ever-present concern for national security and focused on attracting highly skilled temporary migrant workers with "transferable skills" (Ibid) who would show flexibility to adapt into the changing needs of the market. After years of consultation, the state passed Bill C-31, the 2001 *Immigration and Refugee Protection Act (IRPA)*,[28] coming into effect in 2002. Although the *IRPA* followed the logic of the 1967 points system and the 1976 *Immigration Act*, its new focus on prioritizing the needs of business owners to hire temporary workers with transferable skills marked a shift in Canada's policies towards neoliberalizing (im)migration (Sharma 2006; Walia 2013, 2021).

The passage of the *IRPA* also importantly coincided with and was heavily impacted by the introduction of the new anti-terrorism provisions in Bill C-36, the so-called *Anti-Terrorism Act (ATA)*[29]. The *ATA* was Canada's first legislative response to 9/11 terrorist attacks in the U.S. and made state surveillance more pervasive despite the 1970s-80s accountability reforms. In the immediate aftermath of these attacks, the UN Security Council passed Resolution 1373, "which required all member nations to pass laws that would address terrorism" (Diab 2008, 23). The

[28] *Immigration and Refugee Protection Act*, SC 2001, c 27 (November 1, 2001): https://www.canlii.org/en/ca/laws/stat/sc-2001-c-27/latest/sc-2001-c-27.html.
[29] *Anti-terrorism Act*, SC 2001, c 41 (December 18, 2001): https://laws-lois.justice.gc.ca/eng/annualstatutes/2001_41/FullText.html

U.S. quickly declared a state of emergency, passed the *USA Patriot Act* (Razack 2007, 13) to extend the state's security and intelligence power, declared an international "War on Terror," and prepared to invade Iraq and Afghanistan. Canada's parliamentary debates for introducing new anti-terrorist provisions took shape in this climate of a new global war between Western democracies and allegedly dangerous Muslim world. The new perceived threat of the transnational "terrorist" figure that justified racial policing without specifying a locatable enemy quickly merged with Canada's Cold War perceived threat of Communism (Kealey 2017, 7), which was in turn grounded in Canada's genocidal treatment of Indigenous peoples and anti-Black racism. Unlike the U.S., however, in Canada a state of emergency was never declared after 9/11. Instead, the state enhanced its executive powers to halt civil rights by introducing and assenting to the *ATA* beyond the scope of emergency and justifying it as fulfilling its international obligations to the UN (Scheppelle 2006, 236). Had the *ATA* been introduced under the state of emergency, all its provisions would have faced temporary requirements of the *Emergencies Act* (Policy Options 2002). But since it was not,[30] its passage resulted in permanent changes in Canada's criminal law and a number of other statutes, allowing the government to operate with greater secrecy and less accountability (Diab 2008, 30). The *ATA* furthered the carceral logic of Canada's white supremacist security regulations by extending the authority of the RCMP and CSIS through the new vaguely defined terrorist crimes that imposed racial discrimination mostly but not exclusively against Arab and Muslim communities.[31]

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[30] For a good analysis of why the government declined the option of pursuing to invoke *Emergencies Act* to pass the *ATA*, and what the passage of the *ATA* without invoking the *Emergencies Act* implies for limitations of the Canadian Charter, see: (Diab 2008).

[31] The racialization of diasporic Arabs, Muslims, and people from the Middle East and North Africa in Canada has a long history and is not just a post-9/11 issue. What has notably remained the same in historical and contemporary forms of anti-Muslim sentiments in Canada is the dominance of the national security rhetoric as its rationale and its criminalizing implications for Muslim diasporic populations. For good analyses of historical and contemporary anti-Muslim sentiments in Canada, see: (Bahdi 2003; Thobani 2007; Razack 2007; Abu-Laban and Nath 2007; Gana

In 2002 and in support of the *ATA*, Bill C-55 or the *Public Safety Act*[32] was passed that created the new federal Department of Public Safety and Emergency Preparedness. This newly established Department which is often referred to as Public Safety Canada (PSC) became the main federal organization responsible for enforcing Canada's post-9/11 so-called public safety regulations in four areas of National Security, Border Strategies, Countering Crime, and Emergency Management (Public Safety Canada 2023a). The PSC was mandated to oversee the activities of five major security agencies that used to work separately, namely the RCMP, the CSIS, the Canadian Border Service Agency (CBSA), the Correctional Service of Canada (CSC), and the Parole Board of Canada (PBC). Bringing these five security agencies together and facilitating secret information sharing among them dramatically enhanced the government's power to create states of emergency to suspend civil rights of individuals constructed as terrorist suspects based on racial profiling. In her analysis of the rapid increase in white nationalism or what she calls "the re-whitening of Canadian national identity" in the immediate aftermath of 9/11 attacks, Sedef Arat-Koç notes, "just before the [U.S] Iraq war broke out in 2003, some feared possible internment" for Arab and Muslim communities in Canada (Arat-Koç 2005, 37). She explains that although Arab and Muslim communities in Canada were never physically interned, their post-9/11 experience can be characterized as one of "psychological internment" (Ibid). The general sense of moral panic about the figure of the Islamic "terrorist," enhanced by the *ATA* and the social practices that upheld it, caused numerous detentions and assaults at workspaces and expulsion from schools for wrongful terrorist accusations, primarily against citizens from Arab or Muslim backgrounds. This carceral climate also justified the government's

2009; Zine 2009; Jiwani 2009 & 2011; Moghisi and Ghorashi 2010; Abu-Laban and Bakan 2012; Raska 2015; Mackey 2016; Kanji 2017).

[32] *Public Safety Act*, 2002, SC, 2004, c 15 (May 6, 2004): https://laws-lois.justice.gc.ca/eng/acts/p-31.5/FullText.html.

violation of its obligations to racialized citizens detained abroad for so-called security concerns partly due to the government's sharing of secret flawed information about them with governments that tortured them (detailed in Chapter Three). These carceral measures were enhanced by highly gendered media representations that associated Muslim masculinity with the figure of the dangerous terrorist and Muslim femininity with the image of the submissive victim of Muslim masculinity who must be saved by civilized white people (Zine 2009; Jiwani 2012). These gendered representations have perpetuated the normalization of Euro-centered Christian notions of gender.

The harms of Canada's post-9/11 security measures were not limited to racialized citizens. Racialized non-citizens of different backgrounds were also impacted by it, mostly through the systemic criminalization of migration under the *IRPA.* Although the *IRPA* was in the making long before 2001 and already had security concerns as a major focus, it was reinforced by the *ATA*'s security provisions that extended the state's power to detain permanent residents and refugee claimants while restricting their rights to appeal detention decisions (Roach 2002, 196-9). Immigration officers worked closely with border control agencies, especially the newly established Canada Border Service Agency (CBSA), as well as police and intelligence agencies to facilitate secret information-sharing about suspect refugee claimants and permanent residents. These immigration rules were used as effective anti-terrorism tools, resulting in short-term detentions of some non-citizens (Roach 2012, 255) and long-term or indefinite detentions often through "security certificates" for non-citizens constructed as terrorist suspects (Whitaker, Kealey and Parnaby 2012, 401). Refugee claimants also faced severe restrictions, especially those from Arab or Muslim countries (Rygiel 2012, 211) and those at the intersection of anti-Black and anti-Muslim sentiments, including the Somalis who came to Canada fleeing the civil

war in the early 1990s (Maynard 2017, 160). Likewise, although not from an Arab or Muslim country, the passengers of the MV *Sun Sea* Ship who survived the civil wars in Sri Lanka and arrived in Vancouver in 2010 were immediately detained and faced criminal investigations under the *IRPA* (Canadian Council for Refugees 2015).

The open-endedness of the *ATA*'s anti-terrorism provisions raised numerous public criticisms and parliamentary controversies (The International Civil Liberties Monitoring Group 2005; Wark 2006). However, other than two controversial powers it granted the government for preventative arrests and investigative hearings that were subject to a five-year sunset clause,[33] the rest of its provisions survived parliamentary scrutiny (Whitaker 2012, 145; Roach 2012). The *ATA* was amended in 2015 in response to the shootings at Parliament Hill. This amendment (initially proposed as Bill C-51 and referred to as *ATA, 2015*)[34] expanded the CSIS's power, created the broad but vague new offence of "terrorist propaganda" and "terrorist speech offence," lowered the standards for preventative arrests, and undermined external review mechanisms (Canadian Civil Liberties Association 2015). This amendment was heavily criticized and was eventually replaced by another amendment[35] (initially proposed as Bill C-59 and referred to as *National Security Act* in 2017 and assented to in 2019) that continues to raise critiques, especially for its vague and broad definition of "terrorist speech offence" (Roach 2019, 205). The "fluidity of the term 'terrorist'" (Balfour 2014, 26) in this period's security discourse has enabled dismissing Indigenous land claims and environmental activism as terrorist-like activities (Ibid, 28). It provided a major momentum for the state's re-criminalization of Indigenous dissent,

[33] These two special powers lapsed in 2007 but were re-enacted in 2013 (Diab 2014, 11).
[34] *An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts*, SC 2015, c 20 (June 18, 2015): https://www.parl.ca/LegisInfo/en/bill/41-2/C-51.
[35] *An Act respecting national security matters*, SC 2019. C 13 (June 21, 2019): https://www.parl.ca/LegisInfo/en/bill/42-1/c-59.

especially resistance to pipelines and other industrial projects, by representing them as "eco-terrorism" (Ibid, 25). These security measures have brought the violence of state policing full circle to its anti-Indigenous and anti-Black origins while extending this violence to other racialized populations, targeting, primarily but not exclusively, Muslim and Arab communities in Canada and racialized refugee claimants seeking to enter Canada.

1-3 State-sanctioned Redress Practices and the Objectives of Liberal State Apologies and Redress Infrastructures

Although the very formation of modern nation-states has been premised on heteronormative white supremacist violence and has always faced grassroots resistance across the globe (Lowe 2015; Ince 2018), the legal recognition of state wrongs is relatively recent. In fact, global legal frameworks for recognizing state crimes did not exist prior to the Second World War. It was only after the worldwide shock of Holocaust atrocities in Europe and the subsequent widespread Holocaust awareness that state wrongs began to gain global visibility and legal recognition. In the early postwar years, Hannah Arendt aptly described the emergent need for the legal recognition of state wrongs as the "'subterranean' stream of Western history" finally coming to the surface (Arendt 1979, ix), and pointed out the imperative of giving an account of state wrongs. As I stated in the Introduction, I use the phrase "state redress practices" to refer the broad related legal, political, and cultural activities deployed by the nation-states "that orient to the past in considering the present" (Murdocca 2013, 10).

The nation-states' global turn toward redress practices emerged in the context of this period's internationalized claims for universal human rights, materialized in the 1945 formation of the United Nations as an international organization to purportedly maintain world peace and

protect basic human rights, and the 1948 Universal Declaration of Human Rights. The UN, which in fact is formed as an organization to safeguard the interests of nation-states, recognizes the modern nation-state as the embodiment of liberal ideals of governance and the paradigm for collective sovereignty (Graham and Wiessner 2011, 404; Moreton-Robinson 2015, 176-8). In this sense, the platform that the UN created for seeking human rights was centred on protecting the sovereignty of nation-states and already implied limitations for campaigns that advanced other forms of sovereignty. These limitations were evidenced in decades of neglecting struggles for Indigenous sovereignty reflected in the international Indigenous rights movement (which gained momentum in the 1970s) that eventually led to the 2007 UN Declaration of the Rights of Indigenous Peoples (UNDRIP). Despite these limitations and contradictions, many grassroots campaigns that confronted the states for their atrocities used the UN as a key international platform to put further pressure on the states to address these atrocities.

Initially, redress practices were associated with political regime changes and transitions to putatively democratic governments in societies divided by totalitarian violence. In these transitional contexts, newly formed governments put in place reconciliation projects to address the injustices of past regimes and to provide legitimacy for current regimes. Reconciliation in these societies was pursued through different processes such as criminal trials, amnesty, reparation and restitution, truth commissions, and apologies (Minnow 1998; Teitel 2000; Barkan 2000; Hayner 2001; Thomson 2002; Torpey 2003; Schaap 2005; Arthur 2009; Corntassel and Holder 2009; Murdocca 2013; Coulthard 2014). Transitional justice was focused on institutional reform and legal remedies and became increasingly common in the 1980s and especially after the collapse of the totalitarian regimes in the Soviet Union, Eastern Europe, Latin America and the

apartheid regime in South Africa (Torpey 2003, 7).[36] Condemning and confronting nation-states for their historical and ongoing injustices, however, has not been limited to transitional societies where regime changes took place to establish allegedly universal liberal values through legal discourses. In fact, as Torpey notes, the transitional model for redress practices has proven to be superficial, driven by a desire to achieve liberal credentials while disregarding the reality that "liberal democratic societies were born in fire and blood" despite, or perhaps because of, their adherence to the liberal principles of governance (Torpey 2003, 8-9). In liberal societies such as Canada, there has also been a postwar rise in confronting the state violence and injustice. Under multiple domestic and international pressures for addressing state wrongs in this period, liberal states initially deployed apologies and redress settlements including legal and monetary compensations without other reconciliation processes including truth commissions and criminal trials (Howard-Hassmann and Gibney 2008, 1-4). The increase in liberal state apologies boosted the global proliferation of state apologies that has led some scholars of historical injustice to refer to our time as the "age of apology"[37] (R. Brooks 1999; Trouillot 2000; Barkan and Karn 2006; Howard-Hassmann and Gibney 2008; James 2008; Corntassel and Holder 2009; Henderson and Wakeham 2013; Lightfoot 2015; Bentley 2015, 2016). At a later stage, some settler colonial liberal states including Canada imported the reconciliation model from transitional societies to offer redress to Indigenous peoples without making structural changes associated with regime change (Coulthard 2014, 105-7).

[36]There are important similarities and differences between transitional justice processes in these different regions but unpacking them is beyond the scope of my dissertation. For helpful comparisons of transitional justice in these contexts, see: (Hayner 2001; Torpey 2003; Arthur 2009).

[37]As Corntassel and Holder note, "states are not the only ones tendering apologies [..]- corporate entities, non-governmental organization, celebrities, and even religious figures such as Pope Benedict XVI have issued their own statements of apology" (Corntassel and Holder 2008, 467). That said, since I focus on unpacking the dynamics of Canadian state's redress politics, I will not address these non-state apologies in my dissertation.

It is crucial to note that state-sanctioned redress projects were never initiated by the states and were always offered in hesitant and selective response to multiple local and international dissenting voices that sought to hold the states accountable for their wrongs. In North American liberal settler colonial societies, the convergence of major postwar grassroots political movements made up the fertile soil of dissent from which bottom-up political pressure points grew to break through the states' redress denial tactics. Most notable postwar anti-racist mass movements in these societies included anti-war protests (against the Korean and the Vietnam wars), uprisings against the Cold War economy of increasing natural resource extractions and child removal laws that primarily targeted Indigenous and Black families, as well as the Civil Rights, Black Power, and Red Power (Lannon 2013) or the American Indian Movements (AIM), contesting anti-Indigenous, anti-Black, and other forms of racist violence (McNally 2017, 7-10).

In Canada, the echoes of these postwar movements during the 1950s-1980s Constitution debates initiated state redress for Indigenous peoples and racialized communities. Canada's Constitution debates in turn reflected how Canada defined itself as a sovereign state in dialogue with the twentieth-century major changes in international law and subsequent new international relations. In this sense, Canada's redress politics can be conceptualized as a microcosm of Canada's nation-building as a sovereign state. While Canada was formed as a British Dominion in 1867, it achieved major independence from Britain in 1931 through the UK *Statute of Westminster* that gave Canada legal equality with Britain and recognition as a self-governing state (without allowing it to amend the Constitution until the federal and provincial governments could agree upon a method to amend the Constitution). This entitled Canada to achieve a seat separate from Britain in international organizations, most importantly including the League of

Nations at the time.[38] So, coming up with a method to amend the Constitution was a significant goal for Canada to get international recognition as an autonomous state. This process took several decades in Canada while international laws significantly changed; the League of Nations failed to prevent the atrocities of the Second World War and collapsed in the 1930s. In 1945, it was replaced by the United Nations that began to note the states' harms to their own citizens (and not just other nation-states) and released the Declaration of Human Rights in 1948. As a signatory of the Declaration, Canada proposed the 1960 Canadian Bill of Rights which was only entrenched as the Canadian Charter of Rights and Freedoms under the Constitution in 1982 (James 2006b, 67). Political turning points that initiated state redress with racialized communities and Indigenous peoples emerged in the context of this period's Constitution debates.

Shortly after the 1947 *Citizenship Act*, the debates about a domestic Charter of Rights were initiated by the formation of the 1950 Senate Special Committee on Human Rights and Fundamental Freedoms to inquire into the prospects of introducing this Charter (James 2006b, 43). The members of the 1950 committee dismissively responded to the inputs of the representatives of marginalized groups who appeared in its public hearings and the inquiry did not proceed. However, it marked the beginning of a new era of political controversies around building Canadian federalism after a Keynesian model of welfare state, to allegedly expand social security and assistance through increased state intervention (Battle and Torjman 2001, 11-20). These debates were revived a decade later when the 1960 House of Commons Special Committee on Human Rights and Fundamental Freedoms was formed (James 2006b, 53). Members of this Committee showed more symbolic openness to ethnocultural diversity than

[38] The League of Nations was established after the First World War, by the 1920 Covenant of the League of Nations to ostensibly keep international peace and decolonize international law by restricting colonial conquests.

their 1950 counterparts (Ibid, 55). By mid-60s and when Lester B. Pearson was elected as the Prime Minister, these debates took a broader scope and were advanced by Pierre Trudeau, especially when he proposed the Canadian Charter of Rights in 1968, the year that was declared by the UN as the International Year of Human Rights (Ibid, 67). Next, the formation of two consecutive Special Joint Committees of the Senate and of the House of Commons on the Constitution of Canada (Ibid, 75) in 1970-2 and 1981, substantiated the formation of Canada's Constitution. The public hearings that followed these two Committees eventually led to the 1982 *Canadian Constitution Act* and the entrenchment of the Charter. As far as Canada's redress politics is concerned, major tensions created by Canada's acknowledgment of Quebec's quest for sovereignty while ignoring Indigenous peoples' sovereignties and constructing racialized citizens as second-class citizens in its Constitution played key roles in initiating the state's redress negotiations with Indigenous peoples and racialized communities. In this sense, the initiation of Canada's redress politics is inseparable from its Constitution politics that clearly remained wedded to earlier liberal settler colonial nation-building practices, geared towards violence against Indigenous peoples and subordinating racialized communities.

On the one hand, Pearson initially sought to address Quebec's demands for being recognized as a distinct society by forming the 1963 Royal Commission on Bilingualism and Biculturalism (RCBB) to inquire about establishing asymmetrical federalism based on the English-French partnership (Abu-Laban and Gabriel 2002, 106). This Commission's mandate to give primacy to English and French Canadians by framing the French and the English as the country's "two founding races" sparked waves of condemnation among non-English and non-French ethnic communities (James 2006b, 56). The condemning groups [referring to themselves as "Canada's third force" (Ibid)] protested the discriminatory nature of this mandate against

citizens of non-English and non-French background. These protests that echoed the lingering voices of Civil Rights movements and were pivotal in the formation of Canada's first multiculturalism policy, introduced in 1971 as multiculturalism within a bilingual framework. The new feature of this multiculturalism policy was to provide funding, through the newly established Multiculturalism Directorate within the Department of the Secretary of the State, for ethnic minority organizations (Abu-Laban and Gabriel 2002, 108). Social movements made good strategic uses of this new feature. For instance, the 1980 formation of the Canadian Ethnocultural Council (CEC) was a major strategic achievement of equality-seeking social movements in this period (Ibid, 115) to use the funds made available by the 1971 multiculturalism policy. The overall purpose of the state's discourse of multiculturalism has been to depoliticize deep-seated racial conflicts within the nation by narrowly recognizing cultural diversity. Pointing out this depoliticizing genesis, Eva Mackey notes, "through limiting its support, the policy defines acceptable forms of difference. The support provided by the state is limited to that enabling cultural groups to *participate in* and *contribute to Canadian society* and Canadian *unity*" (E. Mackey 1999, 66, italics original). The state's multiculturalism discourse (or top-down multiculturalism) has taken different forms through time, but its overall purpose of recognizing and supporting limited forms of cultural diversity to mark the boundaries of acceptable forms of difference from white dominated cultural norms has remained the same. When Canada's 1971 multiculturalism within bilingualism failed to meet the needs of racialized groups, it was enhanced by the 1981 creation of a race relations unit within the Multiculturalism Directorate (Ibid, 109) and was ultimately replaced by the 1988 *Canadian Multiculturalism Act* and the 1989 legislation for the creation of a separate Department of Multiculturalism and Citizenship (Ibid,

110).[39] As I will show in Chapter Three, racial and ethnic groups that negotiated multiculturalism from below as a response to the 1963 RCBB established a parliamentary presence that set the stage for redress campaigns from racialized communities to later alter Canada's patterns of redress dismissal. Canada's first redress settlement with a racialized community was reached in 1988 with Japanese Canadians for their internment during the Second World War and was accompanied by a House of Commons apology by Prime Minister Brian Mulroney. This settlement and apology paved the way for other redress campaigns that demanded redress for different forms of state racial violence including anti-Black racism, war-time atrocities, and (im)migration restrictions/deportations.

On the other hand, in 1969, one year after having proposed the Canadian Charter of Rights, Pierre Trudeau and his Minister of Indian Affairs Jean Chrétien introduced the so-called *White Paper* (Chrétien 1969), proposing to abolish the *Indian Act*, abandon treaty agreements, and transfer the administrative responsibility for Indigenous peoples to provincial governments. This change would eliminate even the limited rights of Indigenous people who were registered as status Indians (Turner 2006, 19). The *White Paper* was withdrawn in 1970 due to the widespread grassroots resistance against it. This period also saw major uprisings in Indigenous communities against industrialization projects in Northwest Territories and Quebec and strong legal and other forms of activisms against the sexist nature of the *Indian Act*. These uprisings were concurrent with those confronting Canada's top-down multiculturalism within bilingualism framework, but unlike them were mostly ignored by the state. Even Section 35(1) of the Constitution that symbolically recognizes Indigenous peoples' rights was not included in the early drafts of the Constitution and was only added shortly before the 1982 ratification of the Constitution, thanks

[39] The Department of Multiculturalism and Citizenship was eventually created in 1991.

to major Indigenous demonstrations (Hanson 2009). Canada's first redress settlement with an Indigenous community was only set in motion in the aftermath of the 1990 failure of the Meech Lake Accord. The Meech Lake Accord was the 1987 proposed amendment to the Constitution to bring Quebec into the fold of the nation as a "distinct society" (Denis 1993) while ignoring its implications for thousands of Indigenous peoples on whose territories Quebec was claiming to establish its sovereignty as a "distinct society" (Niezen 2000, 138-43). It revealed colonial double standards in Canada's position on sovereignty and showed that the Canadian Constitution could accommodate state-like sovereignties, rooted in Indigenous land-theft and racialized labour exploitation but not treaty-based, relational, and non-exploitative Indigenous sovereignties. The passing of the Meech Lake Accord was partly prevented by Indigenous representatives at the Parliament in the summer of 1990 which is known as the "Indian summer." This was the summer that the Mohawk nation of Kanesatake took arms in a months-long blockade to confront the RCMP, Quebec Provincial Police, and the Canadian Armed Forces near Oka, Quebec. As I will show in Chapter Two, it was only after this political crisis in Oka that the state was forced to form the Royal Commission on Aboriginal Peoples (RCAP) in 1991 to investigate Canada's systematic harms against Indigenous peoples. Canada reached the first redress settlement with an Indigenous community in 1996 in what is known as the High Arctic Relocation Reconciliation Agreement, excluding any apology to the Inuit peoples, shortly after the 1994 partial release of the RCAP's final report. Other forms of redress for Indigenous peoples were offered after the 1996 release of the RCAP and followed the same pattern through different means.

While acknowledging state wrongs is necessary to bring broad public attention to these wrongs, in liberal settler colonial contexts, state-sanctioned redress practices have often worked

to reproduce the settler colonial violence of nation-building, in the moral disguise of taking "national responsibility" for state injustices. Within the scholarship on state redress practices, particular attention is given to examining state apologies as significant performances or rituals imbued with emotional impacts, shedding light on the broader objectives of state redress practices. Crucial to understanding state apologies are the writings of Erving Goffman and Nicholas Tavuchis, who have largely drawn on Austin's and Searle's linguistic analyses of speech acts. Goffman and Tavuchis have distinguished between interpersonal and political apologies, categorized different kinds of political apologies, and conceptualized state apologies as government official speech acts with significant domestic and international power to acknowledge or to deny historical facts about the nature of modern nation-states (Goffman 1971; Tavuchis 1991). Other scholars have taken up the conception of state apologies as government speech acts with significant moral and political implications to analyze the global rise of state apologies or to assess the robustness of these apologies from different angles. Given major power imbalances between state perpetrators and wronged communities, the extent to which government speech acts can be reliable means for memorializing state crimes has been a major point of contestation in this field.

Some scholars have offered a set of criteria for assessing the authenticity and meaningfulness of state apologies (e.g., James 2008; Corntassel and Holder 2008; Lightfoot 2015). But I find their approach useful only in comparing different apologies. A more conceptually compelling approach, in my view, is questioning the very possibility of these apologies being robust, authentic, or meaningful at all. Rather than accepting state apologies at face value as benign expression of regret, it is crucial to examine how they have emerged as government tools to perpetuate settler colonial violence and how they continue to legitimize the

governments' racial agenda. This approach has been famously articulated by Michel-Rolph Trouillot and more recently taken up by other scholars such as Pauline Wakeham, Tom Bentley, and Laura Kwak, who have shed light on different means through which the apologies seek to legitimize the government's racial project (Trouillot 2000; Wakeham 2012a and b; Bentley 2015, 2016; Kwak, 2017).

Trouillot highlights the significant affective role of the liberal state apologies as public performances in reconstructing national fantasies. He analyzes liberal state apologies as "late modern rituals" premised on "the attribution of features of the liberal self to states, ethnic groups, and nations" (Trouillot 2000, 173). Underlining how the colonial North Atlantic liberal interpretation of the self as the subject of the capitalist market is modeled after sorrowful or penitent Christian individuals who can find redemption by unburdening themselves from history (Ibid, 178-81), he argues that "transferring" these "attributes" to the states and nations is the "condition of possibility" for state apologies (Ibid, 173). In other words, these apologies are inherently about managing public affects to reinvent attachment to national fantasies through framing the states or entire nations as sorrowful collective entities that share the pain of wronged peoples. Importantly this framing does not require transforming "relations of power in the national imaginary" (Ibid, 184). Thereby the apologies are publicly staged performances to restore public trust in the states and to provide renewed moral credit for it despite their ongoing violence. Trouillot describes these performances as "destined to be abortive rituals, whose very conditions of emergence deny the possibility of transformations" (Ibid, 171). He considers the repetition of these performances that fail to meet their own criteria symptomatic of a "political impasse in a moment of world history," indicating "the inability to face structures of inequality" (Ibid, 184). Thus, separating the present from the past and creating hegemonic narratives of state

wrongs that demand leaving the past behind through a renewed affective attachment to national fantasies are major features of state apologies that lead to denying the lived experiences of those affected by state violence who continue to endure its consequences.

Noting similar features, Kwak explains that through separating the past from the present, state apologies construct the present government's redemption through enacting the post-racial discourse that "insists any residual racial bias is the property of individual bigots, and that, social transformation is unnecessary" (Kwak 2017, 94). Unlike the colorblind racism that denies that race has ever mattered, the post-racial discourse requires selectively invoking past racial injustices in an effort to dissociate the present government from such injustices and to present it as having resolved them. Kwak examines how this process of isolating racial injustices in the past sometimes works through the selective inclusion of racialized political elites that align with the present government and granting them representative authority, implying that "the good political subject is an immigrant who integrates into the nation by putting race behind them" (Ibid, 81). Similarly, Wakeham describes these apologies as performances that uphold the fantasy of Canada's civility and liberal beneficence. She problematizes the temporal orientation of the liberal "apology industry" (Wakeham 2012b, 219) and argues that it is premised on the state's imposition of historical closure (Ibid, 225) on ongoing injustices. This imposition, she argues, involves performances of a range of bad feelings such as sorrow, regret, remorse, and grief for the past wrongs by state representatives with the promise that through such performances, these bad feelings about the past will be "transformed into good feelings" (Ibid, 228) in the present. This transformation is mediated by the capacity of state apologies to "solicit the affective engagement of national and global publics in the drama of healing" (Ibid). Through performative repetitions of these temporal tropes, Canada's acknowledgement of past wrongs paradoxically

serves to demonstrate the state's ability to amend the past and produce "social cohesion" (Ibid, 229) in the present. Elsewhere, in the context of analyzing the objectives of state apologies to Indigenous peoples in Canada and New Zealand, Wakeham observes how by "inscribing a supposed endpoint for colonial wrongs" (Wakeham 2012a, 6) and glamorizing the government's "commitment to rapprochement," these apologies contribute to "cast[ing]" different forms of Indigenous resurgence that continue to challenge ongoing anti-Indigenous violence as "excessive and even irrational" (Ibid, 7). In other words, state apologies are performed to reinforce collective attachments to the fantasy of the liberal state's moral commitment to improve everyone's lives while dismissing the affects associated with Indigenous resurgence and dehumanizing those who voice it. In this regard, the apologies affectively reproduce the carceral logic of the settler colonial practices that have sought to sustain white supremacy through establishing a Euro-centered notion of the human all along.

In their examinations of the affective dynamics of state apologies, Trouillot, Kwak, and Wakeham highlight the formative role of the virtual global gaze of the human rights discourses and its mandate of regaining national reputations at an international level in staging apologies. Moving in the same direction, Bentley further challenges the affective role of the apologies in internationally restoring the reputations of the states and makes a case against state apologies for focusing on admitting only certain aspects of racial wrongs rather than pointing out that they are rooted in colonialism as a mode of governance (Bentley 2016, 2). He describes these apologies as "narrow apologies" and problematizes them because they "foster the impression that atrocities were somehow detached or anomalous from the wider colonial process [..] and while these acts are considered moral violations, the wider colonial endeavors are not to be disavowed" (Ibid, 7). He also points out how apologies, as emotionally charged official narratives about the state's past

wrongs, serve to put affective demands for cooperation and patriarchal obligations on the very same people who receive apologies (Ibid, 69). Together, these accounts provide helpful conceptual guidelines for identifying interrelated objectives of the rhetorical tactics in state apologies. They highlight how these apologies affectively consolidate state sovereignty through advancing the fiction of innocence for the present government and setting it up as a morally good entity. The fiction of innocence for the present government is fabricated through context-specific rhetorical tactics that seek to shape public feelings around how the past should be remembered and what redressing the past should look like. These tactics reinforce collective attachment to renewed national fantasies, often by separating the past from the present, folding the wronged communities into the national narrative through selective inclusion, and manufacturing exceptionality about specific wrongs (by downplaying those wrongs while isolating them from interconnected gendered and racial structures of settler colonial domination).

Although the apologies are public performances that significantly shape the affective dimension of state redress, they are entangled in what I call redress infrastructures or other redress practices that the state has deployed to allegedly amend the past. As other scholars have shown, different forms of state redress other than apologies function in ways that resonate with and uphold major affective purposes of state apologies. For instance, Carmela Murdocca analyzes how the 1996 revisions to Section 718.2 (e) of the *Criminal Code* as one of Canada's restorative measures to ostensibly address the high rate of incarceration among Indigenous peoples has functioned as "a new technology in the management of racial and cultural difference [..] cloaked in secular ideals about liberal humanitarianism" (Murdocca 2013, 53). She explains how liberal humanitarian motivations of taking the moral high ground of "doing good" to Indigenous peoples that underlie the 1996 revision of the Criminal Code have indeed increased

incarceration rates of Indigenous people and other racialized groups (Ibid, 54). Likewise, Roy Miki explains that reaching a redress settlement with the government made the Japanese Canadian redress campaigners face a strong pressure to prove the "Canadian" nature of their cause by putting a lot of emphasis on their ongoing patriotic loyalty to Canada and excel at being Canadians (Miki 2013). He articulates how this pressure led the redress campaigners to "unintentionally disavow" (Ibid, 265) their obligations to the Japanese Canadians who were deported from Canada to Japan near the end of the war and who became stateless when the Japanese government refused to recognize them as "genuine Japanese" people (Ibid, 264).

These lines of reasoning underscore the significance of state apologies as emotionally charged moments of gesturing towards acknowledging past wrongs to bolster the state's authority. However, the apologies are not isolated gestures; rather, they act in concert with other forms of state redress that serve as normative tools with similar objectives. In my forthcoming chapters, I draw on the conceptual guidelines outlined here to analyze the affective functions of selected apologies in relation to relevant redress infrastructures. I also highlight that while the state redress practices aim to legitimize the state's ongoing settler colonial project, their intended outcome is never fully achieved. Alternative narratives of the state's past injustices continue to be articulated, revealing the enduring structural violence inherent in settler colonialism, which state apologies and other redress practices attempt to actively suppress. In Canada, these alternative narratives are articulated by some political and cultural activists from wronged communities who have strategically engaged with state-sanctioned redress frameworks to reorient and reframe them as well as by writers and cultural producers whose works indirectly contribute to pushing back against the confines of Canada's redress politics. My dissertation focuses on the latter through an analysis of selected novels.

1-4 Law and Literature Approach and Canada's Redress Politics

To highlight how the novels I selected contest the perpetuation of settler colonial violence within Canada's redress politics, I deploy the reading practices of the law and literature approach while reworking them. Through this approach, I elucidate how the interconnected gendered racial structures of settler colonial domination, denied in relevant apologies and redress infrastructures, find expression in certain works of literature. As discussed in the Introduction, politicized readings of the works of literature written by members of marginalized communities in Canada have broadened the reach of these works by anchoring them within specific legal contexts. Reworking these reading practices to address the reproduction of settler colonial violence in Canada's redress politics entails a dual focus. On the one hand, it necessitates a critical examination of the specific strategies deployed in state apologies and redress infrastructures to consolidate state sovereignty, juxtaposed with the perspectives offered by works of literature to challenge these strategies. On the other hand, it requires framing the strategic functions of state apologies and redress infrastructures as akin to the confining aspects of liberal legal discourses.

Using the conceptual framework introduced above, I discern the strategies through which the state apologies and redress infrastructures seek to reinforce the moral integrity of the state as a benevolent entity. These strategies serve as a focal point in my analysis of the selected novels. In identifying these strategies and interpreting how these novels counter them, I draw on the analysis of the interconnected gendered racial structures of settler colonial domination discussed in earlier sections. To illustrate the alignment between these strategies and the restrictive nature of liberal legal discourses, I turn to Murdocca's explanation of state redress practices as forms of liberal legality. Drawing on Patricia Ewick and Susan Silby, Murdocca characterizes legality as

encompassing “meanings, sources of authority, and cultural practices,” functioning both as “an interpretive framework and a set of resources with which and through which the social world (including that part known as law) is constituted” (Murdocca 2014, 220). As an instance of how redress practices reflect the features of liberal legality in the sense of establishing top-down, hegemonic authority over social and political meaning, she unpacks the visual aspects of a Canadian Broadcasting Corporation (CBC) documentary series that reflects the objectives of Canada’s larger discourse of reconciliation (a form of redress). She situates this documentary within what she calls the “visual and aesthetic fields of legality” and analyzes how it reproduces the settler colonial logic of racial difference by converting Indigenous people’s testimonies into “performances of liberal individualism” (Ibid, 229). In doing so, she shows how this documentary creates hegemonic interpretive frameworks for understanding state redress as the condition of possibility for fusing Indigenous voices into Canada’s national narrative. The notion of legality as a hegemonic interpretive framework that shapes the social world frames the state apologies and redress infrastructures as inherently legalistic. By deploying various affective and normative means to produce narratives about the state’s past wrongs in ways that legitimize its ongoing settler colonial practices, the state apologies and redress infrastructures normalize the government’s nation-building ideology, mirroring confining aspects of liberal legal discourses.

Chapter Two

Canada's Redress Infrastructures for Indigenous Peoples

Canada's redress infrastructures have developed separately for Indigenous peoples and racialized communities in the state's reluctant and selective response to dissenting voices that have sought to hold it accountable for its atrocities. In both cases, political pressure points that initiated the state's first redress settlements emerged in the context of the Constitution debates. In this chapter, I synthesize the overall trajectory of Canada's redress infrastructures for Indigenous peoples. First, I contextualize the 1996 High Arctic Relocation Reconciliation Agreement, Canada's first redress settlement with a group of Indigenous peoples, within Canada's Constitution politics that remained rooted in suppressing Indigenous uprisings contesting the state's continued Indigenous land-theft and violence against Indigenous peoples (especially women). I show how this settlement sought to consolidate Canada's sovereignty by strategically separating the past from the present and folding the Inuit peoples into the hegemonic national narrative. In the second section, I trace the evolution of Canada's redress infrastructures for Indigenous peoples since 1996 to unpack the ways in which these infrastructures deployed, through different means, the same strategies that shaped the first redress settlement.

2-1 The First Redress Settlement with an Indigenous Community (from the 1920s redress denials to the 1996 High Arctic Relocation Reconciliation Agreement)

Since early relationships between Indigenous peoples and settler colonial powers in North America were based on treaty agreements that included either tacit or explicit acknowledgement of Indigenous nations, these relationships have always been international in the sense of involving principles of interactions between autonomous nations as opposed to a nation-state and

minority groups (Niezen 2000, 122). Indigenous peoples have always pushed back against Canada's violations of the terms of different treaties it had signed with them. Some forms of this resistance included seeking redress. But, since most treaties were between Indigenous peoples and European powers (primarily Britain) and Britain's 1867 transfer of power to the Dominion of Canada took place without Indigenous peoples' consent, appealing to Canadian courts was futile for seeking redress as far as Indigenous peoples were concerned. Some early redress appeals of Indigenous peoples were directed at the British monarch. A key example of this is the 1920s appeal of the Haudenosaunee Confederacy or the Iroquois Six Nations from Grand River to the British monarch against the intensification of the authoritarian power of Canada's Indian Affairs since 1913 and against the 1920 amendment to the *Indian Act*.[40] When Canada ignored Haudenosaunee objections twice and blocked their passports, the Six Nations issued their own passports and sent Levi General holding the title Deskaheh (Chief) to London in 1920 to see King George V. The King was away at the time, and when Winston Churchill, then UK Secretary of State for the Colonies, rejected their petition, Canada's Department of Indian Affairs deprived Haudenosaunee of their funds to hire lawyers to carry on their appeal (Ibid, 128). Shortly after, when the newly formed RCMP invaded their territory in 1922, the Haudenosaunee requested the intervention of the newly formed League of Nations, asking the Queen of the Netherlands (the first European power with which they had signed treaties) to sponsor them. Deskaheh of the Six Nations went to Geneva to obtain a hearing as a representative of "the oldest League of Nations, the League of the Iroquois" (Niezen 2000, 124).

[40] This amendment allowed Canada to enfranchise Indigenous peoples without their consent and to announce them as British subjects. Rendering Indigenous people British subjects was contrary to the agreed upon principles of treaties such as the Two Row Wampum Treaty that acknowledged the Haudenosaunee as the British allies (Woo 2003, 3-7).

In his petition titled "A Red Man's Appeal to Justice" (Ibid, 125), Deskaheh mentioned that he was willing to accept the obligations of membership, if invited.[41] But this petition was not accepted by the League's Secretariat, and he informally circulated its copies to all the members. Even though some member states (including the Netherlands, Ireland, Estonia, Panama, Japan, and Persia) supported his appeal, Britain's dominating administration put pressure on the League to reject it in 1924, on the grounds that no Canadian delegates were present (Woo 2003, 10). After this incident, the Indian Affairs reinforced the unauthorized presence of the newly formed RCMP at the Six Nations territory and replaced the Haudenosaunee Confederacy Council with a band Council elected under the *Indian Act* and put their governance under Canada's control. These moves towards undermining the authority of the Haudenosaunee peoples to determine the political terms for governing their communities capture the nature of Canada's redefinition as a sovereign state while seeking international recognition through the League of Nations. From its inception, the international recognition of Canada as a sovereign state was premised on silencing Indigenous international appeals for justice and was formed at the expense of Indigenous sovereignties rather than in collaboration with them.

Indigenous peoples' international appeals for justice remained unacknowledged for decades after the collapse of the League of Nations in the 1930s and the formation of the UN following the Second World War. Even though more attention was paid at the UN to oppressions within the states, the International Labour Organization (ILO) that was the 1945-58 international body in charge of drafting measures for protecting Indigenous peoples' rights did not even include Indigenous representatives and sought to implement assimilationist policies for Indigenous peoples within nation-states (Niezen 2000, 127). In fact, it was not until the

[41] This was before 1931 when Canada and other British Dominions achieved parity with Britain in the League of nations.

formation of the International Indian Treaty Council (1974) and the World Council of Indigenous Peoples (1975) that Indigenous representatives were included in shaping the UN draft to protect Indigenous rights (Wiessner 2008, 1152). The formation of these Councils was concurrent with militant Indigenous movements in North America, including the American Indian Movement (AIM) that resonated with ongoing Civil Rights and Black Power movements and protests against the Vietnam war, the Korean war, and the Cold War extractive and military economy (Ibid, 1153). The 1970s UN organizations to address Indigenous rights reflected what was called the voice of the Fourth World or the global rise of diverse Indigenous groups from across the globe against Western colonialism and nationalism (Manuel & Posluns, 1974). The UN working group on Indigenous populations was created in 1982 and started developing a draft Declaration of the Rights of Indigenous Peoples that was released in 1993 (Niezen 2000, 128-9).

While 1995-2004 was announced as the first UN Decade of the World's Indigenous peoples (Corntassel 2007; 2008), the final version of the UNDRIP[42] was only voted on and adopted at the UN General Assembly in 2007 without being endorsed by Canada, New Zealand, Australia, and the U.S. Canada excused itself from supporting the UNDRIP by arguing that since this *Declaration* favours Indigenous interests above state interests, it is unconstitutional (CBC News 2007). Canada changed its position in 2010 and officially endorsed the UNDRIP in 2016 (Duncanson et al. 2021). The UNDRIP condemns any form of "forced assimilation" or "destruction of [Indigenous] cultures"[43] and recognizes, among other things, Indigenous peoples' "distinctive spiritual relationship" with their traditional "lands, territories, waters and coastal seas and other resources"[44] as well as their right to "own, use, develop and control [their] lands,

[42] *Declaration on the Rights of Indigenous Peoples,* UN General Assembly Resolution 61/295, A/RES. (October2, 2007): https://www.refworld.org/legal/resolution/unga/2007/en/49353.
[43] Ibid, Article 8, no. 1.
[44] Ibid, Article 25.

territories and resources."[45] It also highlights Indigenous peoples' "right to redress" for "the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent."[46] The UNDRIP is not legally binding, but since 2021, Canada has implemented it as law and framed it as "a key step in renewing Government of Canada's relationship with Indigenous peoples." (Department of Justice Canada 2021). However, as I will show in this chapter, Canada's ongoing settler colonial practices of the theft of Indigenous lands/resources and violence against Indigenous peoples, especially women, clearly indicate that the government is far from practicing the UNDRIP standards.

The dismissive contours of Canada's response to international developments of Indigenous rights neatly reflect its domestic responses to Indigenous resurgence. Here, I contextualize Canada's first redress settlement with an Indigenous community within the state's responses to major Indigenous uprisings in the period of Constitution debates to show how this settlement sought to consolidate state sovereignty with its roots in anti-Indigenous violence. I explain this period's anti-Indigenous violence in terms of the state's active suppression of major Indigenous uprisings that occurred since the 1969 proposed *White Paper* and culminated in the so-called Oka crisis. The *White Paper* reflected Pierre Trudeau government's vision that implementing a domestic Charter of Rights would mean ending treaty obligations to Indigenous peoples (Monchalin 2016, 118-22). Trudeau proposed this policy despite the 1966 release of the final report of the first federal government survey on economic, political, and educational needs of Indigenous peoples. Harry B. Hawthorn, a UBC anthropologist was commissioned to conduct this survey shortly after 1960 when compulsory enfranchisement was removed, and Indigenous

[45] Ibid, Article 26, no. 2.
[46] Ibid, Article 28, no. 1.

people got recognized, for the first time, as 'persons' allowed to vote rather than just the wards of the state (Ibid, 126). Reporting the devastating impact of government policies on Indigenous communities, Hawthorn argued that failed government policies had reduced the lives of Indigenous people to what he called "citizens minus" status and recommended that reversing this situation would require acknowledging treaty obligations to Indigenous peoples by considering them as "citizens plus" (Hawthorn 1966, 13). Trudeau's outright neglect of this report, and his proposal in the *White Paper*, unleashed deep-seated frustrations in Indigenous communities that had already intensified after the Second World War when Indigenous men were recruited to fight in the Canadian army but were denied the right to vote.[47] The *White Paper* was directly challenged by the Indian Association of Alberta famously through the *Red Paper* or *Citizens Plus*, outlining Indigenous perspectives on Indigenous rights (Indian Chiefs of Alberta 1970).

Powerful forms of Indigenous resurgence in this period initiated the political trajectory that led to the formation of the RCAP and subsequently, Canada's first redress settlement with a group of Indigenous peoples. Most notably, these forms of Indigenous insurgence included: (1) self-determination movements that protested environmental devastations they feared would come with proposed mega-projects in the Northwest Territories and Quebec; and (2) Indigenous women's contestations against the sexist nature of the *Indian Act* and later, Indigenous women's exclusion from the Constitution debates.

[47] These frustrations had begun to come to the surface since 1946 when Indigenous peoples for the first time directly attended the Joint Committee of the Senate and the House of Commons (without the paternalistic mediation of the Department of Indian Affairs) to oppose the *Indian Act*. The Committee's 1948 recommendations included ending compulsory enfranchisement and various bans on Indigenous practices, granting Indigenous peoples the right to vote, and establishing a Claims Committee to resolve unfulfilled treaty obligations (Crown-Indigenous Relations and Northern Affairs Canada 2017; Elections Canada n.d.). Although the 1951 amendment to the *Indian Act* ended major bans on Indigenous cultural practices (e.g., Potlatch and Sundance), it ignored the Committee's other significant recommendations and gave provinces jurisdiction over child welfare that eventually led to the Sixties Scoop child removal policies (Monchalin 2016, 110-8, 167-8). Also, forced relocations that were in practice since 1911 became more dramatic in this period, especially in Inuit communities.

Major resource extraction in the Northwest Territories began with the 1968 discovery of gas in Alaska and Prime Minister Pierre Trudeau's Task Force on Northern Oil Development (Munzur 2021, 2). The proposed Mackenzie Valley Pipeline cutting across the Northwest Territories was eagerly received by Trudeau's government; its potential contribution to nation-building was compared to that of the Canadian Pacific Railway (Ozbilge 2017). Northwest Indigenous self-determination organizing to pressure the state to acknowledge their sovereignty over their lands, resources, and jurisdictions emerged in the context of pushing back against this project. Some highlights of this period included the formation of the Dene Nation, the Inuit Tapirisat of Canada, and the Métis Association of the Northwest Territories (Coulthard 2014, 57). Simultaneously, Frank Calder and other chiefs from Nisga'a First Nation (in BC) raised the legal challenge of *Calder v. The Attorney General of BC* and declared that they had territorial rights and title in BC that had never been extinguished by Canada's laws. The Supreme Court's famous 1973 *Calder* Decision did not confirm that the Nisga'a have territorial rights and title at present, but it acknowledged for the first time that Indigenous rights and title preexisted the Crown sovereignty and were not premised upon it, so it put heavy pressure on Trudeau to settle Indigenous land claims (NCS Native Communications Society 1973). Around the same time, a group of Dene chiefs raised the legal case known as *Paulette et al. v. The Queen* to contest Canada's unfulfilled obligations under Treaty 8 and 11 and argued that Indigenous peoples never surrendered their rights and title when they signed these treaties (Peacock 2020). This case was dismissed on technicality, too, but it added more pressure on the government to resume land negotiations and halt the Pipeline until agreements were reached with Dene and Métis leaderships.

Similarly, the Cree peoples in the East were taking legal actions against Quebec's hydro-electric project in the James Bay region, protesting its negative impacts on their lives. The Supreme Court initially ruled in favor of the Cree and decided that there were Indigenous rights and title in Northern Quebec not covered by any existing treaties. This case was eventually dismissed, but its initial legal victory led to the formation of the Grand Council of the Crees and made reaching an agreement with the Cree peoples a requirement for hydroelectric installations (Niezen 2000, 133-4). Under these pressures, federal land negotiations known as modern treaties began in 1973, reversing the federal policy of denying Indigenous land rights after fifty-two years (Coulthard 2014, 59).

A key theme that emerged in Indigenous engagements with renewed land negotiations with Canada was "rejecting the idea that Indigenous peoples must surrender or exchange their political rights and title as a prerequisite to reaching a land settlement" (Coulthard 2014, 75). The first modern treaty, the 1977 James Bay and Northern Quebec Agreement, included provisions to protect Indigenous peoples against potential harms of Quebec's hydro-electric projects, but its immediate violation caused the 1980 gastroenteritis pandemic in Northern Quebec. The Grand Council of the Crees called attention to these violations in 1981 at the UN Working Group on Indigenous Peoples meeting in Geneva (Niezen 2000, 134-5) and echoed Canada's violations of Indigenous rights internationally through the UN for the first time. The Council also raised its objections to the unilateral inclusion of their peoples in a potentially independent Quebec, but both Quebec and Canada denied the legitimacy of their demands (Ibid, 137-8).

Meanwhile, Justice Thomas Berger who was commissioned in 1974 to examine the impact of the Mackenzie Pipeline in Midwest Territories released his final report (Berger 1977) and recommended that the project be delayed for ten years. The Pipeline construction was halted

and did not resume until much later when it was revived as the Mackenzie Gas Project (as I will explain in the next section). But federal land negotiations in this period did not make much progress towards reaching agreements with the Dene nation. Instead, they fractured the Dene peoples into separate groups some of whom extinguished their rights and title in the early-1990s by signing a comprehensive land settlement agreement (Coulthard 2014, 76). This was the context in which the proposed Constitution was moving forward without including an acknowledgement that Indigenous peoples' rights preceded Crown sovereignty. Only after major Indigenous demonstrations (known as Constitution Express), Section 35 was added to the Constitution in 1982 (Hanson 2009), recognizing existing Indigenous rights (without defining them or specifying their nature). In other words, despite self-determination movements and the vague and last-minute acknowledgement of Indigenous rights in the Constitution (as a replacement for the repealed *White Paper*), the government's negotiations for modern treaties mostly focused on securing capitalist profit-making while creating deep divisions within Indigenous communities. As I will show in this chapter, the actual content of the constitutional framework for Indigenous rights was interpreted in future court decisions that narrowed Indigenous jurisdictions.

On the other hand, there was a major rise in Indigenous women's activism in this period, primarily focusing on protesting the sexist nature of Section 12(1)(b) of the *Indian Act* (Eberts, McIvor and Nahanee 2006, 17) or the infamous "marrying out" clause under which an Indigenous woman who married a non-Indigenous man or a man not Indian under the *Indian Act* would lose her status (Coulthard 2014, 85). The 1974 establishment of the Native Women's Association of Canada (NWAC) was a major achievement of Indigenous women's activism in this period. Three famous legal challenges, the 1971 *Lavell v. Canada,* the 1972 *Bedard v.*

Canada, and the 1981 *Lovelace v. Canada*, were also put forward by Indigenous women, all challenging the sexist nature of the "marrying out" clause. In response, the Supreme Court ruled against Lavell and Bedard, arguing that by losing their Indian status, they have acquired the equal rights of Canadian citizenship and therefore are not discriminated against (Ibid). Even some state-sponsored Indigenous organizations such as the Assembly of First Nations (AFN) took a position against Lavell and Bedard and framed their major concerns about the *Indian Act* as "culturally inauthentic." As Joanne Barker explains, Indigenous women's confrontation with the gender discriminatory intent of the *Indian Act* and sexism within their own communities were dismissed as dangerous to Indigenous sovereignty movements (Barker 2008, 260). This demonization of Indigenous women, mostly led by heterosexual status Indian men who took advantage of the Indian male privilege of the band government within the *Indian Act*, created long-lasting community obstacles for Indigenous women in their quest to rearticulate Indigenous sovereignties beyond sexist ideologies. Eventually, Lovelace voiced her claim internationally to the 1981 UN Human Rights Committee and got a decision in her favor.

At the domestic level, too, uncompromising Indigenous women organized direct actions such as the 1979 hundred-mile walk from Oka, Quebec to Parliament Hill in Ottawa (Coulthard 2014, 87) to raise awareness of Canada's sexist discrimination against them. Embarrassed by these international and domestic exposures, the government made compensations to Lovelace, but it did not repeal the "marrying out" clause until 1985 when it was amending all legislations that were in contradiction with the newly entrenched Canadian Charter of Rights (promising gender equality, among other things). The 1985 Amendment still discriminated against some Indigenous women and despite long legal battles to sort out this problem, it was left unrectified until 2011 (Monchalin 2016, 113). Apart from monetary compensation on a case-by-case basis,

neither systemic wrongdoings against Indigenous women were acknowledged nor collective compensation was offered to them in the Constitution debates period. Also, the NWAC was excluded from four Constitution conferences that according to Section 37 were supposed to include consultations with Indigenous peoples about how to interpret Section 35 (Eberts, McIvor and Nahanee 2006, 80-2).[48] In short, after the *White Paper* was scrapped and Indigenous rights were hesitantly acknowledged in the Constitution, (1) deep-seated fractures were created in Indigenous communities to pave the way for imposing extractive capitalist infrastructures on Indigenous lands, and (2) the NWAC was excluded from the Constitution debates, and Indigenous women continued to be legally discriminated against.

When the 1987 Meech Lake Accord was also proposed without consultation with Indigenous peoples, it caused a tremendous backlash in Indigenous communities. Elijah Harper, the Manitoba Native leader and the NDP Member of the Legislative Assembly, played a key role in preventing the adoption of this Accord in the summer of 1990 that is pointedly called the "Indian summer" (Coulthard 2014, 115-6). The judicial processes of narrowing constitutionally acknowledged Indigenous rights also began in this summer; in *R. v. Sparrow* decision[49], the Supreme Court interpreted the content of Section 35(1) for the first time to determine if government restrictions on fishing practices of Musqueam band members (in BC) were constitutional. This court ruling set Canada's first criteria for determining which Indigenous rights existed and how the government might justify infringing upon them (Monchalin 2016, 203-6). Importantly, by specifying the limits of Indigenous rights in Section 35(1), this case

[48] Then president and vice president of the NWAC, Gail Stacey-Moore and Sharon McIver, took legal actions against this exclusion. But the Supreme Court ruled against them in 1994 *Native Women's Association of Canada v. Canada* decision. The sneaky ground for this rejection was that Section 35(4) guarantees of Aboriginal and treaty rights referred to in Section 35(1), equally to male and female persons, does not apply in this case because no existing treaties imply the right of Aboriginal people of Canada to participate in in Constitution debates (Eberts, McIvor and Nahanee 2006, 92).
[49] *R. v. Sparrow*, [1990], 1 SCR 1075: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/609/index.do.

declared that constitutional rights for Indigenous peoples were not absolute in the sense that they could be infringed upon in the name of the nation's interests. Against this backdrop, when the town of Oka announced the expansion of a golf course into the ancestral cemetery of the Mohawk, an epic armed confrontation was unleashed among the Mohawk nation of the Kanesatake, the Quebec police, and Canadian Armed Forces in Oka. The state used heavily armed police to shut down the Mohawk 78-day blockade. This state police operation that was Canada's "costliest military operation since the Korean war" (Coulthard 2014, 118) built a political spectacle that pushed Canada to create the RCAP in 1991 to systematically investigate the harms inflicted upon Indigenous peoples. The RCAP's five-volume final report came out in 1996 (Royal Commision on Aboriginal Peoples 1996),[50] but some of its shorter reports, including a detailed account of the damages of forced Inuit relocations in the 1950s (which was among many forced Indigenous relocations), were released earlier. Meanwhile, legal claims by the survivors of residential schools that had been developing since the 1960s also began to crystalize; the Mi'kmaq activist, Nora Bernard's 1987 initiation of survivor meetings in Darthmouth, Nova Scotia quickly grew into a class-action lawsuit on behalf of the survivors of the Shubenacadie school. Likewise, *Breaking the Silence* (Assembly of First Nations 1994), the AFN's 1994 document on residential school abuses, brought this complex tragedy into the public eye more broadly.

Canada's first redress settlement with an Indigenous community, the 1996 High Arctic Relocation Reconciliation Agreement, offered $10M monetary compensation for the 1950s forced relocations of the Inuit (Wakeham 2014, 85). It was reached after the 1994 release of the RCAP's report on Inuit relocations (Royal Commission on Aboriginal People 1994). At the time,

[50] For this report's highlights, see: (Indian Affairs and Northern Deveelopment Canada 2010a).

no apology was offered for these relocations and no compensation was offered for other Indigenous forced relocations detailed in the RCAP's 1994 report (James 2008, 143).[51] While this compensation was necessary**,** what speaks more loudly about this settlement is its political context rather than its actual content. The political context of this redress settlement was shaped by major Indigenous protests. These protests had broken out since the proposed *White Paper* and were strengthened by Indigenous-animated UN pressure. They continued despite failed modern treaty negotiations and Indigenous women's exclusion from Constitution debates, and finally fully bloomed in the Mohawk confrontation with Canada's land theft in Oka. This context shows how the 1996 redress settlement is better described as the state's reputation control, under multiple international and domestic pressure, to hide the fact that Canada's post-Constitution sovereignty has remained rooted in systemic Indigenous land-theft for capitalist profit-making and violence against Indigenous people, especially women.

[51] The first apology for the Inuit relocations was offered over a decade later, on August 18th, 2010 (Indian Affairs and Northern Development Canada 2010b). This apology was delivered by the previous Minister of Indian Affairs and Northern Development John Duncan, in Inukjuak, in Nunavik territory, North of Quebec (George 2010). It narrowly focused on the forced relocation of families in Nunavik's Inukjuak village and Nunavut's Pond Inlet to the High Arctic in the 1950s. As Pauline Wakeham demonstrates, The content of the 2010 apology and the 1996 Agreement are "strikingly similar" (Wakeham 2014, 97) in that they both "sidestep the sovereignty agenda that catalyzed the relocations" (Ibid, 98) while "implicitly enfold[ing] Inuit within the homogenizing national body politics" (Ibid, 99). However, the Arctic Exile Monument Project that is an Inuit-sponsored monument project unveiled shortly before the 2010 apology to raise broad public awareness about the Inuit relocation stands as an important example of a grassroots redress initiative that strategically negotiated redress with the state while contesting its limits (Ibid, 115-27). The next three apologies related to the Inuit relocations were offered in different regions of the Nunavut territory in 2019, focusing on different aspects of the harms caused by Inuit forced relocations, without drawing connections between these harms and linking them to those mentioned in the 2010 apology and the 1996 Agreement. On January 22nd, the Minister of Crown-Indigenous Relations Carolyn Bennett delivered an apology in Arviat for the forced relocation of the Ahiarmiut Community (Crown-Indigenous Relations and Northern Affairs Canada 2019a). Shortly after, on March 8th, Prime Minister Justin Trudeau apologized to the Inuit in Iqaluit for the government's mismanagement of the tuberculosis pandemic between the 1940-1960s (Trudeau 2019a). The next and last apology (by 2022) for the Inuit relocations was offered in Iqaluit on August 14th (Crown-Indigenous Relations and Northern Affairs Canada 2019d). It was delivered by the Minister of Crown-Indigenous Relations Carolyn Bennett and focused on 1950-75 relocations of families in Qikiqtani region (mainly on Baffin Island) in Nunavut, following the release of the final report of the government-independent Qikiqtani Truth Commission that detailed the RCMP slaughter of the Inuit sled dogs (called qimmiit in Inuktitut, the language spoken by the Inuit) as well as the human harms of the relocations of thirteen Inuit communities in the Qikiqtani region of Nunavut, including the Pond Inlet community (Qikiqtani Inuit Association 2013).

As I explained in Chapter One, Indigenous land-theft and violence against Indigenous peoples have been two major components of Canada's settler colonialism. By hiding these two components, the 1996 settlement effectively legitimized them. Apart from the implications of this settlement's political context, a closer look at the Agreement itself shows how its content primarily focused on separating the past from the present and legitimizing settler colonial violence against Indigenous peoples at present. As Pauline Wakeham shows, the Agreement recognized the Inuit forced relocation, but it denied the state's "liability" for its far-reaching consequences (Wakeham 2014, 95) by limiting the relocation to the past and separating it from the present while emphasizing the state's good intentions in planning the relocations in the first place (Ibid, 96). While disregarding the lived experiences of the Inuit, this Agreement was framed to render the harms inflicted upon Inuit people compatible with the state's liberal values, thereby legitimizing state sovereignty. In this sense, Wakeham contends, Canada turned the 1996 Agreement into a "contractual assurance" to emphasize the state's moral goodness and to get the injured parties to agree on the terms for remembering their forced relocations (Ibid).

2-2 The Evolution of Redress Infrastructures for Indigenous Peoples (since 1996)

A few months after Canada's first redress settlement with an Indigenous group, the landmark *R. v. Van der Peet* Supreme Court ruling further narrowed the scope of constitutionally acknowledged Indigenous rights. Building on *R. v. Sparrow* criteria for Indigenous rights, this ruling reaffirmed that, while Indigenous rights could not be extinguished, they could be regulated and infringed upon by the state. It introduced the "integral to a distinctive culture" test to determine whether a specific activity has been part of a "practice, costume, or tradition integral to the distinctive culture of the aboriginal group claiming the right prior to the contact with

Europeans" and if so, it explicitly sought to acknowledge and reconcile this right with Crown sovereignty.[52] This test has been criticized for interpreting Indigenous rights as merely cultural and constructing Indigenous cultures as static, frozen, and limited to the pre-contact period (Kent 2012, 33-4). The *R. v. Gladstone* ruling[53] that followed shortly after, decided that the practice of harvesting herring roe was integral to Heiltsuk culture but made a distinction between the right to fish for food and ceremonial purposes vs. commercial purposes and denied the latter that was crucial for Heiltsuk economic livelihood. By restricting the authority of Indigenous jurisdictions over Indigenous practices, these two rulings imposed major limitations on the constitutional framework for Indigenous rights and subordinated Indigenous jurisdictions to the Crown sovereignty in the name of reconciling them. In doing so, they just echoed the 1995 paternalistic government policy that specified "the inherent right of self-government does not include a right of sovereignty in the international sense and will not result in sovereign independent aboriginal nation states. On the contrary, implementation of self-government should enhance the participation of Aboriginal peoples in the Canadian federation and ensure that Aboriginal peoples and their governments do not exist in isolation, separate and apart from the rest of Canadian society" (Indian Affairs and Northern Development Canada 1995, 4). This policy frames what it calls Indigenous peoples' "inherent right of self-government" in a way that sets the tone for denying Indigenous sovereignty or the authority of Indigenous groups to determine the political terms for governing their communities. It also denies the treaty-based nature of Canada's relationship with some Indigenous peoples which implies acknowledging Indigenous sovereignty in the international sense.

[52] *R. v. Van der Peet*, [1996] 2 SCR 507: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1407/index.do.
[53] *R. v. Gladstone*, [1996] 2 SCR 732: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1409/index.do.

The RCAP's final report that was released shortly after *Van der Peet* and *Gladstone* decisions is considered by many as an alternative to the constitutional framework for Indigenous rights and its narrow judicial interpretations. For instance, while noting that the RCAP's recommendations have not been flawless, Glen Coulthard describes its final report as having provided the most comprehensive set of recommendations and identifies it as a "potentially productive point of entry into the much more challenging conversations [..] about what it takes to truly decolonize the relationship between Indigenous peoples and non-Indigenous people in Canada" (Coulthard 2014, 119-20). The single sentence summary from the RCAP's final report is that "the main policy direction, pursued for more than 150 years, first by colonial then by Canadian governments, has been wrong" [quoted in: (Institute on Governance 2014, 4)]. The RCAP traces the harms inflicted upon Indigenous communities back to the pre-Confederation period. Its "cornerstone recommendation" (Institute on Governance 2014, 47) for a complete restructuring of the relationship between Canada and Indigenous peoples, from paternalism to partnership, is to establish a new Royal Proclamation to replace the 1763 Royal Proclamation. This report uses the notion of "reconciliation" as a framework to describe restructuring Canada's relationship with Indigenous peoples. A major element of this relationship restructuring is framed in the 2nd volume of this report as honoring the terms of historical treaties and making new treaties with Indigenous peoples through renewing the processes for both Comprehensive Land Claims (the so-called modern treaties) and Specific Land Claims (to address grievances related to Canada's failure of its obligations under historical treaties). In this context, "reconciliation" is defined as "embracing the spirit of the treaty relationship itself, a relationship of mutual trust and loyalty, as the framework for the vibrant and respectful new relationship between peoples" (Royal Commision on Aboriginal Peoples 1996b, 2: 35). The twenty-year

agenda for this relationship restructuring is outlined in the RCAP's 5th volume as an alternative to the existing constitutional framework for Indigenous rights and title. This agenda builds upon the RCAP's earlier four volumes that (1) "trace the history" of Indigenous peoples with non-Indigenous communities "since before contact" (Institute on Governance 2014, 6); (2) make a strong case for immediately transforming Canada's relationship with Indigenous peoples; (3) "address pressing social issues facing" Indigenous peoples (Ibid, 7); and (4) present the "diversity of perspectives" within Indigenous nations (Ibid). Its key recommended constitutional changes include, among others, an explicit recognition of the right of self-government in Section 35(1) and a veto for Indigenous peoples on amendments of Constitution Sections that directly impact their rights (Royal Commision on Aboriginal Peoples 1996b, 5: 108). Canada has failed to implement these key constitutional recommendations despite having offered many reconciliatory gestures to Indigenous peoples since the release of the RCAP's final report.

Yet, it is crucial to note how the RCAP's final report that is the foundation for Canada's future redress infrastructures for Indigenous peoples in terms of reconciliation, failed to offer a proper framework for transforming the state's settler colonial domination over Indigenous lives. Pointing out the very nature of the RCAP as a Canadian political institution mandated to engage existing practices of the governance in order to make policy recommendations to the Parliament, Dale Turner explains how the RCAP's report defeats the purpose of its public hearing phase. He specifically underlines the limits of what the RCAP could recommend in terms of its "within Canada" imperative that is rooted in recognizing Indigenous people's inherent right of self-determination[54] "embedded within the constitutional legitimacy of Section 35(1)" (Turner 2006,

[54] While the RCAP uses the language of both "self-determination" and "self-government," the former is defined as a broader concept that encompasses the latter. The 2nd volume of the report specifically focuses on the right of self-government. This right is characterized as the authority of Indigenous communities and nations to govern themselves and make decisions about their internal affairs. It includes matters such as education, healthcare, justice,

78). By framing the Indigenous right of self-determination within Canada's Constitution, the RCAP introduces a narrow normative framework for the state's renewed relationship with Indigenous peoples. This normative framework embeds "a fundamental asymmetry" (Ibid, 81) that allows the state to unilaterally determine the terms of the renewed relationship[55]. This interpretation of the Indigenous right of self-determination, he emphasizes, ultimately sets aside Indigenous understandings of sovereignty that are based on oral philosophies and treaty agreements. Turner emphasizes the oral nature of Indigenous philosophies and epistemologies as foundational to their understanding and transmission. He highlights how Indigenous knowledge systems are often articulated and transmitted through oral traditions, storytelling, ceremonies, and other forms of spoken communication rather than through written texts. What is significant about these oral traditions is that they embody the dynamic relationships between people, land, water, animals, plants, and spirituality. Honoring these dynamic relationships in Indigenous knowledge systems is at odds with the RCAP's narrow constitutional framework for recognizing the Indigenous right of self-determination. I show how the fundamental asymmetry within the constitutional rights framework that Turner argues the RCAP has endorsed shapes Canada's

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social services, and resource management, and entails Indigenous communities having control over the development and implementation of policies and programs that affect their members (Royal Commision on Aboriginal Peoples 1996b, 2 : 299-580). The right of self-determination on the other hand is described as a broader concept that encompasses Indigenous peoples' right to control their own destinies and shape their futures. It includes the ability of Indigenous communities and nations to make decisions about their lands, resources, cultures, and political status. Self-determination goes beyond governance structures to encompass Indigenous peoples' rights to participate in decisions that affect them and to determine their own priorities and development pathways (Royal Commision on Aboriginal Peoples 1996b, 1 : 177-666). The RCAP recognizes both rights for Indigenous peoples only within the framework of Canadian legal systems.

[55] In characterizing Indigenous people's inherent right of self-government in particular, the RCAP invokes a "core/periphery hierarchy of governmental power" (Turner 2006, 80) to determine which aspects of Indigenous jurisdiction could be limited by Canada's federal or provincial governments. On this model, the Indigenous right of self-government could be implemented "by self-starting initiatives without the need for agreements with the federal and provincial governments" (Royal Commision on Aboriginal Peoples 1996b, 2: 214) only regarding what is termed the "core areas of [Indigenous] jurisdiction" (Ibid). These core areas are defined as "all matters that are of vital concern to a particular [Indigenous] people, its culture, and identity, do not have a major impact on adjacent jurisdictions, and are otherwise the object of transcendent federal or provincial concern" (Ibid). In all other areas of Indigenous jurisdiction that are termed "peripheral," reaching agreements with Canada's federal and provincial governments is stated as a requirement for practicing the Indigenous right of self-government.

redress infrastructures for Indigenous peoples since the 1996 release of the RCAP's final report. In this context, I examine the strategies through which these infrastructures seek to consolidate state sovereignty.

The RCAP's report concluded by calling for a conference of first Ministers and Indigenous leaders within six months. The government, of course, missed the six-month deadline and postponed addressing the RCAP's recommendations. In response, the AFN announced the National Day of Protest to push the government out of its inaction (Institute on Governance 2014, 19). Canada's first major step toward implementing redress infrastructures in response to Indigenous protests for its inaction in the face of the RCAP's recommendations was releasing the 1998 *Gathering Strength: Canada's Aboriginal Action Plan*, a combined "Statement of Reconciliation" and action plan. It was delivered by Minister of Indian Affairs Jane Stewart, at a luncheon on January 7th, 1998, in Ottawa to a group of politicians and Indigenous leaders (Indian Affairs and Northern Development Canada 1998). The "Statement of Reconciliation" section of *Gathering strength* expresses the government's regret for selective harms inflicted upon Indigenous communities and offers $350M as monetary compensation to support community-based healing to address the residential schooling system abuses. Its action plan section offers a normative policy framework for recognizing Indigenous peoples' "inherent right of self-government." But this action plan builds upon the RCAP for outlining a normative approach toward renewing the state's relationship with Indigenous peoples. In this sense, it is bound by the fundamental asymmetry that Turner argues the RCAP imposes on renewing relationships with Indigenous peoples and ultimately leads to disregarding Indigenous perspectives on sovereignties. In doing so, this action plan seeks to legitimize the ongoing subordination of Indigenous sovereignties to Canada's sovereignty. Since this action plan is merged with a

"Statement of Reconciliation," I examine its other functions in detail in Chapter Four. But at this point, it should be noted that even within the RCAP's constraints, *Gathering Strength* avoids engaging with the main recommendations for structural changes and only selectively addresses a narrow set of issues raised by the RCAP. The title of this action plan is chosen to specifically highlight the RCAP's 3rd volume that focuses on pressing current issues faced by Indigenous peoples, reflecting the government's belief that elevating Indigenous peoples' basic conditions has priority over making structural changes.

Despite the RCAP's detailed reconciliation recommendations for restructuring Canada's relationship with Indigenous peoples, reflected in the *Gathering Strength* as the recognition of Indigenous peoples' "inherent right of self-government," Indigenous sovereignties remained consistently subordinated in judicial interpretations of Indigenous rights and title that authorized Crown sovereignty over Indigenous lives, judicial interpretations of the amended *Criminal Code* that obscured histories of settler colonialism, and Land Claims Agreements that required extinguishing Indigenous rights and title. Notable Supreme Court decisions about Indigenous rights and title in this period included the 1997 *Delgamuukw v. B.C.*, the 1999 *R. v. Marshall I & II,* the 2003 *R. v. Pawley*, and the 2004-5 trilogy on the Crown's duty to consult Indigenous peoples. Despite their differences, they all ultimately re-asserted Canada's vision of the superiority of Crown sovereignty over frozen interpretations of Indigenous jurisdictions. *Delgamuukw* ruling[56] is often celebrated as a significant achievement for Indigenous peoples because it required for the first time that the courts give equal consideration to written and oral evidence to prove the existence of Indigenous rights (Institute on Governance 2014, 51). But this decision significantly misinterpreted and restricted the jurisdictions of the Gitksan and

[56] *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1569/index.do.

Wet'suwet'en Nations. The ruling introduced a spectrum of Indigenous rights, from the highest (Indigenous land title) to the lowest (rights for activities not connected to the land) and represented Indigenous rights as "parasitic to the underlying title."[57] This "means-end" (Suzack 2011, 449) metaphor that legally associated Indigenous practices with land exploitation was a novel move towards the so-called reconciliation of Indigenous rights with Crown sovereignty by framing Indigenous economies as compatible with capitalist land theft and labour exploitation. At the same time, by representing Indigenous title as a "burden on the Crown's underlying title,"[58] which it assumed to have been gained when the Crown "asserted sovereignty over the land in question,"[59] this decision kept Indigenous sovereignties subordinated to Crown sovereignty. The *Delgamuukw* decision also reserved the government's authority to infringe upon Indigenous rights in a long list of circumstances, including "the development of agriculture, forestry, mining, and hydroelectric power, the general economic development of the interior BC, protection of the environment or endangered species, the building of infrastructure and the settlement of foreign populations to support those aims" (Pasternak, Metalic, et al. 2021, 9).

Likewise, *R. v. Marshall I*[60] *& II*[61] rulings that recognized commercial fishing rights in the context of a pre-Confederation treaty in Mi'kmaq territory "emphasized that these rights must be regulated by the Crown" (Ibid), and the *R. v. Pawley*[62] just modified the *Var der Peet* test to define the Métis rights (Institute on Governance 2014, 51-3). In this context, it might sound like the emphasis put in the 2004-5 Supreme Court trilogy decisions[63] on the Crown duty

[57] Ibid at paras 111 and 140.
[58] Ibid at para 145.
[59] Ibid.
[60] *R. v. Marshall*, [1999] 3 SCR 456: https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/1739/index.do.
[61] *R. v. Marshall*, [1999] 3 SCR 533: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1740/index.do.
[62] *R. v. Pawley*, 2003 SCC 43, [2003] 2 SCR 207: https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/2076/index.do.
[63] These decisions consist of: (1) *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73, [2004] SCR 511: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2189/index.do; (2) *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, 2004 SCC 74, [2004] 3 SCR 550: https://scc-csc.lexum.com/scc-csc/scc-

to consult Indigenous peoples was a move in the right direction in interpreting Indigenous rights. But this duty was nowhere considered to be absolute, and no veto was given to Indigenous peoples over final Crown decisions (Briduea 2019, 7). This period's court interpretations of Indigenous rights and title severely limited Indigenous jurisdictions in Indigenous territories and attested to the ongoing clash between Indigenous perspectives on sovereignty and Canada's recognition of Indigenous self-government. On the other hand, harmful attempts were made in this period to interpret recent amendments to the *Criminal Code* to address the high rates of incarceration in Indigenous communities in response to the RCAP's report on criminal justice, titled *Bridging the Cultural Divide* (Royal Commission on Aboriginal Peoples 1996a). Section 718.2(e) was added to the *Criminal Code* in 1996 to offer alternatives to incarceration in sentencing Indigenous peoples. It stated that "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders."[64] The 1999 Supreme Court's landmark decision in *R. v. Gladue*[65] was the first judicial interpretation of this Section (Murdocca 2013, 9). But the sentencing approach established by this case and others that followed enabled marking Indigenous peoples as having a "social problem" (Ibid, 65) because of their cultural differences from mainstream liberal society and obscured histories of settler colonialism (Ibid, 68-78). In fact, it has been shown that this approach has generated further legal barriers for Indigenous and other racialized peoples without reducing the incarceration rates of Indigenous peoples (Ibid, 9).

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csc/en/item/2190/index.do; and (3) *Mikisew Cree Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] SCR 388: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2251/index.do. These trilogy decisions "clarified the basis for the Crown's duty to consult [Indigenous peoples] and established a "general framework for its implementation" (Brideau 2019, 2).

[64] *Criminal Code*, RSC 1985 c. C-46, s 718.2 (e): https://www.statutes.ca/r-s-c-1985-c-c-46/718.2.

[65] *R. v. Gladue*, [1999] 1 SCR 688: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1695/index.do.

Finally, despite the RCAP's recommendation to renew the processes for Comprehensive and Specific Land Claims as a major step toward reconciliation, both these processes remained focused on enforcing the extinguishment of Indigenous rights and title. For instance, as Coulthard explains, while two alternative provisions introduced for Comprehensive Land Claims processes in the 2000 Nisga'a Final Agreement and the 2003 Tilcho Agreement appeared to abolish the original requirement for extinguishing Indigenous rights in exchange for the narrow and explicitly outlined benefits of a Comprehensive Land Claim, their legal and political outcomes remained the same; in Nisga'a Agreement, only the rights and benefits outlined in the package were acknowledged, and in Tilcho Agreement, the First Nations had to legally agree not to "assert" or claim any rights not already specified in the agreement (Coulthard 2014, 212-3). In fact, Canada has only recently (i.e., in 2014) proposed to renew its Comprehensive Land Claims Policy which had been last updated in 1986, a decade before the release of the RCAP's final report (Crown-Indigenous Relations and Northern Affairs Canada 2018). This new proposed policy, however, has remained structured around securing "certainty" for the government in treaty negotiations by "ensuring that, to the extent that the continuing [Indigenous] rights are inconsistent with the treaty, they cannot be used to undermine the agreement of the parties" (Ibid). Likewise, while a separate Specific Claims Tribunal has been created (introduced in 2007 and operational since 2011) in response to the RCAP's recommendations (Specific Claims Tribunal n.d.), its policy and guideline (presented as one about "justice, respect, and reconciliation") explicitly center around securing "certainty and finality" for the government through settling claims with Indigenous peoples (Crown-Indigenous Relations and Northern Affairs Canada 2021). It specifies that "a claim settlement must achieve complete and final settlement of the claim. First Nations must, therefore, provide the federal government with the

release and indemnity with respect to the claim, and may be required to provide a surrender, end litigation or take other steps so that the claim cannot be re-opened at some time in the future" (Ibid). The emphasis on certainty in Canada's renewed processes for both Comprehensive and Specific Land Claims reflects the "within Canada" imperative outlined in the RCAP's report which Turner argues is at odds with the oral nature of Indigenous worldviews (Turner 2006, 78).

The *Gathering Strength* faced several critiques from Indigenous leaders. It was criticized for its inadequate monetary compensation and for attempting to move residential school lawsuits out of the courts without consultation with the survivors and Indigenous leaders (Mahoney 2014 507; Institute on Governance 2014 20-2). The lack of apology by the Prime Minister in the House of Commons was also raised as a major concern. These critiques led to the initiation of an alternative dispute resolution process for residential school claims through consultation dialogues between the survivors, government representatives, church representatives, academics, and lawyers. This process was concluded in 1999, but the government proceeded to design the Alternative Dispute Resolution (ADP) program for residential schools on its own instead of continuing to include Indigenous representatives and survivors. The ADR was launched in 2003 despite Indigenous peoples' frustration with its non-negotiable biases, discriminations, and limitations (Mahoney 2014, 508-14). After major pushbacks, the ADR was replaced in 2005 by an agreement in principle initiated by the AFN that collapsed all past and future residential school claims into the 2006 Indian Residential School Settlement Agreements (IRSSA)[66], Canada's then largest class action lawsuit (Ibid, 514-17). The IRSSA offered two streams of compensation for the schools' survivors, the Common Experience Payment (CEP), offering very

[66] For all documents related to this Agreement, see IRSSA's website (Indian Residential School Settlement Agreement n.d.).
https://www.residentialschoolsettlement.ca/settlement.html

modest compensation for general abuses (concluded by 2012), and the Independent Assessment Process (IAP) for addressing experiences of "physical and/or sexual abuses and enduring psychological harm" (Logan 2018, 94). A major component of the IRSSA was the Truth and Reconciliation Commission (TRC).

The TRC was announced in 2008 when, in the wake of community calls for an adequate apology, Prime Minister Stephen Harper delivered Canada's general apology to Indigenous peoples at the House of Commons.[67] As Snelgrove and Wildcat argue, while the language of reconciliation has been in use before the TRC (in judicial interpretations of Indigenous rights and title and especially since the release of the RCAP's final report), it "became a moral-social concept in the TRC" (Snelgrove and Wildcat 2023, 162). The TRC was established in 2008 and concluded in 2015 by releasing a summary report that called the residential school system "cultural genocide" (instead of genocide)[68] and provided 94 Calls to Action (Truth and Reconciliation Commission of Canada 2015). The TRC's mandate (Truth and Reconciliation Commission Website n.d.) described it as a "profound commitment to establishing new relationships embedded in mutual recognition and respect," (Ibid) but clearly linked it to existing processes for renewing relationships with Indigenous peoples, including the RCAP. As a result, the TRC, like the *Gathering Strength*, worked within the fundamental normative asymmetry that the RCAP had endorsed between the state's existing legal discourses and Indigenous understandings of sovereignty. In this sense, the TRC, too, consolidates state sovereignty through legitimizing the ongoing subordination of Indigenous sovereignties. Reflecting the RCAP's endorsed asymmetry between Canada's sovereignty and Indigenous sovereignties, the TRC's

[67] *House of Commons Debates*, 39th Parl, 2nd Sess, Vol 142, No 110 (11 June 2008) at 6849-51 (Prime Minister Stephen Harper): https://www.ourcommons.ca/DocumentViewer/en/39-2/house/sitting-110/hansard.
[68] For an analysis of Canada's choice of phrase in this report, see: (MacDonald 2015).

mandate frames this Commission as primarily a tool for educating Canadians about residential schools and prohibits the Commission from conducting legal processes, possessing subpoena powers, and making recommendations regarding the misconduct of perpetrators while setting a two-year deadline to complete all national events and produce a report. Moreover, this mandate puts clear emphasis on what motivates the TRC as "an emerging and compelling desire to put the events of the past behind us so that we can move toward a stronger and healthier future" (Ibid). Therefore, the TRC also consolidates state sovereignty by sharply separating the past from the present and the future. Sophie McCall describes the TRC's institutional terms for collecting residential school narratives that predominantly reflect the Christian notions of confession and forgiveness as normative tools for "extract[ing]" Indigenous knowledge and stories in ways that are akin to mining natural resources from Indigenous lands and taking children from Indigenous families (McCall 2020, 1).[69]

Apart from the TRC's constraints on how to record the collective harms of residential schools, there are major concerns about the preservation of individual narratives collected under the IAP in the wake of a recent Supreme Court ruling and Canada's limited terms for acknowledging genocide despite having recently endorsed and ratified the UNDRIP. The TRC's

[69] That said, close to 7,000 statements were recorded from former residential school students who voluntarily contributed to the TRC (Logan 2018, 94) to join in the collective experience of sharing their narratives. Therefore, while the TRC fails to challenge the RCAP's normative asymmetry between Canada's sovereignty and Indigenous sovereignties and is framed in a way to separate the past from the present, it is crucial to engage with it and note the ways in which many Indigenous peoples who have contributed to the TRC have strongly pushed back against its constraints. McCall notes powerful examples of these refusals to endorse the TRC's mandates while participating in it and shows how Indigenous writers and artists enacted different Indigenous traditions of "testimony" (McCall 2020, 2) to confront the TRC's constraints. Among others, she discusses how Louise Bernice Halfe reclaimed Cree traditions of "ceremony and kinship ties" (Ibid, 10) in her 2016 collection of poems, *Burning in This Midnight Dream*, by capturing her TRC testimony in her poem "April 30, 2014" and situating it among other poems that revive Cree traditions rather than the TRC's formal spaces of hearing. Likewise, she explains how Bev Sellars transformed the TRC's prohibition of naming the predators by naming her abuser, Bishop O'Connor, in her 2013 autobiography, *They Called me Number One*, published shortly before her TRC testimony, and placing it in the TRC's Bent box that symbolized the TRC's constraining frame "and how survivors have taken back the frame for their own purposes" (Ibid, 11).

records have been archived since 2015 at the National Center for Truth and Reconciliation (NCTR) as a permanent center at the University of Manitoba to preserve the TRC statements. But, in 2017, the government was granted permission through the *Canada (Attorney General) v. Fontaine* decision[70] "to destroy approximately 36,000 records of the IAP process within 15 years" (Logan 2018, 98). These records provided by the residential school survivors of residential schools who suffered serious physical, sexual or enduring psychological harm are now considered government records and are subject to destruction[71] in the name of protecting the "individual privacy of victims" and "the confidentiality of the records of the abusers" (Ibid, 99). This raises serious concerns about the possibility of destroying evidence of genocide in Canada's residential schools. Canada's current *Criminal Code* only acknowledges two[72] out of five Articles of the UN Convention on the Prevention and Punishment of the Crime of Genocide[73] (excluding "the forcible transfer of children from one group to another") even though Canada signed this treaty in 1948 and ratified it in 1952. Partly in the name of protecting the survivors against legal complexities of determining whether the residential school system could be considered as genocide under Canada's *Criminal Code*, the TRC's mandate clearly prohibits it to act as a legal tribunal and does not allow it to declare the residential school system as genocide in the international sense. Yet, many residential school survivors "repeatedly named the schools

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[70] *Canada (Attorney General) v. Fontaine*, 2017 SCC 47, [2017] 2 SCR 205: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16797/index.do.

[71] It is worth noting that this court decision provides some degree of protection for these statements during the 15-year retention period through a notice program, allowing claimants the choice to preserve their documents. The decision specifies that "That choice will be brought to the attention of claimants through a notice program administered by the Chief Adjudicator [of the IRSSA]. We recognize that this order may be inconsistent with the wishes of deceased claimants who were never given the option to preserve their records. [..] In our view, however, the destruction of records that some claimants would have preferred to have preserved works a lesser injustice than the disclosure of records that most expected never to be shared" (*Canada (Attorney General) v. Fontaine*, 2017 SCC 47 at para 62, 246, [2017] 2 SCR 205).

[72] *Criminal Code*, RSC 1985 c. C-46, s 318(2): https://laws-lois.justice.gc.ca/eng/acts/c-46/section-318.html.

[73] *Convention on the Prevention and Punishment of the Crime of Genocide*, UN General Assembly, Resolution 260 A (III), A/RES/3/260. (December 9, 1948): https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-prevention-and-punishment-crime-genocide.

and the entire settler colonial system in Canada as genocide" (Ibid, 100). This is also reflected in many IAP records that are now subject to permanent destruction by 2032. While Canada's residential school system counts as genocide under the UNGC, and survivors of the schools never had a chance to follow the legal implications of announcing residential schools as genocide in the international sense, the destruction of major potential evidence of this legal announcement is now permitted.

The *Canada (Attorney General) v. Fontaine* court ruling that allows destroying some important evidence of Canada's genocide against Indigenous peoples aligns with the long performative history of Canada's engagement with the UNDRIP; as I mentioned in the previous section, Canada was one of the only four states that voted against the UNDRIP in 2007. The TRC that was initiated shortly after voting against the UNDRIP "enabled Canada to claim the title of the first 'established democracy' and the first G8 nation to initiate a truth and reconciliation commission" (Henderson and Wakeham 2013, 3). But, in 2009, Harper denied Canada's colonial history again at a G20 news conference (O'Keefe 2009). Canada finally endorsed the UNDRIP in 2016 and ratified the *UNDRIP Act* in 2021,[74] promising to implement the UNDRIP. But the proximity of Canada's 2007 rejection of the UNDRIP, the 2008 initiation of the TRC, and Harper's 2009 denial of Canada's colonial history at the G20 while promoting Canada as the first democratic society with a national TRC shows that Canada' redress politics for Indigenous peoples is motivated by avoiding international shame and managing reputation. Not only does the TRC impose normative constraints on how to record the harms of residential schools, but also the IAP's individual narratives are being used as tools to control the consequences of residential school abuses for Canada's international reputation. The legal

[74] *United Nations Declaration of the Rights of Indigenous Peoples Act*, SC 2021, c 14 (June 21, 2021): https://laws-lois.justice.gc.ca/eng/acts/u-2.2/page-1.html.

permission to destroy individual narratives of residential school abuses gathered under the guise of reconciliation strikingly reflects the genocidal nature of residential school practices that intended to destroy Indigenous lives and cultures. The persistence of such genocidal cultural politics underscores the urgent need to preserve, engage with, and meditate on lived experiences of settler colonial violence in Canada, as narrated by various Indigenous cultural producers and writers. These narratives have emerged both within and outside the TRC framework for reconciliation. Before analyzing how Maracle's selected novels speak beyond the confines of the 2008 apology that announces the TRC, which is the topic of my fourth chapter, I explain how the TRC's discourse of reconciliation has been pivotal in perpetuating anti-Indigenous violence.

What McCall describes as the TRC's "extract[ive]" approach to collecting residential school narratives has been literally paralleled by intensified policies for extracting natural resources from Indigenous lands in the past few decades. In 2006, as the IRSSA was getting approved, the National Energy Board (NEB) was holding public hearings to re-build the Mackenzie Pipeline, the Pipeline that was halted since the 1970s by the Berger report that reflected self-determination principles of the Dene and Métis in the Northwest Territories, but regained momentum in the 2000s as the Mackenzie Gas Project. It was then joined by the Aboriginal Pipeline Group (APG), an Indigenous organization formed by some Dene activists who initially protested this Pipeline, but frustrated by fragmentation within Dene resistance, eventually bought into its neoliberal agenda (Coulthard 2014, 78). The public hearings for assessing economic, social, and environmental aspects of the Mackenzie Gas project took several years (CBC News 2011), but the project was conditionally approved in 2009 and received federal approval in 2011 (Munzur 2021, 6). Its construction was supposed to begin in 2015 but

was postponed by the lead company that took it up and was eventually dropped in 2017 due to "unfavorable market conditions" (Ibid, 7).

Meanwhile, the Coastal GasLink (CGL) Pipeline, proposed in 2012 to transfer natural gas from Northern BC to an export terminal in Kitimat, was approved in 2014 by the BC provincial government and twenty selected First Nations (British Columbia Energy Regulator 2019) even though Wet'suwet'en heredity chiefs (who were the plaintiffs in the landmark *Delgamuukw* case) strongly opposed it (Kairos n.d.). In 2019, the RCMP violently arrested over two dozen land defenders protesting the CGL, but the Pipeline construction was not halted. The formerly arrested land defenders are now suing the RCMP while the UN questions Canada's commitment to the UNDRIP (Woodside 2022) as the Pipeline construction goes on. Likewise, the Trans Mountain Extension project (TMX), proposed by the Texas-based Kinder Morgan Company in 2013 to parallel the existing Tran Mountain Pipeline (to get Alberta Tar Sand oil to the Chinese market via the BC West Coast) was conditionally approved in 2016 despite facing major opposition from First Nations, courts, and the public (The Narwhal n.d.). When this opposition led to major conflicts between Alberta and BC premiers, and Kinder Morgan announced it would suspend the project unless uncertainties were resolved, Justin Trudeau purchased the Pipeline in 2018. The Federal Court of Appeals initially rejected the project as it had failed to get Indigenous peoples' consent, but it was eventually approved in 2019. This Pipeline's costs are now constantly rising, and it is facing bankruptcy while Prime Minister Justin Trudeau fiercely defends it as a "national infrastructure" (LaDuke and Cowen 2020, 254). As LaDuke and Cowen note, "Trudeau has in many ways intensified some of the most violent dimensions of some of the previous government's policies regarding energy, mining, and the protection of logistics systems that get those commodities to global markets" (Ibid, 249).

Trudeau's government's intensified policies for natural resource extraction were pursued while he proposed the 2018 Recognition and Implementation of Indigenous Rights Framework (RIIRF), promising to implement Section 35.[75] But this proposal has only provided a "a narrow model of self-government outside the *Indian Act*, premised on [..] fiscal mechanisms that do not address land rights but focus on accountability, a piecemeal approach to Aboriginal title, and an ongoing neglect of treaty obligations or expansion of First Nations jurisdiction generally" (King and Pasternak 2018, 2). Joyce Green analyzes the RIIRF as a move towards "corporatization of Aboriginal and treaty rights" by framing Indigenous rights in ways that resemble corporate rights, granted to stakeholders rather than citizens (Green 2019). Therefore, it is not a surprise that Trudeau is explicitly fusing this corporate model and Canada's redress infrastructures for Indigenous peoples; he is now presenting the bankrupt TMX as "Project Reconciliation" (Project Reconciliation Initiatives n.d.) and trying to sell this ecologically monstrous project to Indigenous peoples and "transfer [its] liability" to them (LaDuke and Cowen 2020, 253). As explained in Chapter One, stealing Indigenous lands and resources has been a major component of Canada's settler colonial project. By framing the ongoing non-consensual extraction of resources from Indigenous lands as a national infrastructure and trying to sell the TMX back to Indigenous populations under the guise of reconciliation, the government strategically uses the TRC's discourse of reconciliation to legitimize the ongoing Indigenous land theft.[76]

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[75] *House of Commons Debates*, 42nd Parl, 1st Sess, Vol 148, No 264 (February 4, 2018) at 17193-95 (Prime Minister Justin Trudeau): https://www.ourcommons.ca/DocumentViewer/en/42-1/house/sitting-264/hansard.

[76] Canada's two apologies (by 2022) to specific First Nations that are framed as posthumous statements of exoneration also reflect the colonial logic of legitimizing ongoing Indigenous land theft. After decades of legal and political activism by members of the Tsilhqot'in First Nation to deliver justice for their six war Chiefs, who were hanged by the colonial government in British Columbia in 1864 while defending their lands and people, Prime Minister Justin Trudeau delivered an apology in the House of Commons on March 26th, 2018 to exonerate the killed Chiefs, after more than150 years (*House of Commons Debates,* 42nd Parl, 1st Sess, Vol. 148, No. 275 (March 26, 2018) at 18095-6 (Prime Minister Justin Trudeau): https://www.ourcommons.ca/DocumentViewer/en/42-1/house/sitting-275/hansard). This exoneration, which Trudeau celebrates as "an important symbol of our

Current intensified policies for extractive capitalist infrastructures, despite and more recently in the name of renewing relationships with Indigenous peoples, match the heteronormative dimension of Canada's engagement with the TRC's reconciliation discourse, reflecting the state's consistent failure to protect Indigenous women. This failure is evident in Indigenous women's ongoing disproportionate disappearance and murder that has been brought to wide public attention at least since the 2004 release of *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada* (Amnesty International 2004). This document has been compiled in cooperation with the NWAC and was informed by the RCAP (Million, 2013 34), but the state cut the funding of the NWAC's *Sisters in Spirit* initiative (Berrera 2010) that was the main catalyst behind *Stolen Sisters* (Kubik and Bourassa 2016, 17-8). Later, in 2010 the state promised to fund the NWAC, but "the conditions of those funds excluded using the name 'Sisters in Spirit' and barred engagement in policy or research" (Million 2013, 53). This kind of conditional funding has been a tactic in state redress

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commitment to reconciliation," is delivered in the aftermath of the 2014 Supreme Course decision that confirmed Tsilhqot'in Nation's title over their ancestral territory (*Tsilhqot'in v. British Columbia* 2014 SCC 44, [2014] SCR 257: https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/14246/index.do). Trudeau's recognition of the Tsilhqot'in Nation is inseparable from this decision's framework for recognizing the Tsilhqot'in title, which has been a significant development in Canada's judicial interpretations of Indigenous title. But, as John Borrows explains, this decision, like *Delgamuukw* decision, reproduces the colonial doctrine of "*terra nullius*," subordinating Indigenous title to Crown sovereignty (Borrows 2015, 742), through affirming "the underlying title asserted by the Crown at sovereignty" and representing Indigenous title as "attached as a burden on" it (*Tsilhqot'in v. British Columbia* at para 75). On the other hand, the posthumous exoneration of Chief Poundmaker for his wrongful treason conviction by the colonial government in 1885, which was delivered more than 130 years later, on May 9th, 2019, by Prime Minister Justice Trudeau at a Poundmaker Nation Gathering in Saskatchewan (Trudeau 2019b), is tied to absolving the government from its Treaty 6 obligations to this Nation. This apology, offered after decades of advocacy by Poundmaker Nation community members (Riemer 2019), is framed as joining this Nation "on the path of reconciliation" (Trudeau 2019b). Shortly after, a settlement has been reached with nine First Nations in Treaty 4 and 6, including the Poundmaker Nation (Crown-Indigenous Relations and Northern Affairs Canada 2019c). This settlement reflects the most recent version of the federal Specific Claims policy and guideline, operational since 2011, with an explicit focus on securing "certainty and finality" for the government while effectively requiring the extinguishment of Indigenous rights and title beyond what is specified in the agreements (Crown-Indigenous Relations and Northern Affairs Canada 2021). In this sense, both these apologies are indications of the government's use of the reconciliation discourse as a means to limit Indigenous peoples' jurisdictions over their lands.

policies for other racialized communities as well (as I will explain in Chapter Three), but when deployed to control the terms of investigating the Missing and Murdered *Indigenous* Women and Girls (MMIWG), it has raised a red flag that Dian Million describes as Canada's "predictable move to recolonize grassroots redress activism" (Ibid). Million's description is specifically fitting when we note that in 2013, Canada directed the NWAC's *Sisters in Spirit* funding to commission the RCMP to inquire into the MMIWG (Royal Canadian Mounted Police 2014).

As I explained in Chapter One, Indigenous feminists have emphasized how violence against Indigenous women to establish heteropatriarchal control over Indigenous lives has always been constitutive to Canada's settler colonial project. By cutting the NWAC's fund to investigate the MMIWG and deploying the RCMP instead, Canada has responded to the TRC's Call to investigate violence against Indigenous women through expanding the settler colonial carceral power of the state police. This move is another government strategy that picks up the language of reconciliation to legitimize Canada's ongoing neglect of violence against Indigenous women. When major concerns were raised about the RCMP report's inaccuracy and biases (Berrera 2019), the national inquiry into MMIWG was finally launched in 2016 (Crown-Indigenous Relations and Northern Affairs Canada 2022), the final report of which came out in 2019 (Nationl Inquiry into Missing and Murdered Indigenous Womenand Girls 2019) and referred to violence against Indigenous women in Canada as genocide. In his speech after the release of this report, Prime Minister Justin Trudeau mentioned "genocide" in describing the MMIWG and promised an action plan to implement the report's hundreds of recommendations (Tunney 2019). However, since then, the rate of homicide among Indigenous women has remained the same and only more frustrations have accumulated for the NWAC and other MMIWG advocates (Deer 2022).

The MMIWG national inquiry has been one of Canada's most significant responses to the TRC's Calls to Action. The government's other significant responses to the TRC's relevant Calls to Action have included reaching a few recent redress settlements with Indigenous peoples. The TRC's Calls are divided into two categories: legacy and reconciliation Calls. The legacy Calls (#1-42) focus on "address[ing] major structural issues that Indigenous peoples continue to face" (Jewelland and Mosby 2021, 13) in key areas of child welfare, education, language and culture, health, and justice while the reconciliation Calls (#43-94) focus on policies to include Indigenous peoples in Canada, "educate" Canadians "about Indigenous peoples and residential schools," and "affirm Indigenous rights" (Ibid, 23). Canada has very slowly (i.e., nine completed Calls in seven years) responded mostly to reconciliation Calls (that are arguably the easiest) in a symbolic way rather than making structural changes that directly benefit Indigenous peoples. The MMIWG inquiry with a final report that is still to be implemented as policy has been the most important of Canada's three completed responses to high-stake legacy Calls (along with acknowledging Indigenous language rights and appointing a language Commissioner). Besides these complete responses to three legacy Calls, four redress settlements have been reached that speak to the first five legacy Calls concerning Indigenous children. These settlements are the 2016 Newfoundland and Labrador Residential Schools Settlement, the 2018 Sixties Scoop Settlement, the 2021 Day Scholars Settlement, and the 2022 Indigenous Child Welfare Settlement.

Only the 2016 settlement was followed by an apology delivered by Prime Minister Justin Trudeau. But it was only presented at a community gathering in Happy Valley-Goose Bay, Labrador, and not at the House of Commons (Trudeau 2017).[77] This settlement was in response

[77] After the discovery of an estimated 751 unmarked graves near former Marieval (Cowesses) residential school in Saskatchewan, Canada's latest apology (by 2022) to Indigenous peoples was offered by Prime Minister Justin Trudeau on June 25th, 2021 (Trudeau 2021). This apology, however, failed to launch a national inquiry to investigate other potential unmarked graves at former residential schools.

to legal claims of survivors of Newfoundland and Labrador residential schools who were excluded from the IRSSA, the 2008 apology, and the TRC. It provided funding to cover general compensation and abuse compensation for survivors of five specific residential schools and was supposed to implement commemoration and healing initiatives, but according to the government's own website (updated in 2019), has not yet started documenting survivors' narratives (Crown-Indigenous Relations and Northern Affairs Canada 2019b). The Day Scholars settlement on the other hand has only focused on basic monetary compensation for survivors of residential school who attended the schools during the day and started distributing the funds in January 2022 (Indian Residential Schools Day Scholars n.d.). These two settlements included nothing like a public inquiry. But the Sixties Scoop Settlement has established the Sixties Scoop Healing Foundation (National Sixties Scoop Healing Foundation Of Canada n.d.), launched in 2020, for the survivors of forced child removals in Indigenous communities between the 1950s and 1990s. The Foundation's 2020 report (The Sixties Scoop Healing Foundation National Survivor Engagement Report 2020) reflects the survivors' recommendations about how it should work on seven key areas (cultural reclamation, mental health, reunification and support, advocacy and collaboration, education, commemoration, connection and community building). Many survivors of the Sixties Scoop will soon contribute to this Foundation, but whether this knowledge will be preserved and used towards making changes to stop Indigenous people's ongoing dispossessions is an open question. Asking this question is especially relevant considering the TRC's extractive approach to residential school narratives that is reflected in the rising calls for a national inquiry into the Sixties Scoop (Dawkins 2021).

Finally, the recent Indigenous Child Welfare Settlement (Neufeld 2022) that if approved by the Federal Court would be Canada's largest class-action settlement (so far appealed by the

federal government twice) is the result of fifteen years of legal activism by the AFN and the First Nations Child and Family Caring Society in the Canadian Human Rights Tribunal (CHRT) (Jewelland and Mosby 2021, 14). It offers funding to compensate First Nations children and their families harmed by underfunded child welfare between 1991 and 2022 and to reform the welfare system in five years. While this settlement faces challenges including its specific cutoff date that excludes many survivors, it is unique since it promises to make structural changes to the child welfare system. Such changes could complete Canada's response to some of TRC's Calls to Action concerning Indigenous children. However, in response to the TRC's legacy Calls, Canada has so far taken what Jewelland and Mosby call a "parity approach," i.e., seeking to "fund state policies for Indigenous peoples on a par with other" policies (Ibid, 30), instead of producing new structures that reflect Indigenous values and addressing structural shortcomings of existing policies that have failed Indigenous peoples all along. In this sense, Canada's other responses to the TRC's Calls mirror the logic of its response to the TRC's call to investigate the MMIWG; these responses, too, seek to legitimize Canada's ongoing violence against Indigenous peoples.

Conclusion

Current frustrations over the neglect of violence against Indigenous women and the intensification of extractive capitalist infrastructures on Indigenous lands despite the implementation of redress infrastructures for Indigenous peoples evoke the anti-Indigenous climate of the Constitution debates period before the RCAP was formed. This ongoing anti-Indigenous violence has not been a coincidence since redress infrastructures have effectively legitimized Canada's ongoing nation-building that continues to reproduce the settler colonial theft of Indigenous lands for capitalist profit-making and violence against Indigenous people,

especially women. These infrastructures comprise the 1996 High Arctic Relocation Reconciliation Agreement, the 1998 *Gathering Strength* (Canada's combined "Statement of Reconciliation" and action plan for renewing relationships with Indigenous peoples), the 2006 IRSSA and its major component, the 2008-15 TRC (funded under IRSSA to inquire into residential schools), and the state's responses to the TRC's Calls to Action since 2015.

Overall, Canada's redress infrastructures for Indigenous peoples that I have discussed in this chapter function as new normative tools to consolidate Canada's sovereignty. In Chapter Four, I analyze how the rhetorical moves used in Canada's 1998 merged statement and 2008 apology to Indigenous peoples add significant performative dimensions to the normative force of these infrastructures and shape the public affects around the narrative of the state's renewed moral authority to rule the nation as Indigenous peoples' feeling partner. I highlight how Maracle's novels can be interpreted as counternarratives that take up the imperative of contesting the state's normative and performative measures for invisibilizing Indigenous lived experiences and perpetuating anti-Indigenous violence in the name of renewing relationships with Indigenous peoples.

Chapter Three

Canada's Redress Infrastructures for Racialized Communities

In this chapter, I complete my dissertation's map of Canada's redress infrastructures for Indigenous peoples and racialized communities that I began in Chapter Two. To provide context for the redress settlements associated with the 2007 and 2017 apologies to five Muslim citizens tortured abroad after 9/11, which are central to my Chapter Five, I trace the trajectory of redress infrastructures for racialized communities. Beginning with the state's initial redress settlement with Japanese Canadians in 1988, I outline its key strategies for legitimizing state sovereignty. Subsequently, I synthesize the development of Canada's redress infrastructures for racialized communities since 1988. These infrastructures include two time-limited conditional funding frameworks, the Acknowledgement, Commemoration, and Education (ACE) and the Historical Recognition Programs (HRPs), the Commission of Inquiry into the Bombing of Air India Flight 182, its resultant funding program, and the three redress settlements with five Muslim citizens tortured abroad after 9/11. Through this examination, I illustrate that, albeit through different approaches, both the time-limited conditional funding frameworks (the ACE and HRPs) and other redress mechanisms beyond these programs sought to legitimize Canada's ongoing settler colonial violence.

3-1 The First Redress Settlement with a Racialized Community (from the 1940s redress denials to the 1988 Japanese Canadian Redress Settlement)

While the international dimension of Indigenous appeals for justice against Canada's violation of its treaty obligations can be traced back to the early twentieth century before Canada was even internationally recognized as a sovereign state, the redress demands of racialized communities

were effectively initiated during or after the Second World War. Canada has responded differently to different redress-seeking racialized communities, but its first redress settlement was reached in 1988 with Canadians of Japanese descent. The redress campaign for the Second World War internment of Japanese Canadians is known to have played a trailblazing role in initiating redress negotiations for other racialized citizens. I contextualize the 1988 redress settlement to show how it functions as a normative tool to legitimize the state's ongoing settler colonial violence.

The first attempts to seek compensation for the Japanese Canadian internment began as early as 1943 with the formation of the Japanese Canadian Committee for Democracy (JCCD) in Toronto, which would be replaced by the National Japanese Canadian Citizenship Association (NJCCA) in 1947 (Miki and Kobayashi 1991, 56). The state responded to the early compensation demands of these groups by forming the 1947 Royal Commission on Japanese Claims, also known as the Bird Commission, to conduct a limited inquiry about the frauds and mishandling of the properties of Japanese Canadians during the War (Ibid, 92). But the 1950 report of this Commission that recommended limited compensation to the claimants was ignored (Miki 2004, 168). The next important appearance of Japanese Canadian redress voices was the NJCCA's presentation at the public hearings of the 1950 Senate Committee. In these hearings, the NJCCA used Prime Minister Pierre Trudeau's newly proposed Canadian Charter of Rights as an opportunity to raise concerns about violations of the rights of the wartime internees (James 2006b, 45). In this spirit, the NJCCA's executive secretary attempted to reach a new interpretation of the wrongness of the internment of Japanese Canadians, but the Senate Committee responded to his presentation by rehearsing racist suspicions about the disloyalty of the Japanese Canadians and insisting that they had no right to criticize Canadian public or

government because of their "two loyalties" (Ibid, 46). The state's coercive responses to the early Japanese Canadian redress demands virtually silenced them until the late 1970s, when in the wake of the Civil Rights movements, the ban on access to the Second World War government files was lifted for the first time (Miki and Kobayashi 1991, 60).

In the meantime, two unofficial government acknowledgements were made about the Japanese Canadian internment that failed to admit the wrongness of this internment and frustrated the redress-seeking Japanese Canadians. But it marked a shift from the state's 1940s image of Japanese Canadians as "enemy aliens" and its 1950s image of them as citizens with "two loyalties." In 1964, in his speech at the opening ceremony of the Japanese Canadian Cultural Centre (JCCC) in Toronto, Prime Minister Lester B. Pearson referred to the Japanese internment as a "black mark against Canada's traditional fairness and devotion to the principle of rights" (Miki 2004, 310). In describing the impact of the internment, he did not mention regret, but rather represented it as a federal service to Japanese Canadians that helped reveal their talents to the rest of Canada. He claimed that "the distribution – even though forceful – over the whole country undoubtedly hastened the full *integration* of Japanese Canadians into the Canadian life" (Ibid, italic mine). The second unofficial acknowledgement was Prime Minister Pierre Trudeau's 1976 apology to the Japanese government in Tokyo. In this statement, Trudeau thanked Japan "on behalf of all Canadians, for the contributions made to Canada by the men and women of Japanese origin who have shown through their courage, their tenacity, their industry, and their skills what gifted Canadians they are" (Ibid, 312). Here, the rhetoric shifts even further toward representing Japanese Canadians as model minorities or ideal citizens of Canada without emphasizing the wrongness of the internment.

A few contextual considerations help note that the shifts marked by these acknowledgments of the Japanese Canadian internment were far from genuine changes in the government's racial violence and were geared toward creating a sense of innocence for the government under international and domestic pressures that limited explicitly defending white supremacy. First, this very act of acknowledgement signifies the impossibility of continuing to deny historical wrongs in this period's growing public awareness about international calls to recognize basic human rights while proposing the Canadian Charter. At a domestic level, as I discussed in Chapter One, these shifts mirrored Canada's Constitution politics to emphasize diversity through the multiculturalism within bilingualism framework to quiet rising condemnations of the Anglo-French supremacy of the 1963 RCBB. This period was also the beginning of a demographic shift in Canada's immigration patterns, marked by a decline of the immigration from European countries. Since the resulting expansion of immigration from East Asia and Global South countries made it harder to sustain explicit white supremacy, the language of multiplicity within unity became the new frame for social cohesion in Canada (Kernerman 2005, 3-13).

Frustrated by the hollowness of the 1964 and 1976 acknowledgments of the Japanese Canadian internment, the redress-seeking Japanese Canadians took the next major step by forming a group of sansei (first generation), nisei (second generation), and issei (new immigrants from Japan) in Vancouver. This group shaped the core of the Japanese Canadian Centennial Project, Redress Committee (JCCP Redress Committee) that organized a photo-history exhibit (in Ottawa) of the Japanese Canadian experience, titled *A Dream of Riches: Japanese Canadians, 1877-1977*, to celebrate the 100-year anniversary of the arrival of the first Japanese immigrant in Canada (Miki 2004, 144). In the early 1980s, the JCCP Redress Committee that

later became a subcommittee of the new iteration of the NJCCA was renamed as the National Association of Japanese Canadians—NAJC (Ibid, 145). By then, the grassroots underpinnings of the Japanese Canadian redress movement had congealed. During the parliamentary debates for entrenching Canada's proposed Charter, especially the public hearings of the 1980 Special Joint Committee of the Senate and the House of Commons, important moments of coalition formation emerged among minority groups and ethnocultural associations, including the NAJC.[78] These were the new voices of groups that had, since 1971, established a parliamentary presence through negotiations for multiculturalism from below.[79]

Shortly after the 1980 hearings, the NAJC organized two major community forums on Japanese Canadian redress that got major media attention. *A Call for Justice*, the 1982 CBC TV documentary on the Japanese Canadian internment that came out that year was partly informed by the NAJC's public appearances (Miki 2004, 142-8). In this period, a division emerged within

[78] In his presentation, the NAJC representative brought attention to the Japanese Canadian internment experience and said "Surely, a Charter of Rights entrenched in the Constitution to prevent what we have gone through is the least that Canada can do … to ensure that such injustices will never be repeated" (James 2006b, 81). Other groups harmed by state policies that had not yet formed redress campaigns also emphasized historical injustices in their presentations; the president of the National Black Coalition of Canada (NBCC), for instance, said, "if one simply opens up equality of opportunity … it would take another 100 years to make up for past discrimination" (Ibid, 79). NBCC's parliamentary presentations in this period echoed voices from Canada's early Black radicalism (Austin, 2013), emerging from the 1968 Black Writers' Conference in Montreal that was organized around eradicating racial discrimination and fostering solidarity with Black and other nations (Workers of Colour Caucus 2018).The Ukrainian Canadian Committee (UCC) representative emphasized that he "did not wish ever to see the experience of World War I repeated, when over 8000 Ukrainian Canadians were interned by the Canadian government as enemy aliens" (James 2006b, 81), and the Canadian Jewish Congress (CJC) representative reminded Canadians that CJC members had been "victims of human rights violations" (Ibid).

[79] The newly formed Council of National Ethnocultural Organizations of Canada (CNEOC), later renamed as Canadian Ethnocultural Council (CEC), that was representing multiple ethnocultural organizations and played a major role in advancing the Japanese Canadian redress, was also present at this Joint Committee. CEC's spokesperson importantly linked Canada's historical and ongoing injustices against different non-Anglo-Saxon groups, including the internment of the Japanese Canadians during the Second World War and the ongoing dispossession of First Nations (Abu-Laban and Nieguth 2000, 481). He objected to then formulation of Section 1 of the proposed Charter that allowed "reasonable limits" on the state's protection of human rights, and said the very purpose of the entrenched Charter is "to protect minorities and individuals from supposedly reasonable discriminatory actions by an emotional majority" (Ibid, 482); he also specified CEC's support for "the handicapped and native peoples of Canada" as two groups that have been consistently discriminated against and whose problems should be necessarily considered in the Constitution (Ibid).

the Japanese Canadian community due to the increasing power of "cultural brokers" (Ibid, 314) in different ethnic minority communities who self-identified as community representatives but aligned themselves with government top-down multiculturalism expectations and funding guidelines. The Japanese Canadian self-identified representative group referred to themselves as the National Redress Committee (NRC) and sought to create a sense of urgency to bring the redress debates into a conclusion and block democratic grassroots negotiations to reach a community consensus (Ibid, 154-6). This community division resurfaced dramatically in 1983 when a member of NRC who had assumed a position of authority (and who had also managed to secure major funding from the Multiculturalism Directorate) unexpectedly resigned at the Labour Day weekend conference that he had called when asked for "accountability in the decision-making process" (Ibid, 159-160). While the community was going through painful polarizations, the more democratic NAJC held meetings in 1984 and submitted a formal redress brief to the federal government, titled *Democracy Betrayed: Redress for Japanese Canadians* (Ibid, 168). This was the beginning of eventful redress negotiations with different federal authorities, including two Prime Ministers and five successive federal Ministers.

These parliamentary and community pressures pushed the federal government to form an all-party Task Force to inquire into the effects of systemic racism on non-white Canadians (euphemistically identified in the report as "visible minorities"[80]). *Equality Now!* which was the 1984 final report of this Task Force paved the way for the creation of a stand-alone

[80] For a good critique of the notion of "visible minorities" as deployed by the Canadian government, see: (Brand and Carty 1988). Brand and Carty argue that the term "visible minority women" is a construct created by the Canadian state to categorize and marginalize racialized women. They contend that this label is not reflective of the diverse experiences and identities of women from racialized communities but instead serves to homogenize and invisibilize their distinct lived realities. Criticizing the use of such terms in Canadian policies and discourses, they highlight how these terms perpetuate systemic inequalities and fail to address the intersecting forms of oppression faced by racialized women.

Multiculturalism Ministry and recommended redress offers to Japanese Canadians[81] (James 2013, 33). But, in his last year as Prime Minister, Pierre Trudeau (who had apologized a decade earlier to Japan's government for the Japanese Canadian internment) responded to *Equality Now!* by publicly rejecting the report's redress recommendation for Japanese Canadians. David Collenette, the Minister in charge of the Multiculturalism Directorate, did some damage control to soften Trudeau's response. But he eventually announced that Japanese Canadians should not expect any compensation from the government. The NRC accepted his response while the NAJC rejected it (Miki 2004, 183-5). Brian Mulroney's 1984 election as the Prime Minister brought a temporary shift away from Trudeau's outright rejection and allowed the NAJC to formulate their negotiation criteria, including the rejection of imposing a deadline on the negotiation process (Ibid, 270-9). But eventually, Mulroney government's fear that the Japanese Canadian redress would set a precedent for other redress campaigns led to framing redress as an issue of public at large to deny the NAJC's representative authority and to create more leeway to authorize government-picked organizations (Miki 2004, 283-86).

Other redress demands that were set in motion since the 1980 parliamentary presentations of representatives from Black, Ukrainian, and Jewish communities also brought attention to the state's historical injustices against different racialized communities.[82] Moreover, two official redress campaigns were initiated to address the 1888-1923 imposition of the Chinese Head Tax (and the subsequent ban on immigration from China until 1946) and the more recent demolition

[81] For misrepresentations of the Japanese Canadian redress movement in this report, see: (Miki 2004, 177-8).
[82] Following those presentations, major publications and films have raised broader public awareness about Canada's (im)migration restrictions/deportations and security measures that led to racist wartime atrocities. Some of these major works included the 1980 publication of Eric Koch's *Deemed Suspect* and the 1981 CBC documentary *The Spies Who Never Were* about the internment of Jewish refuges during the Second World War; the 1983 publications of Frances Swyripa and John Herd Thomson's *Loyalties in Conflict: Ukrainians in Canada during the Great War* on the First World War Internment of Ukrainian Canadians; the 1983 publication of Irving Abella and Harold Troper's *None is Too Many* about the 1939 turning away of Jewish refugees on MS *St Louis*.

of Africville in the 1960s.[83] In this climate, the Mulroney government's denial of the NAJC's representative authority was more than just a response to the Japanese Canadian redress campaign and implied that the terms of potential future redress negotiations are up to the state rather than redress-seeking groups. While the Japanese Canadian redress movement opened space for redress negotiations for other racialized communities, the state sough to undermine its grassroots political structure, thereby also preemptively controlling the terms of redress campaigns to come.

A key factor that increased the government's control over the terms of redress negotiations was the transfer of the Japanese Canadian redress issue from the Ministry of Justice in the early 1980s to the Multiculturalism Directorate within the Department of the Secretary of State in 1984. Roy Miki explains that the government's reasons for this transfer were not clear but suggests that it might have resulted from the presentation of the Japanese Canadian internment in *Equality Now!* as a "conjunction of the experience of racism and the violation of rights" (Miki 2004, 316). At the community level, there were disagreements about which ministry should be in charge of redress: some believed that since the redress was a justice question, it should be addressed within the Ministry of Justice as opposed to the Multiculturalism Directorate that was likely to consider redress only as a group rights issue rather than framing it also as an individual rights violation issue. Others thought that the redress movement would

[83] In 1982, Africville Genealogy Society was formed to continue the work that the Africville Action Community had done since 1969 in seeking redress from the city of Halifax and also started to hold annual Africville Reunions for former residents of the neighborhood (City News 2020). Although this was not a federal-level redress campaign, it raised the profile for redress movements in that period (J. J. Nelson 2008, 116-46). The Chinese Head Tax redress campaign also started in 1983 when a former payer of the Head Tax presented his receipt at the office of Vancouver NDP MP after reading the newly passed Charter and claimed reimbursement (James 2004, 890). This was quickly growing into a redress campaign represented by the Chinese Canadian National Council (CCNC) on behalf of over 1000 payers of the Head Tax who were still alive (Chinese Canadian National Council Archives n.d.).

benefit from the well-established multiculturalism discourse that was powerful at the time (Ibid, 317-8).

Eventually, the NAJC decided to settle with the Multiculturalism Directorate[84] and accepted this government-level transfer. But this change made demanding substantive individual compensation in addition to a much lower generic group compensation very difficult in the last two years of redress negotiations. The public support for individual compensation grew stronger following the 1986 release of the Price Waterhouse report[85] on economic losses of Japanese Canadians after 1941. The NAJC pushed for individual compensation and many allies echoed its position, including the CEC, the Canadian Multiculturalism Council, the Chinese Canadian National Council, and the Canadian Jewish Congress (Ibid, 287). But the government's multiculturalism framework was leaning towards group compensation only. This made the NAJC's position very complex at the 1987 parliamentary presentations for the proposed Meech Lake Accord that focused on securing Quebec's endorsement of the Constitution while weakening bottom-up multiculturalism[86]. The 1987 parliamentary hearings also importantly featured significant coalitional voices that showed the concerns of ethnic minorities were not

[84] Ukrainian Canadians also pursued their early redress demands through the multiculturalism program. This redress campaign made a major advance in 1987 Standing Committee on Multiculturalism of the House of Commons by presenting Lubomyr Luciuk's *A Time of Atonement: Canada's First National Internment Operations and the Ukrainian Canadians, 1914-1920*, and requested the government's acknowledgment of this injustice and negotiations with the Ukrainian Canadian Committee to redress it (Luciuk 1988). For a good analysis of different position on the Ukrainian Canadian redress campaign, see: (Hinther and Mochoruk 2020, 9-11).

[85] This report came out after the newly passed *Privacy and Access of Information Act* that allowed public access to government intelligence records for the first time (Nishiguchi 2018). It showed that "the social and economic effects of the internment were far larger than recognized by the government" (Miki 2004, 288).

[86] On the one hand, joining the dissenting voices of ethnocultural associations that were contesting the asymmetrical nature of the Accord, the NAJC supported the multiculturalism framework. On the other hand, it disentangled the Japanese Canadian redress campaign from the top-down multiculturalism policy and noted that redress is a multiculturalism issue but is it not identical with it since it also includes compensation for human rights violations. The NAJC argued for a more strengthened Charter, too, and pointed out that the existing proposed Charter could not provide "the necessary protection to ensure that the enactment of the *War Measures Act* and the abrogation of rights experienced by Japanese Canadians can never happen to another ethnic minority or another minority group" (Abu-Laban and Nieguth 2000, 484).

limited to seeking redress or endorsing Canada's top-down multiculturalism, even in the context of pursuing state resources.[87]

Despite the accumulation of broad coalitional voices that demanded stronger protection against rights violation, challenged ongoing dispossessions of Indigenous peoples, and endorsed the NAJC's demand for individual compensation, the government did not resume redress negotiations until the NAJC organized a coalitional[88] rally in Ottawa in 1988 (Japanese Canadian Redress: The Toronto Story 2000). Only at this point and moved by the rally, the Minister in charge of the Multiculturalism Directorate expressed regret that the government had not yet reached an agreement with the NAJC and promised to resume negotiations. A few months later, the *Canadian Multiculturalism Act* was passed, and the *War Measures Act* was abolished and replaced by the more moderate *Emergencies Act* (Miki and Kobayashi 1991, 121). Next, the NAJC drafted a redress settlement in their last federal meeting and accepted the government's redress package (Miki 2004, 323), including both group and individual compensation and a House of Commons apology by Prime Minister Brian Mulroney on September 22nd, 1988 [reprinted in: (Henderson and Wakeham (eds.) 2013, Appendix G. II. 6: 435-9)].

This settlement, therefore, covered up the state's multiple early tactics and racial agenda for controlling the terms of remembering the past wrongs inflicted upon racialized communities. These tactics included acknowledging the Japanese Canadian internment while proposing a Charter of Rights but refusing to offer compensation later, and imposing top-down multiculturalism to undermine the Japanese Canadian redress campaign by fostering and taking

[87] This coalitional aspect was, for instance, manifestly expressed by the CEC's president when he said "Entrenching rights for a sector of society must not take place at the cost of another. That would be a dangerous precedent to set. It is important that in gaining Quebec's signature, this Accord not override the interests of ethnic minorities, native peoples or women" (Miki 2004, 485).
[88] For more information about this rally's supporters, including "Indian People's Association in North America" see: (Regina Japanese Canadian Club Inc. 2015).

advantage of divisions within the Japanese Canadian community and suppressing coalitional support for it, and preemptively controlling the terms of other potential redress campaigns. Apart from this, the "Terms of Agreement between the Government of Canada and the National Association of Japanese Canadians" [reprinted in: (Henderson and Wakeham (eds.) 2013, Appendix G. II. 7: 439-40)] also focused on separating the past from the present and advancing the fiction of racial innocence for the present government. This settlement specified that "the acknowledgement of these injustices serves notice to all Canadians that the excesses of the past are condemned and that the principles of justice and equality in Canada are reaffirmed" (Ibid, 439). Having emphasized the state's moral goodness, the settlement demanded the renewed patriarchal obligation of the Japanese Canadians and recognized "the fortitude and determination of the Japanese Canadians who [..] retain their commitment and loyalty to Canada and contribute so richly to the development of the Canadian nation" (Ibid). By demanding patriarchal obligation from the Japanese Canadians, this settlement sought to put a multicultural face on the hegemonic national narrative that it sought to re-create.

3-2 The Evolution of Redress Infrastructures for Racialized Communities (since 1988)

As noted above, the NAJC and other redress-seeking racialized groups made strategic uses of Canada's postwar parliamentary debates around building a Keynesian model of welfare state to advance material compensation and apology for historical injustices in their communities. These debates began to shift significantly towards the end of the Japanese Canadian redress negotiations as Canada participated more increasingly in neoliberal globalization processes (Miki 2004, 324). The government's explicit business rationales for social policies in this period significantly impacted the state's diversity policies such as the relatively new multiculturalism

program. The organization of the 1986 "Multiculturalism means business" conference in Toronto, for instance, made the process of neoliberalizing multiculturalism very explicit in Canada (Abu-Laban and Gabriel 2002, 110). At this point, multiculturalism was "framed as a tool for enhancing Canada's global competitiveness" (Ibid 111), and the main emphasis of this discourse shifted from diversity to unity and a very clear attachment to Canada as a unified nation-state. While the 1988 *Canadian Multiculturalism Act* and the formation of Canada's separate Department of Multiculturalism and Citizenship in 1991 were the first moves of their kind in the world, in 1993, Multiculturalism and Citizenship was disbanded, and the multiculturalism program was transferred to the newly established Department of Canadian Heritage (Ibid, 112). This new change to emphasize "Canadian heritage" was a move to foster a multiculturalism framework premised on business and trade that promoted Canada's multiculturalism to deal with the competitiveness of global markets. In practice, it placed value on male entrepreneurs and business leaders in racialized communities (Ibid, 124 & 173) and represented anti-racist political claims as mere business concerns (Ibid, 114).

Multiculturalism program was redesigned in 1997 with significant cutbacks. Neoliberal changes within the multiculturalism program were paralleled by similar shifts in Canada's redress politics for racialized communities, now governed by the neoliberal agenda of the Department of Canadian Heritage (James 2013, 32). I unpack Canada's redress infrastructures for racialized communities since 1988 amidst these changes. These infrastructures consist of two conditional funding frameworks, the ACE and the HRPs, other mechanisms including the Commission of Inquiry into the Bombing of Air India Flight 182, its subsequent funding program, and the three redress settlements with five Muslim citizens tortured abroad. I explain how the ACE and HRPs functioned as normative frameworks to legitimize Canada's ongoing

settler colonial violence both directly through imposing nationalist criteria for memorializing the state's wrongs that they considered legitimate and indirectly by narrowing the scope of legitimate wrongs to be redressed. Likewise, I show how the redress infrastructures beyond the ACE and HRPs similarly functioned as normative frameworks to consolidate state sovereignty through different tactics that legitimize the carceral logic inherent in Canada's post-9/11 national security discourse.

As the discourse of neoliberal globalization gained momentum, Canada increasingly disengaged from forging a national identity based on welfare state values (Miki 2004, 324). While the redress campaigns of racialized communities continued after 1988, the state's negotiations with these groups declined for eighteen years until 2005.[89] The only exception to the state's redress denials in this period was Mulroney's 1990 apology to Italian Canadians[90]. This apology, titled "Address by Prime Minister Brian Mulroney to the National Congress for the Italian Canadians and the Canadian Italian Business Professional Association" [reprinted in: (Henderson and Wakeham (eds.) 2013, Appendix G. I. 4: 414-8)], was not formal. It was

[89] In the meantime, since the NAJC made reaching the 1988 settlement conditional on the state's commitment to establish the Canadian Race Relations Foundation (CRRF) to fight racism in Canada, the *Canadian Race Relations Act* was passed in 1991, providing mandates for the CRRF that began its work in Toronto from 1997 as a Crown corporation and charity institute (Canadian Race Relations Foundation n.d.). The CRRF was mandated to do research, collect data, and provide information about racial discrimination and offer training, public awareness, and support for the elimination of racism. In its 2004-2005 report, the CRRF specifies that "While the CRRF has been supportive of various communities' right to seek redress and reparations in a variety of forms, the absence of an articulated policy resulted in a lack of clarity of our position when communities approached the Foundation for assistance. That changed this year" (Canadian Race Relations Foundation 2005, 11).This report acknowledges that even though the CRRF intended to promote other redress-seeking groups, its position on redress failed to challenge the state's general denial of redress demands before 2005.

[90] Other major redress demands of racialized communities in this period included campaigns to seek federal redress for the Chinese Head Tax (since 1983) and the internment of Ukrainian Canadians during the First World War (since 1987) as well as the Africville Campaign to seek redress from the City of Halifax (since 1982). There was also rising public awareness about Canada's history of antisemitism that led to the deportation of MS *St Louise* passengers before the Second World War and the internment of Jewish refugees during the War (Whitehouse, 2018). Moreover, although no formal redress campaign was yet formed for the 1914 deportation of Indian (mostly Sikh) passengers of the *Komagata Maru*, major advances were made toward raising consciousness about it through the formation of the Decedents of the Komagata Maru Society (Descendants of the Komagata Maru Society n.d.) and the publications of Sharon Pollock's *The Komagata Maru Incident* (1978) and Hugh Johnston's *The Voyage of the Komagata Maru: The Sikh Challenge to Canada's Color Line* (1989).

delivered on November 4th, 1990, at a community luncheon held at North Toronto, did not include financial compensation, and was a response to the 1990 brief submitted by the Toronto-based National Congress of Italian Canadians (NCIC) and the Montreal-based Canadian Italian Business and Professional Men's Association (CIBPMA)[91] to Mulroney (James 2008, 141-2). This brief, titled *A National Shame: The Internment of Italian Canadians*, focused on requesting an apology by drawing "parallels between the treatment of Japanese Canadians and Italian Canadians during the Second World War" (Henderson and Wakeham (eds.) 2013, Appendix G. I. 3: 409). However, it is believed that the state's apology in response to this brief was part of Mulroney government's strategy to prevent the failure of the upcoming proposed constitutional amendment, the Charlottetown Accord. After the recently failed Meech Lake Accord, Mulroney's approach to constitutional reform was heavily criticized for excluding representatives from marginalized communities. The delivery of the 1990 apology coincided with the launching of the Citizen's Forum on Canada's Future, also known as the Spicer Commission (Spicer 1991), which promised a greater representation of marginalized communities to prevent the Charlottetown Accord from failing (Iacovetta and Ventresca 383).[92]

The government's overall position on redress in this period was to frame redress demands as "backward-looking and divisive" (James 2013, 35) and to put rhetorical emphasis on investing

[91] The early campaign strategies of Italian Canadians, unlike those of the Chinese and the Ukrainian Canadians, were not community-based and were criticized by progressive Italian Canadian historians (James 2015, 12). For detail about this campaign, see: (Iacovetta & Ventresca 2000; Scardelatto 2018; Gordon-Walker, Hernandez, & Ashley 2018).

[92] Italian Canadians reached an agreement-in-principle with the federal government [reprinted in: (Henderson and Wakeham (eds.) 2013, Appendix G. I. 6)] to get compensation only after the government's 2005 shift of direction in redress policies. This agreement did not include an apology. Only recently (on May 7th, 2021) and in response the request of Angelo Iacono, an Italian Canadian Liberal MP who requested a federal apology for the Second World War internment of the Italian Canadians (CP24 2021), has Prime Minister Justine Trudeau delivered an apology for this atrocity in the House of Commons (*House of Commons Debates*, 43rd Parl, 2nd Sess, Vol 150, No 105 (May 27, 2021) at 7457-8: https://www.ourcommons.ca/DocumentViewer/en/43-2/house/sitting-105/hansard). This apology has been criticized for misrepresenting the Italian-Canadian internment and failing to note that those interned in the Italian Community were not representatives of the entire community (The Globe and Mail 2021).

in an equitable future. In 1993, redress-seeking groups "rejected Multiculturalism Minister Gerry Weiner's final offer" (James 2004, 890). He "proposed to issue certificates of apology to directly impacted individuals and to hold official ceremonies to commemorate the relevant injustices but ruled out offering financial compensation" (Ibid). Mulroney responded to this rejection in 1994 by preemptively announcing that his government would not pay out any compensation to ethnic groups for past injustices (James 2013, 39). This announcement was sent as a letter from the Secretary of State for Multiculturalism to eight redress-seeking ethnic advocacy organizations, including the Canadian Jewish Congress (CJC), the Chinese Canadian National Council (CCNC), the National Congress of Chinese Canadians (NCCC), the German Canadian Congress (GCC), the National Association of Canadians of Origins in India (NACOI), the National Congress of Italian Canadians (NCIC), the Ukrainian Canadian Congress (UKC), and the Ukrainian Canadian Civil Liberties Association (UCCLA) (Henderson and Wakeham (eds.) 2013, Appendix G. I. 5: 419). It was also later read at the House of Commons and rationalized as the government's choice to invest its limited funds in securing a better *future* rather than addressing injustices in the *past* (James 2004, 891, Italics mine). Different redress campaigns responded differently to this announcement and received differential government treatments that shaped Canada's first funding framework to address wrongs against racialized communities.

On the one hand, the UCCLA on behalf of Ukrainian Canadians embraced the government's position on redress since 1994 by modifying their redress demands and only requesting "official acknowledgment and financial assistance for commemorative projects" (James 2013, 35-6). Between 2001 and 2004, the Conservative opposition immigration critic, Inky Mark, took up the UCCLA's modified position and proposed private Bills on redress (Ibid). Although it is rare for private Bills to receive royal assents, Bill C-331, the *Ukrainian Canadian*

Restitution Act[93] that was initiated by Mark received royal assent in 2005. The state's new redress framework was a convergence of Liberal and Conservative redress policy shifts around the 2006 federal election, relying heavily on the UCCLA's modified redress position. In 2004, noting that a change in federal redress policy would secure more voters from racialized citizens, Prime Minister Stephen Harper adopted Mark's Bills as a Conservative Party Policy for federal election campaign (Ibid, 35). Observing the voters' openness to this promised redress policy, then liberal Prime Minister Paul Martin established the Acknowledgment, Commemoration, and Education (ACE) program within the Multiculturalism Directorate of the Department of Canadian Heritage in 2005 (Ibid), with three provisional redress agreements including agreements with Ukrainian Canadians, Chinese Canadians, and Italian Canadians (Ibid, 37). The ACE program made conditional funding available to eligible redress-seeking groups and promised ""acknowledgement," but not "apology"; "commemoration" and "education," but never "compensation."" (Ibid, 36)

On the other hand, the Chinese Canadian National Council (CCNC) on behalf of the Chinese Canadians took the Chinese Head Tax campaign to an international level and presented their case at the UN Commissioner for Human Rights in 1995 and later at the 2001 UN World Conference Against Racism (Ibid). The 2001 WCAR is also significant for the discussions it brought to surface about redress demands for slavery in Canada; in two preparatory conferences for the WCAR in Canada, members of the newly formed African Canadian Coalition Against Racism (ACCAR) and the African Canadian Legal Clinic (ACCLC, a member of the ACCAR) put strong emphasis on financial compensation for slavery and anti-black racism in Canada

[93] *An Act to acknowledge that persons of Ukrainian origin were interested in Canada during the First World War and to provide for the recognition of this event*, SC 2005, c 52 (November 25, 2005): https://www.parl.ca/LegisInfo/en/bill/38-1/C-331.

(Seligman 2014, 77-84). But the Canadian delegate avoided it and repeated that "in Canada we have taken a multi-faceted approach to the issue of remedies and redress and do not believe that granting financial compensation for historical action is appropriate" (Higgins 2001). Nevertheless, a member of the Africville Genealogy Society (AGS) presented redress demands for Africville expropriation at the 2001 UN Conference (Henderson and Wakeham (eds.) 2013, Appendix C. 3: 349-51). Following these presentations, a UN special rapporteur on racism visited Canada and made recommendations for addressing Canada's ongoing race-based injustices, including discriminations against people of African descent in the 2004 *UN Report on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance: Addendum, Mission to Canada* (Diène 2004). This report led to the 2005 passing of Bill-213, *An Act to Address the Historic Injustice Committed against the Peoples of Africville*, which was only an ad hoc response that did not result in any further action at this point (Henderson and Wakeham (eds.) 2013, Appendix C. 5: 354).

In the meantime, the CCNC organized a class-action lawsuit on behalf of the 4000 former Chinese Head Taxpayers (the Mack Case) against the government in Ontario Superior Court of Justice in 2000, seeking "$1.2 billion in compensation" (James 2004, 892). The Ontario Superior Court ruled against this lawsuit in 2002, and the Supreme Court of Canada dismissed its subsequent appeal in 2003 (Henderson and Wakeham (eds.) 2013, Appendix D. 3: 367). The CCNC, then, took a coalitional approach[94] and tried to use Canada's electoral politics to reverse the federal rejection of apology and compensation (James 2013, 40). But Prime Minister Martin's ACE program that was introduced shortly after, sidestepped the CCNC's demands and adopted the Ukrainian modified position. The government eventually apologized to the Chinese

[94] For this stage of the Chinse Canadian redress campaign, see James' notes on the CCNC's Last Spike Campaign (James 2004, 897).

Canadians from the House of Commons on June 22nd, 2006[95] and provided monetary compensation to some of those affected by the Chinese Head Tax only after the CCNC wrote an open letter to Martin and criticized the ACE (Henderson and Wakeham (eds.) 2013, Appendix D. 3: 376-7). But it never funded the CCNC, the community-based organization behind the Chinese Canadian redress campaign that challenged federal redress policies internationally and domestically. Instead, the CCNC's more conservative counterpart, the business-oriented National Congress of Chinese Canadians (NCCC), was put in charge of decision-making about commemorative funds (James 2013, 40). By contrast, the Ukrainian Canadian Congress (UCC) that embraced the Conservative shift in their redress demands in the late-90s was generously rewarded under the Historical Recognition Programs (HRPs), the twin funding program that replaced the ACE when the conservatives won in 2006 (Ibid). This twin funding programs included the Community Historical Recognition Program (CHRP) and the National Historical Recognition Program (NHRP) (The Evaluation Division 2013, 1). As James notes, the NHRP "appears to have been created almost entirely for the Ukrainian Canadian campaign" (James 2013, 40). In this sense, the ACE and HRPs were rooted in disciplining dissent through differential financial treatments of redress campaigns.

The other component of this Conservative-initiated funding program, namely the CHRP, shared many essential features of the ACE (James 2015). The CHRP's main emphasis was on providing conditional funding for ethnocultural organizations that framed their activities as commemorating historical injustices only in terms of contributions to building Canada (James 2013, 36-7). This conditional tactic of funding only the projects that framed remembering past

[95] *House of Commons Debates*, 39th Parl, 1st Sess, Vol 141, No 046 (June 22, 2006) at 2863- 4 (Prime Minister Stephen Harper): https://www.ourcommons.ca/DocumentViewer/en/39-1/house/sitting-46/hansard.

wrongs as contributions to the nation at present gave the state enhanced control over redress campaigns of racialized communities. It was a major exercise of aligning the terms of remembering the past wrongs against racialized communities with the neoliberal agenda of the Department of Canadian Heritage. By imposing this neoliberal agenda through a conditional funding framework, the CHRP endorsed the logic of this neoliberal agenda that reflects Canada's ongoing settler colonial violence. Noting how this conditional tactic reflected the government's neoliberal strategy to represent political organizations as national groups with business interests that resulted in "a template for taming the past's transformative potential," Matt James calls the ACE and HRPs Canada's "neoliberal heritage redress" (Ibid, 31-32). The CHRP's $25.4 million funds were distributed between 2008 and 2013. Its Applicant's Guide listed eligible wrongs for which activist groups could apply to get commemorative fund with the objective of raising awareness about historical events and "promote the contribution of participating communities in the shaping of Canada" (Evaluation Division 2013, 2). These wrongs included the Internment of Ukrainian Canadians during the First World War, the internment of the Italian Canadians during the Second World War, the 1885-1921 Chinese Head Tax and the 1921-1947 ban on Chinese immigration, the 1914 refusal of migrants from India aboard the *Komagata Maru*, and the 1939 rejection of the Jewish refugees aboard the MS *St. Louis* (James 2015, 5).[96] The CHRP's selection process was non-democratic since the final decision about which groups would get

[96] The CHRP's three categories are: The Canadian First World War Recognition Fund (involving the Ukrainian, Austro-Hungarian, German, Bulgarian, and Turkish communities), funding for Italian Canadian and Chinese Canadian communities, funding for historical wartime measure and immigration restrictions not covered by the first two components, primarily the *Komagata Maru* and the MS *St. Louis* incidents (Evaluation Division 2013, 2).

funding was made by the Citizenship and Immigration Minister alone[97] (Ibid). By 2013, selected proposed projects that fulfilled the objectives of this program were funded[98] (Ibid, 6).

Since offering apologies or individual compensation were not part of the ACE and HRPs, redress campaigns that sought apologies or compensation had to make separate cases.[99] Apart from the 2006 apology for the Chinese Head Tax, two other federal apologies have been offered to communities affected by state wrongs that the ACE and HRPs considered eligible. These apologies are related to the tragedies resulting from the denial of entrance to the *Komagata Maru* and the MS *St Louis.* They have been sought by members of the South Asian and Jewish communities in Canada respectively. The informal "Prime Minister Stephen Harper's Apology for the *Komagata Maru* Tragedy" [reprinted in: (Henderson and Wakeham (eds.) 2013, Appendix E. 5: 391-2)] that was delivered on August 3rd, 2008, at the 13th annual Ghadri Babiyan Da Mela, an Indian-Canadian community festival in Surrey, BC, was immediately rejected by the community (CTV News 2008), leading to demands for a formal apology, which

[97] Note that responsibility for multiculturalism program was transferred from the Canadian Heritage Department to the Immigration and Citizenship Department between 2008 and 2015 (Canadin Heritage 2021b).

[98] Some projects funded under the CHRP stretched this program's constraints and put a clear emphasis on Canada's broad historical and contemporary racism. Matt James has examined a notable example of this, namely a collection titled "Internment Past and Present" on the website of the "Italian Canadian as Enemy Aliens" project (Italian Canadians as Enemy Aliens n.d.) that draws connections between the Second World War Italian Canadian internment and other historical and contemporary internments in Canada, such as the 1950s interment of Communists, the 1970 internment during the October Crisis, and post-9/11 detentions of Arab and Muslims (James 2015, 9).

[99] After the ACE and HRPs, no federal collective frameworks have been launched to specifically address redress demands of racialized communities. Instead, the department of Canadian Heritage has introduced a new anti-racist strategy in a blanket Anti-racist Action Program to provide funding for organizations (including Indigenous and Black organizations) whose anti-racist projects align with one of the three themes of employment, justice or social participation (Canadian Heritage 2023). It has also introduced two separate funding frameworks, namely the Community Support, Multiculturalism (Canadian Heritage 2024), and Anti-racism Initiatives Program and Building a Foundation for Change: Canada's Anti-racism Strategy 2019-2022 (Canadian Heritage 2021a), presenting different criteria for eligible anti-racist projects. However, since these frameworks do not directly address redress demands, they cannot be considered as new iterations of Canada's redress infrastructures.

was delivered on May 18th, 2016, by Prime Minister Justin Trudeau.[100] The apology for the MS *St Louis* tragedy was delivered on November 7th, 2018, by Prime Minister Justin Trudeau.[101]

Aside from directly controlling the terms for remembering the past wrongs related to "wartime measures or immigration restrictions" that they considered legitimate wrongs to be redressed, the ACE and HRPs also indirectly controlled the terms for remembering other wrongs against racialized communities. This narrowing of eligible funding applications to remember the past wrongs left out a wide range of grievances from racialized communities and implied that those wrongs do not deserve to be redressed or remembered. Notably, no provisional redress was offered in the ACE and HRPs for slavery and anti-Black racism or even the expropriation of Africville,[102] confirming Canada's ongoing violence against Black communities. Also, and more relevant to my focus in Chapter Five, although the ACE and HRPs emerged in a period of strong redress demands for security-related human rights violations that skyrocketed after 9/11, they made no provisions for these demands. Neither did they address ongoing grievances of the

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[100] *House of Commons Debates*, 42nd Parl, 1st Sess, Vol 148, No 058 (May 18, 2016) at 3531-52 (Prime Minister Justin Trudeau): https://www.ourcommons.ca/DocumentViewer/en/42-1/house/sitting-58/hansard.

[101] *House of Commons Debates*, 42nd Parl, 1st Sess, Vol 148, No 351 (November 7, 2018) at 23390-3 (Prime Minister Justin Trudeau): https://www.ourcommons.ca/DocumentViewer/en/42-1/house/sitting-351/hansard.

[102] Instead, after the 2005 passing of Bill-213, a municipal apology and compensation was offered in 2010 to reconstruct a small part of the Africville neighborhood (Henderson and Wakeham (eds.) 2013, Appendix C. 5: 355-56). But it was rejected in 2013 by the more community-based Justice for Africville Society (JAS) because it lacked individual compensation. A class-action lawsuit was launched by the JAS against the City of Halifax in the same year (Bloom 2013), but it was turned down in 2016. Since then, the descendants of Africville have been holding rallies and pursuing legal actions for redress, but no settlement has been reached for Africville yet. The state's response to redress demands for slavery that have been accumulating at least since preparatory conferences for the 2001 WCAR and came to a sharper focus after the 2017 UN Report of the Working Group of Expert on Peoples of African Descent on its Mission to Canada is even worse; in 2018 and under the increasing international pressure after the 2017 release of the UN Report of People of African Descent in Canada, Trudeau announced that Canada officially recognizes the UN International Decade of People of African descent (2015-2024). Yet even though various Black organizations [such as the African Canadian Legal Clinic (ACLC), the Coalition of Black Trade Unionists (CBTU) and the Black Canadian Studies Association (BCSA)] have demanded apology and redress for slavery in Canada, the state has consistently avoided to address it and has not yet indicated to have any clear policy for redressing slavery. Natasha Henry highlights the contrast between the state's redress settlements with Indigenous peoples and other racialized groups such as the Japanese Canadians and Ukrainian Canadians and its persistent avoidance to apologize for slavery and anti-Black racism and argues that this is likely out of "concern that [such an apology] can be construed as an admission of guilt and thereby expose the federal government to legal and financial culpability" (Henry 2020).

families of the mostly South Asian victims of the 1985 bombing of Air India Flight 182. The demands of these families for criminal investigations of bombing suspects have been frustrated since 1985 by the CSIS's refusal to provide the evidence that it was in charge of for investigating terrorism. While unsurprising, these omissions attest to the unacknowledged nature of the ongoing collective harms of the Kafkaesque limbo of Canada's gendered racial discourse of national security. These collective harms are two-fold. They are manifested, on the one hand, in the state's failure to prevent and investigate actual terrorist attacks when the lives of racialized citizen are at stake, and on the other hand, in denying the humanity of citizens and non-citizens racially constructed as terrorist suspects, especially since 9/11. By leaving out these significant grievances, the ACE and HRPs legitimized the government's ongoing anti-Black racism and the gendered racial discourse of national security. Setting the stage for Chapter Five, I explain how the redress infrastructures pertaining to the two sides of Canada's national security discourse that the ACE and HRPs left out also legitimized state sovereignty.

In 2005, around the time the ACE was initiated, the families of Air India bombing victims got increasingly frustrated when two out of three bombing suspects were acquitted for lack of supporting evidence of their involvement in the bombings. The families pressured the state to finally launch a public inquiry to examine the failures of this investigation (Failler 2009, 155). The Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 was launched in 2006, and its final report came out in 2010 (Major 2010), followed by Prime Minister Stephen Harper's informal apology, on June 23rd, 2010, to the families of the bombing victims, at "the Commemorative Ceremony for the 25th anniversary of the Air India Flight 182 atrocity" (Govenment of Canada 2010). This Commission's final report made no promise of redressing the grievances of the victims' families, but it did shed light on the CSIS's mishandling

of the information it had gathered about the bombing and made recommendations for reforming the CSIS security practices (Forcese and Roach 2015, 46-52). More importantly, the Commission's terms of reference were carefully framed to selectively draw upon collected testimonies in such a way as to deny that systemic racism played a role in the government's failure to prevent the bombings and to investigate them after the fact. The Inquiry's attempt to sidestep the key question of racism is evident in excluding Professor Sherene Razack's report on this terrorist bombing. Razack's report directly linked the government's neglect and destruction of "crucial evidence" about a "potential threat" to the lives of South Asian Canadian on the Air India Flight 182 to "systemic racism" within the government (Failler 2009, 159). In fact, instead of focusing on the core question of systemic racism within the government's security enforcements, the Inquiry sought to re-establish the government's authority by promising that such incidents "will never happen again" (Ibid, 157). The "Kanishka Project" which was the government's 2011-2016 $10M research fund on anti-terrorism, following this Inquiry's final report also reflected the same emphasis on preventing similar incidents instead of uncovering the racial roots of the government's neglect of South Asian lives on this Flight in the first place. Reflecting the same principle, the one-time payment that the government made in 2011-12 to the family members of the victims was carefully framed as an "Ex Gratia payment" or a "voluntary and symbolic payment" to "eligible applicants" (Public Safety Canada 2023b). In this sense, the Commission of Inquiry into the Bombing of Air India Flight 182 and the anti-terrorism research funding program based on this Commission's final report effectively block investigating the ongoing systemic racism within the government's national security discourse. Thereby this Inquiry and funding program legitimize the ongoing racial violence within Canada's national security discourse while mobilizing the language of preventing future terrorist attacks.

Even though no account has been given for the government's failure to prevent and investigate this major terrorist attack, there has been a troubling trend of routinely utilizing national security discourse to target racialized citizens and non-citizens with wrongful terrorist accusations. As I explained in Chapter One, constructing racialized citizens and non-citizens as threats to the nation through the criminalizing discourse of security has a long history in Canada and has targeted different racialized communities over time. This process has been a quintessential exercise of the liberal state's sovereign power since the nineteenth century. It works through creating and normalizing what Agamben calls states of emergency or states of exception that are legalized spaces for suspending the application of the allegedly universal rule of law on certain racialized bodies (Razack 2007; Jiwani 2011; Zine 2012). The suspension of the rule of law under the states of emergency, Agamben argues, is a modern technique of government to demarcate the boundaries of national belonging or the realm of the political life that is marked in liberal societies by the promise of protecting human rights. The bodies expelled from the realm of political life through different modes of criminalization are reduced to the state of "homo sacer" or "bare life" (Agamben 1998, 8), a form of life that is devoid of value and is equivalent to civil death. The constant production and normalization of the states of emergency through different modes of criminalization is needed for the routine carceral exercise of the liberal state's sovereign power of determining who is inside the political boundaries of legal protection and who is considered a threat to these boundaries and therefore outside of it. The intended outcome of casting racialized bodies out of the realm of political life is to shape the national moral sensibilities towards regarding white citizens as normative humans while dehumanizing racialized bodies.

After 9/11, the states of emergency have been increasingly normalized in Canada partly through the *ATA's* security provisions that have introduced extensive racial criteria for terrorist allegations, under the *Criminal Code* for citizens and under the *IRPA* for non-citizens. The *ATA*'s provisions are also reflected in court rulings that have rendered abandoning citizens under torture abroad and deporting non-citizens despite the risk of torture constitutional. Like other exercises of liberal sovereignty, the government enactment of the states of emergency to dehumanize racialized bodies by expelling them out of the political realm are perpetuated through gendered racial social practices such as mass media representations that shape public affects by associating certain bodies with threats to the nation. Sherene Razack points out how post-9/11 dominant mass media representations of people from the Middle East, especially Arabs and Muslims, mobilize the ideology that Hannah Arendt calls "race thinking" or a powerful biological narrative that divides people into "the deserving and the undeserving" (Razack 2007, 8), based on "inheritable traits" (Ibid) that run "in the blood or the psyche" (Ibid, 35). Such representations, she contends, are based on orientalist notions that frame Muslims as premodern people governed by irrational religious traditions and therefore inherent threats to modern Western liberal democracies. These media representations have also been highly gendered. While both Muslim men and women have been portrayed as less than human, Muslim masculinity has been primarily associated with the figure of the dangerous terrorist and Muslim femininity has been associated with the image of the voiceless victim without agency who needs to be saved but is, nonetheless, undesirable (Jiwani 2012).

Despite the wide-ranging injustices stemming from the Canadian government's post-9/11 national security discourse, so far there have only been three redress settlements, accompanied by three apologies, that selectively speak to some of these injustices. These settlements involve

five Muslim Canadian citizens who were detained and tortured abroad as terrorist suspects after 9/11, partly because of the misinformation that the government had globally spread about them. The settlements include the 2007 settlement with Maher Arar, the 2017 settlement with the so-called Syrian three, Abdulla Almalki, Ahmed El Maati, and Muayyed Nureddin, and the 2017 settlement with Omar Khadr. Canada's security discourse has played out differently in each of these five citizens ordeals and their grievances for Canada's denial of their rights have been taken up very differently by the state. These differences make these men's personal and legal trajectories quite distinct and different from one another. Maher Arar is a dual Canadian-Syrian citizen who was arrested in 2002 by the U.S. officials at the JFK international Airport in New York while he was returning home from a vacation in Tunisia. Under the U.S. program called extraordinary rendition, designed to elicit false confession under torture from kidnapped Muslim men across the globe (Weissbrodt and Burgquest 2006), he was secretly deported to Syria. In Syria, he was detained, interrogated, and tortured for a year without charge while being accused of having terrorist ties.[103] Thanks to the broad campaigns initiated by his wife, Monia Mazigh, in collaboration with Amnesty International, Arar was released in 2003.

Apart from Arar, three other Canadian Muslim men were also detained and tortured in Syria without charge, for accusations of Al Qaeda membership based on false information provided by Canada's intelligence agencies (Pither 2008). El Maati is a dual Canadian-Egyptian citizen who was arrested in Syria in 2001 while attending his own wedding. He was then detained and tortured both in Syria and Egypt for over two years. Similarly, Nureddin who is a dual Canadian-Iraqi citizen was arrested in 2003 at the Syrian border while returning from visiting relatives in Iraq and was detained and tortured in Syria for two months. Another Canadian Muslim

[103] For a chronology of Arar's ordeals, see: (Amnesty International 2017a).

man subjected to interrogation and torture in Syria for terrorist allegations around the same time was Almalki, a dual Canadian-Syrian citizen. Arrested during a visit to relatives in Syria in 2003, he endured twenty-two months of interrogation under torture.[104] Unlike these men who were detained and tortured in Syria (and Egypt, in the case of El Maati), Omar Khadr was arrested in Afghanistan at the age of fifteen. He is a Canadian citizen by birth, the son of Egyptian-Canadian parents who had a long history of associating with Al Qaeda figures (Banham 2016, 475). Captured while severely wounded in a firefight between American troops and Afghan militants, Omar Khadr faced allegations of having thrown a grenade that killed the U.S. special forces Sgt. Christopher Speer (A. Mackey 2016, 108). Subsequently, he underwent interrogation under torture in Bagram before being transferred to Cuba, where his detention and torture persisted at Guantanamo Bay. Thanks to the efforts of his lawyer and after pleading guilty to war crimes just to get an opportunity to apply for a transfer to a Canadian prison, Khadr was repatriated to Canada in 2012.[105]

After returning to Canada, these Muslim men sued the government for having consistently denied their citizenship rights. As I will show, the legal processes that led to the three redress settlements with these men are very different from one another. Yet, all these processes have revealed, in importantly different ways, Canada's direct involvement in the mistreatment of these men while producing impunity for the state's violation of their rights. While the redress settlements with these five Muslim citizens and the accompanying apologies have brought some public awareness about the government's involvement in violating their citizenship rights, Canada's suspension of the rights of racialized citizens constructed as terrorist suspects goes far beyond its involvement in these men's ordeals. Among many others, some well-known citizens who continue to be targeted by the routine racial exercise of Canada's

[104] For a chronology of the ordeals of El Maati, Nureddin, and Almalki, see: (Amnesty International 2017b).
[105] For a chronology of Khadr's ordeal, see: (CBC News 2015).

suspension of citizenship rights for targeted citizens include: Abusfian Abdelrazik (Amnesty International 2018; Brewster 2018), a Dual Sudanese-Canadian citizen, detained and tortured in Sudan (2003-6) while Canada refused to repatriate him until 2009; Hassan Diab[106], a dual Canadian-Lebanese citizen, extradited to France in 2014 after being arrested in Canada since 2008 on accusations related to a Paris terrorist bombing that turned out to be groundless in 2018, when he returned to Canada; and 44 Canadians, including children (Homes Not Bombs 2022) who have been detained in Syria in near torture conditions since 2017 when they went to Rojava to help people against Bashar Assad's violence.

In this context, it is unsurprising but crucial to note the lack of any form of redress at all for the injustices that racialized non-citizens in Canada have endured as a result of the government's intensified criminalization of migration since 9/11. As I explained in Chapter One, the criminalization of migration can be traced back to the early years after the Confederation, but Canada's post-9/11 security discourse has involved a much greater emphasis, through the *IRPA*, on perceiving and treating immigration as a root cause of the threat of terrorism (Antonius, Labelle, & Rocher 2007; Macklin 2009). This emphasis has severely worsened the already precarious conditions of racialized non-citizens in Canada. The *IRPA* has made the detention of non-citizens or the so-called foreign nationals (permanent residents, refugees, or asylum-seekers) more prevalent through its inadmissibility criteria on security grounds.[107] These inadmissibility

[106] For a chronology of Hassan Diab's ongoing legal battles, including his lawsuit against the government, his denied request for public inquiry, and the government's biased review of his case, see: (Justice for Hassan Diab n.d.; Neve 2021).

[107] The wide range of these vague criteria for inadmissibility on security grounds are noticeable in *IRPA*'s Section 34 (1). According to this Section, "A permanent resident or a foreign national is inadmissible on security grounds for: (a) engaging in an act of espionage that is against Canada or that is contrary to Canada's interests; (b) engaging in or instigating the subversion by force of any government; (b.1) engaging in an act of subversion against a democratic government, institution or process as they are understood in Canada; (c) engaging in terrorism; (d) being a danger to the security of Canada; (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or (f) being a member of an organization that there are reasonable grounds to believe engages, has

criteria lower the threshold of evidence for crime below Canada's criminal justice system to accuse the "foreign nationals" of being involved in terrorist activities, based on the government intelligence gathered through racial profiling (Aitken 2008; Diab 2008; Macklin 2009; Rygie, 2012). Deeming racialized non-citizens inadmissible by labelling them terrorist suspects has put them in greater danger of being deported to countries where they could face torture. This process is particularly concerning because immigration regulations are exempt from the often overlooked but formally required juridical limitations on the government's power in handling criminal cases of national subjects (Cuauhtémoc and Hernández 2014). This exemption arises precisely because immigration processes are regarded "regulatory rather than punitive" (Ibid, 1353). While the government's racial profiling of non-citizens has primarily targeted Muslim and Middle Eastern people, they have not been its exclusive targets. People from South Asia and Black populations have also been largely impacted by it.

The well-known process for suspending the rights of non-citizens who have been constructed as terrorist suspects has been issuing "security certificates" or "certificates of inadmissibility," based on intelligence information not disclosed to the suspects. This practice was first challenged by Manickavasagam Suresh on the grounds of its incompatibility with the Canadian Charter. Suresh was a Tamil refugee from Sri Lanka who was issued a security certificate on the grounds of being a fundraiser for an organization that was believed to be linked to the Liberation Tigers of Tamil Eelam (LTTE). He appealed his security certificate status, claiming that his expulsion would put him at a substantial risk of torture in the hands of the Sri Lankan government, contrary to Section 1 of the Canadian Charter (Rygiel 2012, 221) and

engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c)" (*Immigration and Refugee Protection Act*, SC 2001, c 27, s 34).

Article 3 of the UN Convention against Torture[108] (Macklin 2009, 4), both prohibiting returning anyone to torture.[109] But, in the 2002 *Suresh v. Canada* decision[110], the Supreme Court announced the constitutionality of deporting non-citizen terrorist suspects, pointing out that the Charter prohibits return to torture "in all but exceptional circumstances" (Macklin 2009, 4). This ruling has justified the government's use of immigration policies to allegedly fight terrorism by suspending the legal protection of non-citizens that is promised under the Charter and Canada's obligation as a signatory of the UN Convention against Torture. The security certificate practice was challenged again in 2007 by Adil Charkaoui. Charkaoui was a Morocco-born permanent resident in Canada, arrested under a security certificate issued for accusation of his involvement in a militant training camp in Afghanistan. He was detained in the Kitchener Immigration Holding Centre (KIHC) which has been nicknamed Guantanamo North (Aitken 2008). The Supreme Court in the 2007 *Charkaoui v. Canada* decision[111] announced the security certificates unconstitutional. But this security measure "was left in place and the government was allowed one year's time to make it constitutional" (Speed 2018, 9). The constitutionality of the security certificates was upheld in 2008 through the Special Advocates Program that added some judicial scrutiny by requiring the involvement of special advocates for the suspects during the detention reviews (Diab 2008, 72-8; Speed 2018). In this sense, Canada's national security discourse now

[108] The UN General Assembly, Resolution 39/46, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/39/46, (December 10, 1987): https://www.refworld.org/legal/agreements/unga/1984/en/13941

[109] Canada has signed this UN Convention in 1987. The obligation of the nation-state signatories of the Convention against Torture to not return anyone within their territories to the countries where they would face torture is articulated in this Convention's Article 3, under the principle of non-refoulment.

[110] *Suresh v. Canada (minister of Citizenship and Immigration),* 2002 SCC 1, [2002] 1 SCR 3: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1937/index.do.

[111] *Charkaoui v. Canada (Citizenship and Immigration),* 2007 SCC 9, [2007] 1SCR 350: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2345/index.do.

affirmatively allows returning non-citizen terrorist suspects to torture, despite both the Charter and the UN Convention against Torture.

Since then, no further security certificates have been issued. But, in the face of public awareness of this practice, Canada has deployed the *IRPA*'s other sections that enable the same practice but replace special advocates with more arbitrarily assigned adjudicators, allowing the government to avoid the scrutiny of security certificates while using the same method more pervasively (Speed 2018, 121-30). As a result, deporting non-citizens despite the risk of torture continues to be constitutional in Canada. Shannon Speed calls the government's process of deeming non-citizens inadmissible based on terrorist allegations outside the security certificate regime, the "fringe" procedure (Ibid, 125) for criminalizing migrants. She argues that Canada's shift towards this procedure is a deliberate attempt to govern immigration through more secrecy. The Tamil passengers of the MV *Sun Sea* who arrived in Canada in 2010 to seek refugee status after having survived Sri Lanka's civil war, which is the topic that inspired the novel that I discuss in Chapter Five, faced this fringe process. The Canada Border Services Agency (CBSA) continues to deploy the broad discretion power that the *IRPA* grants the Minister of Public Safety to detain racialized non-citizens and to put them at greater risk of deportation to torture. In fact, the CBSA's sweeping law-enforcement power that lacks independent civilian oversight has led to increased incarcerations in Canada's immigration detention centres every fiscal year between 2016-17 and 2019-2020 (Stauffer 2021).

Despite the prevalence of government and public violence against Muslims and Muslim-looking people in Canada, the government has held the high-profile 2021 Summit on Islamophobia (Alhmidi 2021), posing as a leading nation in fighting anti-Muslim racism. Noticing these deep contradictions, Monia Mazigh has recently criticized the Summit as a mere

public relations pre-election performance to cover up Canada's ongoing commitment to racial policing (Mazigh 2021). Mazigh, a political activist and writer who is also Arar's wife, by necessity has become involved in high-profile political organizing to save his husband and other racialized people trapped in what Yasmin Jiwani calls the post-9/11 "carceral net" (Jiwani 2011, 13). Her example points to the gendered labour of other Muslim women who continue to fight for the denied rights of their detained partners. Mazigh's message is a reminder of the ongoing systemic violence of Canada's post-9/11 security discourse against Muslims or Muslim-looking people despite the government's self-celebration for the three redress settlements with Arar, Almalki, Nureddin, El Maati, and Khadr. On this note, it is important to pay attention to the ways in which Canada's only three redress settlements related to the post-9/11 rights violations for security reasons function as the government's normative tools to strategically legitimize, rather than challenge, the current national security discourse. I analyze how these settlements (1) affirm the carceral logic of Canada's post-9/11 criminalizing discourse of national security; (2) re-enact the gendered dimension of this discourse; and (3) endorse the judicially supported security practice of returning non-citizen terrorist suspects to torture. In Chapter Five, I will explain how the 2007 and 2017 apologies that accompanied these redress settlements affectively reinforce the settlements and turn them into public spectacle to reinstate the moral authority of the state.

Out of these three settlements, only the first two have included governmental commissions to inquire into the government officials' wrongdoings that shaped these men's ordeals. The O'Connor Commission on Arar's rendition to torture and the Iacobucci Commission on the renditions of Almalki, Nureddin, and El Maati to torture were respectively formed in 2004 and 2006, and their final reports came out in 2006 (O'Connor 2006) and 2008 (Iacobucci 2008). Anke Allspach elaborates how these reports (and the inquiry processes behind

them) adopted very different tactics to re-affirm the rights of these four men as Canadian citizens without holding the state directly accountable for contributing to the violation of their rights abroad (Allspach 2016, 174-251). In the case of Arar, the O'Connor report admitted the government officials' wrongdoing against him. These wrongdoings included the RCMP's supply of false information to the U.S. and Syria about Arar that led to his torture, and the RCMP's and CSIS's acceptance of Arar's false confessions under torture to Syrian authorities (Macklin 2008, 15-6). The O'Connor Commission has been praised for its precedential value as one of the first instances of government accountability for the consequences of a government's complicity with the U.S.-led "War on Terror" (Macklin 2008, 12; Banham 2016). But its 2006 final report has justified the RCMP and CSIS officials' wrongdoings as legitimate measures taken within the U.S.-led global "War on Terror" and explained these wrongdoings in terms of the mistaken conduct of individual officials due to "insufficient administrative policy directives, and a lack of education" (Allspach 2016, 214) while denying systemic racism in policing practices (Ibid, 195-215). In doing so, this report normalizes denying the humanity of racialized bodies to allegedly protect the nation's security and thereby affirms the carceral logic of Canada's post-9/11 criminalizing discourse of security. Likewise, the O'Connor Commission's narrow mandates restrained it to investigating the officials' actions in relation to Arar and recommending better oversight mechanisms for how the RCMP enforces the *ATA*'s security provisions. Consequently, O'Connor's recommendations for policy change in his reports did not challenge the *ATA's* security provisions for either citizens or non-citizens (Macklin 2008, 18). In this sense, too, O'Connor's recommendations confirm Canada's post-9/11 discourse of national security.

At another level, the emphasis put in the O'Connor Commission's report on making Arar's rights contingent on his Canadian citizenship is reminiscent of Canada's latest major court

ruling on non-citizen terrorist suspects at the time, namely the 2002 *Suresh v. Canada* decision. This court ruling permitted the differential treatment of racialized non-citizen terrorist suspects by rendering their deportation to places where they could face torture compatible with the Constitution. In a similar fashion, the O'Connor Commission's emphasis on Canadian citizenship as the basis for Arar's right to be protected against torture implies the denial of offering any legal protection against torture to non-citizens. Finally, the Arar legal team's strategy throughout the inquiry to describe him as an assimilated man in a white dominated society reflects how the carceral logic of Canada's post-9/11 racial security discourse is deeply gendered. This security discourse is premised on normalizing Euro-centered notions of proper gender roles that I explained in Chapter One, using Maria Lugones' account of the coloniality of gender. In particular, Arar's legal team's strategy resonates with mass media orientalist representations that demonize Muslim expressions of gender in general and in the case of Muslim masculinity, associate it with the figure of the terrorist that threatens the nation's security; Arar's Muslim background was not mentioned by his lawyers to avoid raising suspicion of terrorist affiliations and to present him as an acceptable male Canadian citizen (Allspach 2016, 199-202). Following the O'Connor report, Prime Minister Stephan Harper offered an apology and reached a redress settlement with Arar and his wife, Monia Mazigh, in 2007 (Governmnet of Canada 2007).

On the other hand, the Iacobucci Commission, recommended by O'Connor to investigate the Canadian officials' role in the mistreatment of Almalki, Nureddin, and El Maati abroad, did not make any recommendations for policy change or for offering compensation and/or apologies to these men (Allspach 2016, 249-250). But it converged with the O'Connor Commission in re-legitimizing Canada's ongoing settler colonial violence through the gendered racial discourse of

national security. The Iacobucci Commission is characterized as an "Internal Inquiry" with the proceedings occurring in private unless public disclosures were deemed "essential to ensure the effective conduct of the inquiry" (Iacobucci 2008, 44). Despite the explicitly limited information released in the 2008 public version of the Iacobucci report to protect the government's confidentiality regarding national security, this report admitted the complicity of the RCMP, CSIS, and DFAIT (Department of Foreign Affairs and International Trade) officials with these men's torture (Amnesty International 2017b). The report admitted the RCMP and CSIS official's wrongdoings, including supplying false information about these men to Syria (and Egypt, in the case of El Maati), sending Syria (and Egypt, in the case of El Maati) interrogation questions to ask these men, and the DFAIT's wrongdoings, including failing to act on behalf of these men after learning about their interrogations (Iacobucci 2008, 345-456). But these wrongdoings were framed in a way that denied they were at all linked to these men's tortures abroad (Allspach 2016, 243-49). Iacobucci used the tactic of blaming Syria and Egypt for their torture and emphasized that Canada did not directly cooperate with the Syrian and Egyptian governments in this violence, indicating the superiority of Canada's post-9/11 discourse of national security (Allspach 2016, 245-6) and affirming its carceral logic[112]. By identifying these men's dual citizenship as the cause of their torture, this Commission's report kept the doubts about their terrorist activities abroad alive while making their rights contingent on their Canadian citizenship and thereby endorsed the judicially confirmed denial within Canada's post-9/11 discourse of the rights of non-citizens to not be returned to torture. This emphasis on Canadian citizenship as what grants these men their right not to be tortured evokes Canada's latest major court ruling regarding non-citizen terrorist suspects. As discussed above although the 2007 *Charkaoui v.*

[112] As I will point out, Canada's direct cooperation with Syria and Egypt in these men's interrogation under torture was not confirmed until years later when the CBC released the relevant secret intelligence files.

Canada decision announced the *IRPA's* security certificates regime (aiming to deport non-citizens terrorist suspects without charge) unconstitutional, a slightly adjusted version of this regime that only required the involvement of special advocates for the suspects has been upheld as constitutional since 2008.

At the same time, this report constructed the ideal of a male Canadian citizen by distancing this ideal from these men's Muslim masculinity that it associated with terrorism and therefore security threats. In this way, this report re-enacts the gendered dimension of Canada's post-9/11 discourse of national security that is mostly upheld through mass media representations that demonize symbols of gender expressions in Muslim communities. These men's masculinity is also marked as threatening the nation's security more directly by the inquiry's manner of conduct through secrecy and exclusion that is explained in terms of measures taken for the sake of national security. The 2017 redress settlement with Almalki, Nureddin, and El Maati was reached only after the CBC revealed in 2016 the secret government intelligence files it has obtained that showed the Canadian officials directly cooperated with Syria and Egypt in their torture (Baksh and McKenna 2016). Shortly after, in 2017, when these men's lawyers finally won their long legal battle against the government, Ralph Goodale, the Minister of Public Safety and Emergency Preparedness and Chrystia Freeland, the Minister of Foreign Affairs apologized to the men by issuing a statement of apology (Public Safety Canada 2017a) and reached a redress settlement with them (Toronto Star 2017b).

A few months after the 2017 apology, Canada's last redress settlement (by 2022) for its involvement in human rights violations in the name of security after 9/11 was reached with Omar Khadr. This settlement was accompanied by a short apology (Public Safety Canada 2017b) offered by the Minister of Public Safety and Emergency Preparedness and the Minister of

Foreign Affairs Minister. No governmental inquiry was ever conducted in relation to Khadr's torture and sustained illegal detention in Guantanamo Bay. But unpacking the long legal battle behind this redress settlement reveals how it re-enacted the gendered racial logic of Canada's security discourse that had justified violating Khadr's rights for fifteen years. Around the time of Harper's 2007 apology to Arar, multiple calls emerged for repatriating Khadr and redressing gross violations of his citizenship rights, including the denial of his juvenile status as a prisoner arrested at the age of fifteen. These calls came from six former Ministers of Foreign Affairs, the Canadian Bar Association (CBA), Amnesty International, and the public, especially after the 2008 release of the 2003 illegal interrogation of Khadr by CSIS[113] (Security Intelligence Review Committee 2008). Despite these calls, Harper deferred to the U.S. highly flawed legal process in Guantanamo Bay and insisted that the U.S. military tribunal for Khadr should continue (Khan 2012, 59-62). Even the 2010 Supreme Court announcement of the unconstitutionality of the 2003 CSIS interrogations of Khadr[114] that led to his torture did not include recommending his repatriation (A. Mackey 2016, 109). Instead of ordering Khadr's repatriation, in this case the Supreme Court allowed the government to decide how best to respond to the Court's ruling in order to protect "the executive branch's prerogative power pertaining to international affairs" (Attaran and Khan 2015, 146-7).

This ruling confirmed that the judicial review of the government is limited to retain respect for the so-called flexibility of the executive branch in fulfilling its obligations. In practice, the Court's refusal to order Khadr's repatriation is best explained in affective terms as the influence of the overwhelming public and media prejudice against Khadr's family which has

[113] For a documentary-form commentary on these interrogation recordings, see: (Côté & Henríquez, 2010).
[114] *Canada (Prime Minister) v. Khadr*, 2010 SCC 3, [2010] 1 SCR 44: https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7842/index.do.

been described as “The Khadr Effect” (Khan 2012, 53). This prejudice began by accusations of the affiliation of Ahmad Khadr, Omar’s father, with Al Qaeda since 1985 when the Khadr family moved from Canada to Pakistan and Ahmad Khadr was put in charge of the Human Concerns International (HCI), an Ottawa-based charity that provided relief to Afghan refugees (Ibid). The family’s reputation worsened after 9/11 due to dominant media representations such as the 2004 CBC documentary *Son of Al Qaeda* (Knox 2004), featuring controversial interviews with Maha and Zeynab Khadr, Omar’s mother and sister. These media representations were orchestrated to sabotage Omar Khadr’s public image as a highly dangerous man from a purportedly “hateful and extremist clan” (Razack 2014, 67). As Razack explains, these interviews were not only used to manipulate public affects against Omar Khadr (although they certainly had that strong impact) but were also centrally present in parliamentary debates about why Canadians should be angry at this family and the violence they carry instead of focusing on the illegality of Guantanamo Bay carceral practices against Omar Khadr (Ibid, 68-70). Through such media representations and parliamentary debates that affiliated the Khadr family with Al Qaeda, Omar Khadr’s illegal detention and torture were overshadowed, and he continued to be perceived as deserving of torture because of the ostensibly inherent threat he was regarded to pose to Canada’s liberal democracy (Jiwani 2011; Zine 2012).

Thanks to Omar Khadr’s lawyer’s persistent efforts, he was finally repatriated in 2012 and kept in security facilities for three years until he was retained on bail and sued Canada for violating his rights. Reinstating Omar Khadr as a citizen and reaching a settlement with him in 2017 required a complete transformation of his media representation since his 2012 return to Canada. His image as the dangerous terrorist man was quickly replaced by a gentle, softspoken male Canadian citizen (Kouri-Towe 2018, 259-62). Capturing the dominance of public affects

against Muslim masculinity, this media transformation particularly emphasized Khadr's normative re-education as a Canadian citizen, including distancing him from his family and integrating him in the family of his white Canadian lawyer, Dennis Edney (A. Mackey 2016, 118-21). In other words, reaching a redress settlement with Khadr was premised on reinstating him as a Canadian citizen according to the white-dominated norms of male citizenship. This process implies affirming the carceral logic of Canada's post-9/11 security discourse, endorsing its judicial denial of the non-citizens' right to be protected against torture, and re-enacting its gendered dimension. In this sense, the government settlement with Khadr legitimizes the gendered racial logic of Canada's post-9/11 security discourse that had enabled the government's complicity with the U.S violation of Khadr's rights in Guantanamo in the first place. The monetary compensation of the 2017 settlement with Khadr was much lower than what he had demanded, but a very strong government and public opposition was raised to paying financial compensation to Khadr at all (Toronto Star 2017a). Khadr continues to be viewed as having committed war crimes based on his guilty plea that was his only opportunity to be repatriated to Canada while the U.S. refuses to hear his appeal for this plea (Perkel 2020).

3-3 Conclusion

In this chapter, I have been tracing how Canada's redress infrastructures for racialized communities function as normative tools to consolidate the government's sovereignty. However, I have also pointed out how these redress infrastructures have been continually contested by voices that have deployed the momentum of redress negotiations with the state to challenge Canada's imposed redress mandates. As I showed, the 1988 Japanese Canadian redress settlement was reached despite the state's early redress tactics and thanks to orchestrated

coalitional pressures that demanded redress in the Constitution debates period. An early example of critical engagements with Canada's imposed limits on the terms of redress settlements is the NAJC's 1991 organization of the *Earth Spirit Festival* in Toronto (Murakami 2020) to show solidarity with Indigenous communities, thereby emphasizing that addressing Canada's injustices is not just about offering apologies and compensation to racialized communities but must include ending Indigenous land theft and violence against Indigenous peoples. Later, some dissenting redress campaigners in racialized communities, such as project coordinators of "Italian Canadians as Enemy Aliens: Memories of World War II" (Italian Canadians as Enemy Aliens n.d.), deployed the CHRP funds to problematize the nationalist mandate of this funding framework by pointing out that the injustice they seek to address is inherently related to ongoing carceral practices that constitute in Canada rather than a past exception to them (James 2015, 9). Likewise, the *Arar + 10* conference at University of Ottawa in 2014, used the 10th anniversary of the formation of the O'Connor Commission that led to Canada's redress settlement with Maher Arar, at the time the state's only redress settlement for post-9/11 rights violations, to highlight the pervasive nature of gendered racial harms inflicted by Canada's post-9/11 security discourse (Arar +10: National Security and Human Rights a Decade Later 2014). This conference was co-organized by Amnesty International and the International Civil Liberties Monitoring Group (ICLMG), the national coalition of Canadian civil society organizations that was established after the 2001 passages of *ATA* and was a major catalyst in the 2007 Maher Arar redress settlement. *Arar+10* featured voices from past and present redress-seeking detainees and their advocates such as Abdullah Almalki and Monia Mazigh, who challenged Canada's post-9/11 security discourse and made strong cases for addressing the injustices of Omar Khadr's detention and torture in Guantanamo Bay and secret trials in Canada, among other ongoing rights violations in

the name of national security in Canada and abroad (The International Civil Liberties Monitoring Group 2015). This short list of the critical voices that have challenged the limits of Canada's redress infrastructures while engaging with them is, of course, far from exhaustive. But it gives a sense of how Canada's redress politics has been a contested field at different levels. In Chapter Five, I explain how the 2007 and 2017 apologies to five citizens tortured abroad affectively reinforce the gendered racial logic of the three redress settlements reached with these citizens while using other strategies to consolidate the state's sovereignty. Subsequently, I offer an interpretation of Sharon Bala's *The Boat* People, leveraging its affective power to challenge the tactics for consolidating state sovereignty within these apologies and relevant settlements.

Chapter Four - Canada's Anti-Indigenous Violence

State Apologies to Indigenous Peoples (1998 & 2008) vs. Lee Maracle's Novels [*Sundogs* (1992), *Ravensong* (1993), *Daughters Are Forever* (2002), and *Celia's Song* (2014)]

In the vast body of her trailblazing individual and collaborative work that spans nearly fifty years, Lee Maracle has offered deep critiques of settler colonial violence in Canada and beyond. In a 2019 interview, Maracle describes works of fiction as "beautiful lie[s]" that "fill [her] up with wonder" because they unite the "two opposites" of truth and lying: they beautifully tell the truth by making up a story about it (Maracle 2019). In this Chapter, I join the worlds of wonder that Maracle has created in her four interrelated novels and offer a close reading of them against the backdrop of Canada's 1998 merged "Statement of Reconciliation" and action plan and 2008 apology to Indigenous peoples. As I will explain, Maracle's fictional narratives bend the individual-focused, European literary genre of the novel by bringing in a strong presence of Indigenous oral traditions of storytelling that are inseparable from the storyteller and their peoples. Her fictional narratives also masterfully bring key trickster figures and spirits from Indigenous ontologies together with political events such as the 1954 flu pandemic, the 1990 Oka Crisis, and the 1995 Ipperwash Crisis. These events are widely known to the public in Canada through hegemonic state narratives that deny the significance of Indigenous lived experiences. Therefore, her very act of re-telling these events through the lens of Indigenous worldviews unsettles hegemonic state narratives about these events that overlook Indigenous perspectives. In this sense, her novels exemplify what Daniel Heath Justice calls "wonderworks" or Indigenous works of literature that transcend the narrow dichotomy of literary realism and fantasy and "challenge oppressive lived realities through the intentional employment of the

fantastic to imagine otherwise" [115] (D. H. Justice 2017). This is exactly why I find Maracle's novels wonderful sites for thinking through the socio-political landscape of Canada's redress politics.

In this chapter, I analyze her four novels as exercises of sovereignty from a feminist Indigenous perspective and situate them within the political context shaped by Canada's 1998 combined statement and the 2008 apology to Indigenous peoples. On the one hand, I highlight the specific ways in which the rhetorical tactics in this combined statement and apology reflect the constraining features of liberal legality that perpetuate settler colonial violence. This is realized through crafting hegemonic narratives about the past, aiming to evoke strong public affective responses in favor of the government. These narratives silence ongoing conversations about the reverberations of the past in the present by portraying governments that issue the combined statement and apology as racially innocent or even as initiators in addressing racial injustices in Indigenous communities. On the other hand, I draw attention to how Maracle's four novels offer emotionally transformative guidelines that shape public feelings about the relationship between the past and the present differently, challenging the rhetorical tactics used in the 1998 merged statement and the 2008 apology. In doing so, I view this combined statement and apology as showing characteristics similar to what Cheryl Suzack describes as the "transpositioning capacities" of legal discourses (Suzack 2011, 452). While crafting emotionally compelling hegemonic narratives about the past and isolating it from the present, the 1998 merged statement and the 2008 apology also open the possibility of resignifying these narratives through centering alternative perspectives about the past that disrupt the ongoing logic of settler colonial domination.

[115] I thank my supervisor, Dr. Eva C. Karpinski, for pointing out the connection between my reading of Maracle's novels and Justice's notion on "wonderworks."

In particular, the initial section critically examines the rhetorical tactics in the 1998 merged "Statement of Reconciliation" and action plan to analyze how this merged statement builds upon the RCAP's asymmetrical normative framework. I analyze how this statement fabricates the fiction of innocence for the government through specific tactics that settler colonial states tend to deploy in their apologies, as discussed in Chapter One. I demonstrate that the rhetorical tactics in this statement are deliberate affective efforts to separate the past from the present, to bring Indigenous peoples into the fold of the nation through subjugating Indigenous sovereignties, and to downplay the state's wrongs against Indigenous peoples while isolating these wrongs from the broader structures of settler colonial domination in Canada. Against this backdrop, in the second section, I interpret Maracle's use of Indigenous narrative tools in her *Daughters Are Forever* and *Sundogs* as an assertion of Indigenous sovereignty from a Salish feminist standpoint that richly contests the rhetorical tactics in the 1998 statement. In doing so, these novels present a multi-dimensional critique of Canada's ongoing violence against Indigenous peoples, illuminating how such violence is deeply ingrained in broader settler colonial projects. Importantly, Maracle's narratives not only expose these structures of domination but also offer guidance for envisioning pathways toward transforming these structures and collectively creating alternative futures. Subsequently, in the third section I unpack interconnected rhetorical moves in the 2008 apology to analyze how this apology builds an affective foundation for the normative framework of the TRC and the government's engagement with the TRC's discourse of reconciliation. I point out how this apology, too, seeks to consolidate state sovereignty through differently articulated but similar tactics used in the 1998 statement. Finally, in the fourth section, I interpret Maracle's *Celia's Song* and its prequel, *Ravensong* as offering nuanced and compelling challenges to the rhetorical tactics in the 2008 apology. Beyond

a mere critique, these novels invite readers to visualize building alliances with Indigenous peoples outside the confines of Canada's discourse of reconciliation, providing a roadmap toward genuine solidarity and understanding.

I feel very privileged to have had a chance to learn from Maracle's novels and to draw upon their wisdom to the best of my understanding at this stage in my life. I am aware of the limits of my own reading of these stories as a person of Iranian descent currently inhabiting Turtle Island; I present my reading as my partial and incomplete attempt to echo Indigenous voices that have moved me in my doctoral research on settler colonial violence perpetuated in Canada's state-sanctioned redress projects. On this note, I remind myself and my readers that the interpretative potentials of the incredibly layered and complex novels that I analyze here are by no means exhaustible by readings such as mine that engage with them from specific angles and different cultural backgrounds.

4-1 The Consolidation of Canada's Sovereignty in the 1998 Merged "Statement of Reconciliation" and Action Plan

Gathering Strength: Canada's Aboriginal Action Plan (Indian Affairs and Northern Development Canada 1998) is the government's delayed response to the RCAP's final report's recommendations. It comprises a merged "Statement of Reconciliation" and an action plan, detailing Canada's proposed renewed relationship with Indigenous peoples. It was delivered as an informal statement on January 7th, 1998, by Jane Stewart, Minister of Northern Affairs and Indian Development, during a small lunch-hour gathering on Parliament Hill, Ottawa, from which Prime Minister Jean Chrétien was notably absent. But the broad media coverage of this statement and major immediate responses to it from Indigenous leaders made it highly visible in

Canada and beyond. This merged statement was evocatively staged as a pivotal turning point in the government's relationship with Indigenous peoples which gave it a strong affective gravity. Even though the RCAP's final report had called for a public inquiry about residential schools, *Gathering Strength* only expressed regret for the government's role in inflicting harms in Indigenous communities without specifying them and outlined an action plan for "turning the page to a new and more prosperous future" (Ibid). In Chapter Two, I pointed out that *Gathering Strength* acknowledged Indigenous people's "inherent right of self-government" (Ibid) but framed it within the RCAP's normative model for renewing the state's relationship with Indigenous peoples, based on the constitutional framework for Indigenous rights. Here, I examine the rhetorical tactics in the two parts of *Gathering Strength* (the "Statement of Reconciliation" and the action plan). I demonstrate how the rhetorical moves in these sections aim to elicit public trust in the government as the initiator of justice for Indigenous peoples, thereby reinforcing the settler colonial logic of the RCAP.

The "Statement of Reconciliation" section of Stewart's speech came after a brief "Introduction" and built the affective foundation for mobilizing the action plan section of her speech. The "Introduction" made selective references to the RCAP's final report without tracing what initiated the RCAP's work and what pushed the government to finally respond to its final report. By leaving out the context of the formation of the RCAP while mentioning it, this "Introduction" bypassed major land disputes behind the Indigenous uprisings that forced Canada to form the RCAP, especially the 1990 armed confrontation in Oka between the Mohawk nation of Kanesatake, the RCMP, and the Canadian Army. Stewart's statement, therefore, erased powerful histories of Indigenous struggles to reclaim their role as caretaker of their ancestral land. As I explained in Chapter One, the so-called Oka crisis clearly confirmed the carceral

nature of Canada's opposition on Indigenous sovereignties and their land-based foundations. This statement's erasure of the legacy of Indigenous resurgence in Oka while mentioning the RCAP, therefore, legitimizes Canada's carceral commitment to stealing Indigenous lands and exterminating Indigenous lives. Next, this statement placed the state's wrongs against Indigenous peoples firmly in the past while separating the past from the present; in fact, before even delivering a statement of regret, Stewart presented a short summary of the RCAP's final report that acknowledged the wrongness of Canada's policies for Indigenous peoples in the past 150 years, as a description of the past. She immediately bracketed this description and said, "the time has come to say that the days of paternalism and disrespect are behind us" (Ibid). The "Statement of Reconciliation" that followed this "Introduction" opened with describing harms in Indigenous communities as "the negative impacts that certain historical decisions continue to have in our society today" (Ibid). Blaming Canada's anti-Indigenous violence on a few mistaken decisions, this framing downplays the historical and ongoing wrongs against Indigenous peoples and protects the government from admitting that the intention of Canada's policies for Indigenous peoples was to eliminate Indigenous cultures and communities. It also importantly conceals the gendered aspect of Canada's anti-Indigenous violence that is constitutive to Canada's settler colonization as I explained in Chapter Two.

The rest of the "Statement of Reconciliation" focused on re-claiming Canada's national narrative while expressing regret for selective harms inflicted on Indigenous communities. Stewart began this narrative by naming Indigenous "fundamental values concerning their relationship to the Creator, the environment and each other, in the role of elders as the living memory of their ancestors, and their responsibilities as custodians of the lands, waters, and resources of their homeland" (Ibid). But she immediately acknowledged Indigenous values only

as forgotten "*contributions* [..] to Canada's development, and the *contributions* that they continue to make today" (Ibid, italics mine). This rhetorical move to reduce Indigenous values to how they serve Canada reflects this statement's strategic creation of an ideological sense of social cohesion at present. She continued by referring to some aspects of Canada's anti-Indigenous violence such as suppressing Indigenous languages and cultures, outlawing spiritual practices, dispossession of traditional territory, and forced relocations, as "not something in which we can take pride" (Ibid). This rhetorical move presents Canada's anti-Indigenous violence as merely a scar on Canada's national pride instead of admitting that this settler colonial state is made through perpetual violence. Stewart's rhetoric gives the impression that there is nothing shameful about Canada's development as a nation other than a few mistaken decisions that have harmed some Indigenous communities, and it seeks to deny that genocidal violence against Indigenous peoples was part of the larger structure of Canada's settler colonialism. As I explained in Chapter One, this denial of the complex settler colonial nature of state wrongs is yet another key tactic deployed in liberal settler colonial state apologies.

Following this move, Stewart expressed "profound regret for past actions of the federal government that contributed to these 'difficult pages'" (Ibid) in the history of Canada's relationship with Indigenous peoples. In particular, she acknowledged the role that the government had played in developing and sustaining residential schools and said, "we are deeply sorry" (Ibid) to former residential school students who experienced physical and sexual abuse. The "Statement of Reconciliation" concluded by offering $350M for community-based healing as part of Canada's reconciliation framework for Indigenous peoples. But, echoing this statement's narrative of Canada's national sovereignty, Stewart defined reconciliation and renewed partnership with Indigenous peoples as finding ways for Indigenous peoples to

"*participate fully* in the economic, political, cultural, and social life of Canada," while adding that "working together to achieve our *shared goals* will benefit *all Canadians*" (Ibid, italics mine). She thereby assumed that the "Statement of Reconciliation" just presented was already accepted by all Indigenous peoples and made the road clear for a renewed partnership between Indigenous peoples and the perpetrator government. Making reconciliation premised on achieving shared goals between Indigenous peoples and Canada's reconstructed national sovereignty dramatically limits what reconciliation means from Indigenous perspectives. It re-establishes Canada's settler colonial domination over Indigenous peoples by pre-emptively preventing conflicts of interest between Canada and Indigenous peoples.

The rest of Stewart's address unveiled an action plan as a normative framework for renewing the state's relationship with Indigenous peoples. Resonating with Stewart's "Statement of Reconciliation," this framework further legitimizes Canada's national sovereignty at the expense of Indigenous sovereignties. Stewart defined the government's top-down terms for reaching reconciliation with Indigenous peoples by outlining four objectives: (1) Renewing Partnership with Indigenous peoples; (2) Strengthening Indigenous Governance; (3) Designing a New Fiscal Relationship; and (4) Supporting Indigenous Communities. The "Renewal" section mostly unpacked the kind of partnership that the government wants to have with Indigenous peoples. In this section, Stewart referenced the RCAP's characterization of this partnership as being based on "mutual respect and recognition, responsibility, and sharing," (Ibid) but interpreted this mutuality in terms of a "working relationship" built on "a celebration of our diversity while sharing a *common vision*" (Ibid, italics mine). The focus of this proposed partnership on sharing a common vision echoes the earlier emphasis put in the "Statement of Reconciliation" on achieving shared goals between the government and Indigenous

communities. She then prescribed how this partnership should be built, naming particularly "companies in the banking and resource sector" as "models for how to do business" (Ibid) with Indigenous peoples. Stewart explicitly framed the government's proposed normative framework for a renewed relationship with Indigenous peoples as an attempt to enfold Indigenous economies within the capitalist profit-making economy that the banks pursue. In the next section, "Strengthening Aboriginal Governance," she presented a homogenizing, subjugated model of Indigenous sovereignties under the guise of Indigenous self-governments and constructed Canada as a generous nation that recognizes and supports this model. This homogenizing model furthers this statement's tactics that seek to bring Indigenous peoples into the fold of the nation. Dictating government mandates for what Indigenous sovereignties should look like, Stewart specified,

> self-government means well-defined, negotiated arrangements with rights and responsibilities that can be exercised in a coordinated way. The result of this will be that other governments, the private sector, other individuals, and institutions *can easily establish a relationship with [Indigenous] governments and communities* and participate in the partnership we are talking about here. (italics mine)

This one-size-fits-all approach to Indigenous sovereignties under the guise of self-government emphasizes the government's mandate for homogeneity across all Indigenous communities and demands compatibility between Indigenous values and the interests of institutions that recognize Canada's government. In doing so, this approach reinforces the RCAP's general normative constraint that fuses the government's recognition of Indigenous sovereignties with the constitutional framework for Indigenous rights and their restrictive

judicial interpretations. Even in the context of acknowledging the harms inflicted upon Indigenous peoples, a unified notion of the Canadian nation is constructed to legitimize Canada's ongoing settler colonial subordination of Indigenous peoples through a homogenizing approach. In the next section, "Developing a New Fiscal Relationship," Stewart expanded on this subjugated model of Indigenous sovereignties and linked it to Canada's linear notion of time, reinforcing the earlier theme of separating the past from the present. Emphasizing the government's temporal notion of national progress, she said, "our system of transfer must be *forward thinking* and *predictable* so that elected representatives can plan, *make informed spending decisions*, and be accountable for those choices" (Ibid, italics mine). She also quickly added that "Canadians also want to ensure that we are *investing* in strong, effective, and accountable [Indigenous] governments" (Ibid).

The linear notion of national progress and the language of reconciliation as the government's "investment" (Ibid) that put Indigenous communities passively at the receiving end of Canada's constructed generosity gets further developed in the next section, "Supporting Strong Communities, Peoples, and Economies" (Ibid). This section unilaterally describes the action plan as a "solid framework for progress" (Ibid) and introduces new initiatives, including a reformed welfare system towards shifting "investment to economic development and job creation" and initiatives for children and youth presented as plans to "invest in children" and "allowing the reinvestment of the National Child Benefit" (Ibid). Likewise, a firm sense of continuity is established in this section between this action plan and Canada's former paternalistic interpretations of Indigenous rights, again reflecting the RCAP's endorsement of the constitutional framework for Indigenous rights as a model for the government's renewed relationship with Indigenous peoples. To make it clear that this action plan's mention of a

"transfer" from paternalism to partnership with Indigenous peoples is not meant to transform Canada's existing policies, Stewart said, "what encourages me is that we are not starting from zero in our effort. We can build on significant achievements of our first mandate such as the Inherent Right of Self-Government policy [among others]" (Ibid). This mandate refers to the 1995 paternalistic federal policy that, as I explained in Chapter Two, frames Indigenous nations as nations that depend on the Canadian government and defines Indigenous self-governments as excluding sovereignty in the international sense, therefore denying the treaty obligations that would legitimize Canada as a nation-state.

The conclusion of Stewart's statement also echoes earlier themes of enforcing a common vision between Canada and Indigenous communities and establishing continuity between this action plan and previous paternalistic interpretations of Indigenous rights. Here, Stewart celebrated this action plan once again by saying, "just as the Commission was struck at a pivotal time in history, I hope that we will look back at this time as an important turning point – not unlike the seventh-generation principle – one at which we turned the page to a new and more prosperous future together" (Ibid). While this was her last mention of the RCAP, no reference at all was made throughout the statement to Indigenous perspectives that considered the RCAP to be significant primarily because of the land-based Indigenous uprisings that led the RCAP's formation. Simultaneously, her words made a misleading correlation between the Haudenosaunee notion of time expressed by the seventh-generation principle and the linear temporal framework of national progress in this statement. The seventh-generation principle was first mentioned in passing in the "Introduction" of Stewart's speech when she cited a young person's testimony from the RCAP, saying, "one of our great spiritual leaders advised us that we must look back seven generations and look forward seven generations and realize that we are the

balance" (Ibid). Appropriating this notion of time, without providing the proper context for how it is practiced in Indigenous communities, was an attempt by Stewart to give some legitimacy to her statement. However, her statement only constructed a notion of time embedded in a linear narrative of national progress. Referring to the seventh-generation principle towards the end of this statement was a typical appropriative gesture to make a misleading correlation between Indigenous and settler colonial notions of time and was yet another attempt to enforce a common vision between Canada and Indigenous peoples.

Finally, Stewart alluded to the 1997 *Delgamuukw* decision, which was at the time Canada's latest court ruling regarding the constitutional framework for Indigenous rights (in this case Indigenous land title) and thereby re-enacted the RCAP's endorsement of the constitutional framework for Indigenous rights as a model for renewed relationships with Indigenous peoples. As I explained in Chapter Two, the *Delgamuukw* ruling required, for the first time, the consideration of oral as well as written evidence to prove the existence of Indigenous land title but also reserved the government's authority to infringe upon this title in a long list of circumstance in the name of protecting the interests of Canadians. In doing so, it sought to impose paternalistic, top-down limits on the terms of Indigenous sovereignties in the form of jurisdiction over the land while recognizing Indigenous land title. Stewart's allusion to the *Delgamuukw* decision, therefore, endorsed this court ruling's imposition of limits on Indigenous sovereignties while recognizing Indigenous land title. She wrapped up her address by repeating the last line of the Chief Justice's ruling in *Delgamuukw*, saying, "Let us face it, we are all here to stay" (Ibid).

This statement has been overwhelmingly criticized by Indigenous leaders, including most of those Stewart mentioned as her "counterparts" (Ibid). In fact, except for Phil Fontaine (Grand

chief of the AFN) who quickly accepted the statement (Schneider 1998), other Indigenous leaders mentioned by Stewart rejected it. Marilyn Buffalo (President of the NWAC) described the statement's funding offer without a public inquiry into residential schools that was recommended by the RCAP as just a "band-aid solution" to multi-generational effects of these schools (Barnsley 1998). Likewise, Harry Daniels (Head of the Congress of Aboriginal People) found both the apology and the offered funding far from adequate. Okalik Eegeesiak (Head of the Inuit Tapirisat of Canada) was disappointed that the apology was not broader, and Gerald Morin (Head of the Métis National Council) was disappointed that there was no specific mention of the Métis peoples (Dickason 1998). Also, within a few months after Stewart's address, the Canadian Press obtained and revealed a government internal report, written two years prior to Stewart's address, that uncovered what was at the stake for the government in offering this apology to Indigenous peoples (Novel Alliances 2014). This report was stamped secret and had advised offering compensation to former residential school students to control the explosive cost of residential school lawsuits.

As these Indigenous responses and media coverage reveal, the federal government's move in this statement to foreclose conversations about Canada's anti-Indigenous violence was a contested one. Various assertions of Indigenous sovereignties since this statement was delivered have also strongly, albeit indirectly and perhaps more effectively, confronted its rhetorical tactics. Some of these assertions of Indigenous sovereignties take the form of storytelling. Indigenous stories that I find particularly powerful in confronting the consolidation of settler colonial violence in Stewart's address are those that point out broad structures of settler colonialism in Canada from the vantagepoint of Indigenous place-based sovereignties and encourage readers to envision living in relation to Indigenous sovereignties in the present. In the following section, I

analyze Lee Maracle's *Daughter are Forever* and *Sundogs* as exemplary cases of such storytelling.

4-2 Reading *Daughters are Forever* and *Sundogs* in the Context of the 1998 Merged Statement

Daughters are Forever, Maracle's third novel, was published in 2002, a few years after Stewart's address which was an affective attempt to advance Canada's recognition of a subjugated and dramatically simplified model of Indigenous sovereignties under the banner of self-government. In this context, *Daughters* offers a creative, powerfully articulate reclamation of Indigenous sovereignties and challenges, at multiple levels, misleading conceptions of Indigenous self-government that resonate with the simplified model in Stewart's address. This novel's pressing challenges start from the very first page where Maracle rejects the Western dichotomy of the written/oral story that assumes writing and oral stories are mutually exclusive means for communicating meaning. Even though *Daughters* takes the single-authored, written form of a novel, its opening chapter emphasizes the power of oral or spoken quality of Indigenous knowledge through storytelling that makes the story inseparable from the storyteller and her peoples and traditions.

The opening chapter is rooted in a Salish creation story about the beginning of life on earth and portrays Salish values as reflecting eternal cosmic forces that govern the universe, including but not limited to human life. In this chapter, the novel's omniscient narrator tells the story of Westwind's play with beings on earth that made him "familiar with stone, grasses, the four-legged, winged, and tree people" (Maracle 2002, 11), and awakened the sky woman among the stars who then birthed the star-nation's daughter on Turtle Island. The story continues by

linking the beginning of human life on earth to the growing desire of Westwind for the star-nation's daughter and "plant[ing] seeds of future in her young, sweet womb" (Ibid, 12) that led to the birth of human children who peopled the earth and carried their mother's breath of life. It describes the initial harmony on earth established by old agreements and boundaries that were delicately maintained between all beings, and names women as the primary keepers of this initial peaceful co-existence through their songs and stories (Ibid, 13-14). The arrival of European colonizers to Turtle Island is vividly pictured as causing the violation of these old agreements, the spread of diseases, the early death of women, and the stillness or emotional paralysis of surviving women (Ibid, 16-28). By opening the novel with this creation story, Maracle taps into the performative power of the oral tradition of Indigenous storytelling and exercises Salish sovereignty by reclaiming the stewardship of Salish perspectives on the creation of life and the establishment of harmony on earth. She thereby asserts Salish sovereignties as being absolute and preceding Canada's national sovereignty that is established by colonizing Turtle Island and violating its initial peaceful co-existence of all beings.

Maracle's re-telling of the creation story of Salish peoples that reflects their values renders ridiculous Stewart's acknowledgement of Indigenous values only in terms of their contributions to Canada. It is an implicit challenge to Stewart's allusion to the *Delgamuukw* ruling that reflects the RCAP's normative constraint for recognizing Indigenous sovereignties based on the constitutional framework for Indigenous rights. Unlike the *Delgamuukw* decision that requires considering oral evidence for the existence of Indigenous rights (in this case, Indigenous land title) while reserving the government's right to infringe upon them to protect the interests of Canada as a nation-state, Maracle's re-telling of this creation story is her declaration

that Indigenous rights cannot be infringed upon and are endorsed by absolute Indigenous sovereignties that are protected by storytellers or the Creator.

The novel's first chapter ends by underlining the powerful presence of Salish traditions through time despite Canada's colonial genocide. Having witnessed the consequences of the colonizers' blood lust, Westwind continues to carry the gist of the old agreements and to remind human survivors of colonial genocide of their responsibility to restore harmony on earth. As Maracle puts it,

> Generation by generation, the original promise became some strange and painful foreigner. Westwind continued to pick up this promise, binding it to desire and carrying it desperately to all corners of the island. [..] Westwind is restless now. Frustrated with the deafness of Turtle Island citizens who have no way to translate his song, he sometimes howls inappropriately. The air just above the earth is heavy with chronic assault and unexpressed grief. Westwind is crazed by his need to cleanse it. (Ibid, 27-8)

While these passages carry the heaviness of settler colonial destruction on Turtle Island and the grief that came with it, they also centrally feature Westwind's decolonial vigor that refuses to surrender alternative ways of living in accordance with Salish values. What immediately follows this first chapter is an encounter, in the second chapter, between Westwind and a Salish man called Eddy that leads to Eddy's suicide. He hears Westwind's song when he is heavily drunk and cannot understand it. He runs out of his house, screaming and trying to outrun the song, and eventually throws himself under a transport truck (Ibid, 31). Shortly after this suicide scene, we learn that Eddy is the father of Marilyn, the novel's protagonist. Marilyn, a Salish mother of two daughters, is a university-educated social worker who works for Canada's Children's Aid Society

in what is now called Vancouver. Later, we learn that the story unfolds during the Ipperwash crisis, the 1995 peaceful occupation of the Ipperwash provincial park in Ontario by some members of the Stony Point First Nations, followed by the attack by the Ontario Provincial Police that killed a member of their community and injured many others (Edwards 2001). Marilyn reminds Westwind of the star-nation's daughter and he tries to communicate with her, but she is initially unable to hear his song. Unlike Eddy, however, Marilyn does not end up committing suicide. She goes through a long path of growth and learns how to hear Westwind's song and embody her responsibility as a Salish woman.

In a 2014 interview, Maracle accentuates the connection that she draws in this novel between Eddy's suicide and not knowing how to understand traditional Indigenous responsibilities. She says, "It changes the way we view suicide in our communities, not so much as a desperate move to escape tragedy, but because people don't know their traditional responsibilities and keep hearing and being reminded of them from a place where they cannot interpolate them" (Maracle 2014b). By connecting Eddy's death and Marilyn's life to their (in)ability to relate to Salish responsibilities, stretched back to the long line of natural life on earth and the lives of Salish people on Turtle Island, Maracle simultaneously highlights the vitality of Indigenous traditions in contemporary Indigenous lives and the inevitability of change in Indigenous traditions to address contemporary challenges. This strong association challenges another misleading conception of Indigenous sovereignties that views Indigenous ways of life as frozen and limited to the time before colonization. The frozen notion of Indigenous ways of life, as I briefly explained in Chapter Two, was a cornerstone of Supreme Court rulings that set the stage for the *Delgamuukw* decision, the court ruling mentioned in Stewart's statement. The strong connection in Maracle's *Daughters* between contemporary Indigenous life/death and the

(in)ability to relate to Indigenous traditions further challenges Stewart's allusion to *Delgamuukw* decision, which was a judicial interpretation of Indigenous land title that considered Indigenous ways of living to be inert and static.

Throughout the novel, Maracle masterfully captures the ways in which Marilyn's path to growth requires removing obstacles that prevent her and other contemporary Indigenous peoples from connecting with Indigenous traditions and fulfilling their responsibility by contributing to them. This account of overcoming colonization by removing colonial obstacles that block connections between contemporary Indigenous lives and old Indigenous traditions sharply contrasts with the image of Indigenous peoples as passive receivers of Canada's recognition of subjugated Indigenous sovereignties and the vision of the past as finished in the government's 1998 combined statement. It thereby pushes back against Stewart's statement's aim to subordinate Indigenous lives and to construct a sense of the Indigenous past that is sharply separated from the present.

In Marilyn's life, the obstacles surface as she struggles to help her client, an Ojibway mother called Elsie, get back her two children who have been apprehended after Elsie's youngest daughter, Marsha, died during the visit of the Children's Aid Society's social workers. Marilyn's work with Elsie is partly motivated by her own experience of losing her oldest daughter to this Society many years ago. But Marilyn's daughter was kept for a few days only because Marilyn was then a university student, had access to a lawyer, and secured references from the authorities she knew (Maracle 2002, 49). As Marilyn reviews Elsie's file, she remembers that when she first saw it, she decided to investigate the apprehension, wondering why Ms. Madison, the social worker who visited Elsie's home, did not call an ambulance during their visit when she saw that Marsha was critically ill. But the court declared Ms. Madison blameless because she was just

following the institution's "standard procedure to the letter" (Ibid, 51-3). Marilyn held a press conference to raise her concern. After the press conference, she was not fired but was silenced by the board of directors who effectively told her "Don't bite the hand that feeds you" and passed the resolution that the press could only interview board members (Ibid, 53). Because of Marilyn's pressures, the judge's final ruling was not to grant the Society the permanent wardship of Elsie's children and to order Elsie to seek therapy with Marilyn before she could take back her children. Ultimately, Marilyn faces multiple institutional obstacles as she seeks to hold space for Elsie within the government tools for addressing the colonial legacy of child neglect in Indigenous families. But she soon realizes that she faces deeper problems that prevent her communication with Elsie. On the one hand, Elsie considers Marilyn an authority to whom she should defer to get the right answer to take her children back and blames Marilyn of holding back that answer. As Maracle puts it, "Elsie had to meet some standard set by Marilyn. Elsie had figured out who held the key to her children's return, but the rest of the temporary court order's language was foreign to her and escaped her. Elsie's inability to derive a picture, a pattern of action based on the words contained in the order, had moved her to challenge Marilyn" (Ibid, 83). Realizing this, Marilyn decides that the Western textbook therapeutic approach would not work for Elsie, and that she must find a way to bypass the inert language of the court order to communicate with her. On the other hand, Marilyn struggles to keep her mind focused on finding a way to bypass the court's inert language for Elsie. Maracle explains Marilyn's struggle to form a resolve in terms of a confusion or a war within herself. She writes,

> Confusion is incapacity to settle on the direction breath needs to take to see deeply, effectively, completely, and forever. Marilyn knew what had happened. This was the wrong question. She needed to know how to unravel the effect of

> what had happened, but she never seemed to get past this first question. Each uttering of the phrase brough up *the war between her breath's desire for movement and her mind's old, still direction*. Her stillness was older, bigger, and much more familiar than action. It got in the way. So normal did this stillness feel that Marilyn convinced herself that her desire for action was the culprit causing her discomfort. (Ibid, 57-8, italics mine)

Marilyn's confusion arises because she is initially too terrified of her own visions, reveries, and recollections of the past that frequently interrupt her sense of the present. At several points, her visions pause her.[116] Every time she has these visions, she feels confused and dismisses them as moments of insanity that she could not share with anyone. She repeats to herself, "social workers are not supposed to gap. It was too dangerous to tell anyone the truth" (Ibid, 176), and she tries to carry on with what is expected from her as a government employee. But Maracle presents Marilyn's waking time visions as a continuation of her dreams that are connected to the songs of women tormented by Turtle Island colonizers. Marilyn is first mentioned in the opening chapter of the novel where Maracle describes her dreams and says, "Woman after woman, confused, fell under the lash of decadent rage carried by these [colonizer] men wherever they went. The earth echoed the song of these women. This song invaded Marilyn's dreams" (Maracle, 2002, 17). Elizabeth Jackson explains this connection in the novel

[116] For instance, staring at the photos taken from Elsie's home, she sees in one photo a moving screen, showing Masha in her last moments of life, reaching her hands up and seeking help while Ms. Madison ignores her (Maracle 2002, 42-4). But she tells herself that she is hallucinating. Another time, as she waits for Elsie to arrive at one of their appointments, the memories of her own abuse of her two daughters when they were children intrude her mind (Ibid, 60-63). Yet again, at her home in False Creek as she prepares for her trip to Toronto to deliver a talk, her mind takes her back to a time when her husband, Mat, left their family, and she remembers how she coped with the overwhelming responsibility of taking care of their daughters by heavy drinking that made her more paralyzed and disconnected from them (Ibid, 99-105).

in terms of what Maracle calls the "blood memory"[117] of Salish women that creates a natural tendency, deeper than intellectual knowledge, in accordance with the old agreements for establishing harmony on earth, halted by colonial genocide (Jackson, 2013 232-3). From this angle, Marilyn's confusion is a contemporary repercussion of the learned stillness, apathy or emotional paralysis that many survivors of colonial genocide have long embodied to fit into the narrow colonial reality and avoid further hurt. Marilyn experiences this imposed colonial reality through expectations of her employment as a government social worker. While Stewart's statement promotes social cohesion partly by framing Indigenous peoples' participation in the economic, political, cultural, and social life of Canada as what reconciliation would look like, Marilyn's government employment expectations are far from enabling her to help Elsie and address the colonial legacy of child neglect in Indigenous families.

Maracle importantly draws a direct link between embodied stillness to cope with imposed colonial reality and the linear notion of time that requires a fixation on busy work and dismissing moments of deep insight that call for one's critical attention. She describes this linear notion of time in terms of an inert state of siege that halts the vital function of time for human consciousness. She says, "Siege precludes freedom. Siege is the absence of upward and outward movement. It is a windless, directionless, breathless state of being. [..] Time stands still when there is no movement. [..]. Inert, the power which is passion looks elsewhere for expression. It searches for busy work and details to fill its eyes. Immersed in busy work the body can no longer access its passion" (Ibid, 142-3). These passages notably bring together the colonial capitalist

[117] Maracle seems to have borrowed the term "blood memory" from N. Scott Momaday, a member of the Kiowa Tribe in Oklahoma and a renowned Indigenous writer, poet, and essayist. He first coined the term "blood memory" in his 1968 Pulitzer Prize-winning novel *House Made of Dawn* to articulate the view that history is written into and derived from the body (Momaday 1968). He further developed this concept in his later works. I am thankful to my supervisor, Dr. Eva C. Karpinski, for bringing up this link between Maracle's and Momaday's novels.

notion of time and the state of being breathless and "windless," evoking the role of Westwind or Indigenous traditions in Indigenous lives: the inattentive, busy work that shapes the colonial notion of time seeks to destroy Indigenous traditions and thereby Indigenous lives. Overcoming the siege of the linear time requires embracing what Maracle calls the "critical illusion" of time that is from her elaboration of it no illusion at all but a cornerstone of sustaining life forces. As she puts is, "Time is a critical illusion. It demarcates the difference between the physical and the spiritual world, between sanity and insanity, between life and death, consciousness and coma. Consciousness requires a deep appreciation of time" (Ibid, 141-2). In another passage, she brings back the Salish creation story that grounds the novel and describes this alternative notion of time as magic moments offered by members of the star-nation that unstuck humans and would relieve Marilyn from her confusion if only she could pay attention to them. She says,

> Magic moments peel themselves from the mind like children's stickers. They can sometimes unglue memories and stop them from traveling in the normal direction of the mind. These moments fall from the sky, like people that cross our paths when you are desperate for them. Sky people watch humans. They alone own time. They collect it in balls of starlight. Every now and then, they toss it to a human they believe needs to catch something. Such humans are desperate. Starlight draws attention to locked memories that keep humans stuck. The unstuck memories would unstuck Marilyn's direction, but she had yet to experience that change and so paid little attention to the magic of the moment. (Ibid, 109)

Maracle's articulation of this Salish conception of time as an antidote to Marilyn's learned apathy provides an alternative to the explicitly linear notion of time in Stewart's address that celebrates

and imposes national progress and forward thinking at the very same moment of proposing a renewed partnership with Indigenous peoples.

For Marilyn, embracing life's magic moments is a transformative process that gives her access to her buried knowledge of Salish traditions and is the condition of possibility for showing genuine care for Elsie. This process closely resonates with what Glen Coulthard calls self-recognition. Drawing on Franz Fanon, Coulthard criticizes the liberal settler colonial states' recognition of Indigenous self-governments as establishing an "*asymmetrical* and *nonreciprocal*" (Coulthard 2014, 25, italics original) relationship between the state and Indigenous peoples, reflecting colonial power structures that have dispossessed Indigenous people. As he notes, Fanon shows how the terms of the recognition of the colonized by the colonizer always serve the interests of the colonizer and how over time the colonized develops "psycho-affective attachment" (Ibid, 26) to these forms of recognition that are essential in maintaining the colonizer/colonized relationship. As an antidote to this colonial form of recognition, Coulthard turns to what Fanon calls "self-recognition" or the practice of "critically re-evaluating, reconstructing, and re-deploying Indigenous cultural forms in ways that seek to prefigure [..] radical alternatives to the structural and psycho-affective facets of colonial domination" (Ibid 48-49). Reflecting features of self-recognition, Marylin's transformation requires her hard work of transcending internalized stillness by allowing the flow of difficult emotions in her blocked memories. This process begins for Marilyn as she prepares for her trip to Toronto and fully develops during her stay there. The night before her trip, when her memories of her own past abuse of her daughters come up, the picture suddenly changes and she sees herself "chasing her stepfather's car," (Maracle 2002, 110) pleading with him to wait and take her with him while he speeds up and drives away. This picture shakes her and makes her realize that her forgotten fears

still haunt her. Later, when she spends a night at her friend's house in Toronto, her realization of her own suppressed fears and their connection to her present alienation from her daughters come to a brighter light. She feels burnt out and registers her burnout as a contradiction between her values and her conduct (Ibid, 140). Her buried knowledge of the "Salish law say[ing]: adults are responsible for their own care and the care of children" (Ibid) pushes up inside her and persuades her to get past guilt and pain so that "she could think herself clear to resolving the fear that she knew must plague her daughters" (Ibid, 141).

When she needs guidance in her transformative journey, the spirit of Ta'ah, her great grandmother who had died forty years ago, keeps her company. Ta'ah advises her to let herself fully experience her emotions and find the right words to express them. She says, "Speak child, from the heart, from the mind, from the spirit. Speak, and speak from your essential self, your most ridiculous self, but speak – always remember to give wind-voice to being" (Ibid, 172). Shortly after this vision, Marilyn has a dream of her stays at Ta'ah's house as a child that helps her gain more clarity on Ta'ah's advice. In this dream, she remembers how much she loved to stay at Ta'ah's but hated "the trek" (Ibid, 184) to her village because of its quiet in the absence of children who had gone to residential schools. Maracle calls the trek's quiet "residential school quiet" (Ibid) and describes how it used to fill Marilyn with a sense of loneliness even though she did not herself attend the schools. She says, "The terrible loneliness dogged her, haunted her and nagged her from childhood right through her marriage. The loneliness threatened to follow her into the transition between being mother and grandmother. She must name the disturbance or be maddened by it. It refused to be understood" (Ibid, 185). When Marilyn wakes up from this dream, Ta'ah's words about speaking English as a Salish woman stay with her, "the good part is white men never did wholeheartedly settle on the names they gave to life's beings. So, they gave

them many names. The trick is to choose carefully the names you use" (Ibid). These words help her imagine transcending her loneliness and apathy by transforming English to express her emotions to follow Salish values for connection and intimacy with others.

In a 2004 interview, Maracle emphasizes that this sense of transforming English is a principle that informs her own life and work. She describes this principle as "a way to alter English to suit my own Salish sensibilities" (Maracle 2004, 211). To this point, she adds, "It has created somewhat of a controversy literarily for me, not of big difficulty because people like reading me. It doesn't really matter what English professors say about me as long as people continue to like what I have to say" (Ibid). In *Daughters,* Marilyn holds on to Ta'ah's teachings in her visions and dreams as significant re-emergences of her embodied knowledge of Salish knowledge that she has been busy trying to escape since childhood. Only through reconnecting with her buried embodied Salish knowledge does Marilyn feel more confident that she can help Elsie. She repeats to herself on her way back to Vancouver, "Elsie, I am going to let myself care" (Maracle 2002, 199).

Coulthard's notion of self-recognition that Marilyn's transformation exemplifies also reflects the relationship between Indigenous peoples and the land. That relationship legitimizes Indigenous sovereignties and provides their normative framework. Coulthard refers to this place-based relationship as grounded normativity and anchors it in the focus of Indigenous struggles against settler colonialism and the question of land "as a mode of reciprocal *relationship* (which is itself informed by place-based practices and associated forms of knowledge)" (Coulthard 2014, 60, Italics original). He adds, "this means that humans hold certain obligations to the land, animals, plants, and lakes [..]. And if these obligations were met, then the land, animals, plants, and lakes would reciprocate and meet their obligations to humans thus ensuring the survival and

well-being of all overtime" (Ibid, 61). Unlike the colonially constructed normative notion of the human, enacted through state regulations and rooted in heteronormative white supremacy that reduces differences among beings to oppressive hierarchies, grounded normativity acknowledges differences and conceptualizes them in terms of relations based on respect, reciprocity, and dignity. Maracle's *Daughters* also importantly highlights the place-based nature of Indigenous knowledge or its grounded normativity in ways that challenge Stewart's statement's erasure of the centrality of land in Indigenous struggles. Unlike Stewart's statement that mentions the RCAP without contextualizing it within land-based confrontations that led to the formation of the RCAP, Maracle revisits the Oka confrontation while depicting the Ipperwash crisis in *Daughters*.

The relevance of land disputes in Indigenous lives is captured in this novel by the presence of T.J., a Haudenosaunee man who wants to meet Marilyn in Toronto through their common friend, Gerri. T.J. supports the Ojibway peoples claiming their land at Ipperwash provincial park and knows Marilyn from her speech on peace during the Oka crisis. Gerri's mention of the peace speech reminds Marilyn of her deep emotional engagement with the Mohawk resistance to Quebec's expansion of the Oka Golf Club on their traditional burial ground. She remembers that watching on TV the people involved in the bridge occupation in Oka under the siege of the Canadian army made them more significant to her than her own relatives and moved her to travel to Oka with her first daughter to join the nearby Peace Camp and support the Mohawks (Maracle 2002, 131-4). Marilyn metaphorically describes her own and her daughter's engagement with Oka because of their sense of tribal obligation as Salish women to the Great Law of the Haudenosaunee Confederacy as being "drawn there like moths to the light" (Ibid, 134). Remembering the emotional revival of her tribal obligations to care for the land during Oka also makes the ongoing Ipperwash crisis significant to Marilyn and plays a

major role in bringing her closer to overcoming her learned apathy. Part of Marilyn's emotional recollection of the Oka confrontation is remembering the first lines of her own speech on peace. She opened her speech with, "peace, freedom from strife, freedom from war, freedom from conditions that annoy the mind. We have not known peace since the Europeans first came to this land. It annoys my mind…" (Ibid, 130). The direct connection in these lines of the arrival of Europeans on this land and the lack of peace on it reverberates with Maracle's assertion of Salish Sovereignty at the beginning of the novel by re-telling a Salish creation story that depicts the arrival of European colonizers on Turtle Island as violating the initial peaceful co-existence of all beings. In this way, Maracle points out the common goal of bringing back the peaceful co-existence of all beings on the land as what interconnects land-based reclamation of Indigenous sovereignties. Simultaneously, by framing this speech as linking Canada's use of the state police and the Army to create a state of emergency to criminalize Indigenous land-defense during Oka confrontation and the general settler colonial condition for Indigenous peoples, Maracle underlines the carceral nature of Canada's ongoing commitment to stealing Indigenous lands and exterminating Indigenous lives.

Maracle's other novel that highlights the significance of the Oka confrontation in contemporary Indigenous lives is her first novel, *Sundogs* (1992). The portrayal of Oka in *Sundogs* is much more detailed than its short but significant presence in *Daughters.* Reading *Sundogs* alongside *Daughters* provides a fuller picture of Maracle's deep commitment to grounded normativity of Indigenous sovereignties and how it challenges the erasure of the Oka confrontation from the government's 1998 combined statement. *Sundogs*' narrator and protagonist is Marianne, a twenty-year-old university student from a Métis-Okanagan family in East Side Vancouver. At home, she feels dislocated and alienated from her family members who

speak languages, use metaphors, and have a strong sense of justice that she does not quite understand. She notes how her family tries to keep her in the fold while protecting her against hard family challenges. As she describes it, "this is the architectural design of the house of protection they have all build around me. It is a house whose walls are built of secrets. I want to scream at them all" (Maracle 1999, 51). So, Marianne's relationship with her family that underlies her relationship with Indigenous sovereignty is initially a source of confusion to her. But, just as Marilyn in *Daughters* goes through a transformation and transcends her initial confusion, Marianne's sense of Indigenous sovereignty and her own relationship to it matures throughout *Sundogs*. At the political level, major events that facilitate Marianne's maturation are Elijah Harper's resistance to the adoption of the Meech Lake Accord and the Oka confrontation. When she first hears Elijah Harper's speeches on TV about Indigenous peoples' rights, she feels both excited and confused. She says, "Those words upset me. I have lived twenty years on this earth making faces on my mother's sense of justice and I live in terror of my sister's womanly consciousness, and you stand there, Elijah, and affirm everything I know is dangerous to think, feel or believe" (Ibid, 89-90).

Later, she states her appreciation for Elijah's resistance, but finds it insufficient. As she puts it, "Elijah brought truth home about the cause of the disease but has not hinted at any solutions. Right now, it does not feel like there are any" (Ibid, 101). Despite her excitement about Elijah's resistance, she continues to feel alienated from her family members who shape different parts of herself. She notes, "I try to collect all the broken pieces of my inside and put them back together. It isn't possible. *I was never familiar with the pattern of my soul. I can't arrange the pieces in any coherent order*. [..] Each time I find out several pieces don't fit and the whole fabric of me falls apart" (Ibid, 102, italics mine).

Marianne's feelings of alienation begin to shift toward those of love and sorrow as she engages with the Mohawk occupation in Oka (Ibid, 135). At her workplace, Marianne notes the collective impact of the Oka confrontation and says, "All of us rise to the crisis like angels of a new faith, faith in ourselves. *The process Elijah began is rolling out over the land, rooting itself in all of us*—solidarity with each other. Sovereignty association as a possibility, as a solution, now looks sensible, possible" (Ibid, 136, italics mine). As she re-gains her agency, the sense of justice in her family begins to make sense to her, and she no longer wants to be apart from her family (Ibid, 145). She also realizes that the question of land that is front and centre in the Oka confrontation is core to reclaiming contemporary Indigenous lives. Here, too, Maracle connects the centrality of land in struggles for Indigenous sovereignties in general, and the Oka confrontation in particular to the very possibility of Indigenous lives. The following passage powerfully captures this connection,

> The warriors of Kanesatake know the attack on their grandmother's graves; the evidence of our genocide is an assault on their will to live. They take up arms, not to deprive anyone but to show the world they are dead serious about living. We stand behind them, not because we want to hurt anyone, but we are all dead serious about living. Every one of us is saying no to simplistic survival. We want to live. (Ibid, 170)

Maracle puts particular emphasis on Marianne's participation in the Okanagan Peace Run as what gives her a sense of coherence and brings about a major shift in her relationship with herself, her family, and Indigenous sovereignty more broadly. As the runners take turns to deliver the feather of peace from Okanagan to Mohawk warriors in Oka, Marianne realizes the importance of her solitude while noting her communal embeddedness. She repeats to herself,

"We are besieged, the winged, the four-legged, plants, and us – we are all besieged. The feather erases the state of siege from my mind. [..] It has been so long that the state of siege felt like freedom. Peace, freedom from grief, freedom, peace – peace, the end of siege. End of siege of sovereign Mohawk who want to live" (Ibid, 180). Against this backdrop, going through a conflict that arises between the runners and the Peace Run organizers catalyzes the shift in her understanding of sovereignty. The organizers decide to stop the Run in Ottawa after a group of white supremacists attacks the runners in Ontario, and Mohawk warriors in Oka request that the Run be stopped to protect the runners. Marianne disagrees with this decision even though she feels the Run has already enabled her to put different parts of her soul together and achieve "coherence" by understanding herself in its historical context (Ibid, 204). When she tries to persuade others that the Run should not be stopped, she has conversations with other runners, including Lacy, her eldest sister who later joins the Run, that shift Marianne's understanding of sovereignty from a singular, unitary notion to one grounded in accepting multiplicity of different points of view. She initially complains that the organizers' decision violates her right to do what she can for the sovereignty movement, and when she is told that "you don't have rights, you have obligations" (Ibid, 206), she finds this to be a "fascist" (Ibid) position that ignores the individual for the sake of the communal. But soon she comes up with a notion of herself that does not exclude communal obligations while having individual significance. To come up with this notion, she must let go of her fear of decision-making through dialogue as her colonially learned knowledge that turns differences and disagreements into the seeds of hierarchy and competition.

Maracle's use of a conversational framework that reflects the relational and oral nature of Indigenous knowledge is significant in her depiction of the major shift in Marianne's subjectivity. Her subjectivity shifts because she allows herself to disagree with the Run

organizers and to have difficult conversations with other runners who hold different points of view about Indigenous sovereignty and individual responsibility while sharing a deep common purpose with them. Likewise, as her sense of self matures, she finds commonalities between her view and those of her family members, especially her Momma and eldest sister, Lacey, while clearly differentiating her position from theirs. In a key passage, she situates her view in relation to her Momma's fierce and persistent opposition to Canadian national TV's representation of Indigenous peoples. Noting the commonality while admitting the difference, she says, "There is no longer a question in my mind about genocide. I still don't buy the plot part of Momma's formulation, but the genocide is clear" (Ibid, 135).

Indeed, the theme of finding balance by embracing differences is a central theme in this novel that is reflected in its title, *Sundogs*. Sundogs are patches of light that are occasionally seen on one side or both sides of the sun that appear to reflect the sun (Johnson 2006). This concept is first mentioned by one of the runners from Manitoba who defines it as "impossible images reflected under extraordinary circumstances" (Maracle 1999, 191). Marianne invokes this image to understand her family challenges as the consequence of a twining of two separate nations (Okanagan and Métis) under colonial conditions and visualizes Indigenous sovereignty as a "web" of "independent" individuals and nations bound by "a sense of co-operation and equality" (Ibid, 206). She describes the relational sense of self that she embraces in light of this notion of Indigenous sovereignty as a new way of being. She says, "This new way of being puts me squarely in charge of myself, but at the same time it is a self that stands in the centre of a community of selves, all tough and resilient, with each one owning their views" (Ibid, 207). The shift that the Peace Run brings to Marianne's life, as Maracle portrays it in *Sundogs*, is premised on her letting go of colonially learned singular notions of Indigenous sovereignty and embracing

a sovereign way of life that balances different values and points of view while simultaneously rejecting an individual-focused notion of self for the sake of self in relations. This image of Indigenous sovereignty that is relationally defined in conversations and embraces uncertainties of living with multiple points of view and disagreements while focusing on commonalities is nowhere near Stewart's characterization of Indigenous self-government as predictable and homogenous, which is part of the reconstructed ideological sense of social cohesion in her statement.

Engaging with *Daughters* and *Sundogs* also helps problematize the overall picture of Canada's proud nation-building in Stewart's reconciliatory gesture that strategically isolates Canada's wrongs against Indigenous people from the state's complex gendered racial structures of settler colonial dominations. While Maracle primarily highlights Indigenous resistance in the face of Canada's ongoing anti-Indigenous violence in these two novels, she also importantly points out the broad reach of Canada's settler colonial structures of domination and identifies coalitional possibilities for resisting them. In *Sundogs*, the key concept of coming together for common purposes despite differences that is reflected in the title of the novel is about more than solidarities within Indigenous communities and extends to the need for coalition-formations to push back against settler colonial violence more broadly. Here, Maracle unpacks interconnected structures of settler colonial violence and possibilities for resisting them mostly through human interactions that reveal different shameful racial aspects of Canada's formation as a nation, but she also keeps the hope alive for transcending these structures.

A prominent example of this transcending is Maracle's depiction of different reactions to the Peace Run and Oka confrontation. When Marianne's sister, Lacey, joins the Run, she initiates thoughtful conversations that link anti-Indigenous violence in Canada to practices of

heteronormative white supremacist othering. Referring to those who attacked the runners, she says, “Some of them have translated violence in their own lives into hatred for us. [..] our supporters want oneness with humanity. Racists want to vent hate on someone other than themselves [..]. These same racists batter their own women when we are not around to stone” (Ibid, 197). In these passages, Lacey traces the roots of anti-Indigenous violence to a white supremacist understanding of what it means to be a human that is premised on constructing racialized others and hating whoever is othered. She also importantly underlines the heteronormative dimension of white supremacy by connecting racial violence to violence against women. Marianne further complicates the notion of heteronormative white supremacy when she responds to Lacey and says, “or they join the army to kill people they have never seen” (Ibid). Here, Marianne notes that constructed racial and gendered hierarchies within the Canadian nation also require sustaining violence transnationally by initiating and engaging in never-ending wars between the nations. She ultimately links the notion of heteronormative white supremacy to the capitalist Euro-centered obsession with hierarchies to create profit. As she puts it, this culture, “cannot nurture. It can create chainsaw-packing tree-hackers but *its hierarchy, its obsession with profit, cannot afford to create compassion, the food of the human spirit*. [..] This process creates an artificial and tenuous *loyalty to hierarchy which is essentially murderous*” (Ibid, 200, italics mine).

Marianne also acknowledges active formations of solidarity outside Indigenous populations for the Mohawk resistance in Oka. She says, “Most urban demonstrators are white. White people stand along the highway holding peace signs, Black and White in Kingston are arrested for blocking the bridge during rush hour and daily petitions and signed and sent calling for a peaceful resolution to the crisis” (Ibid, 198). But, in an outstanding remark that contrasts

Canada's constructed national pride in Stewart's reconciliatory gesture, Marianne frames the Okanagan Peace Run as marking national shame for Canadians, including passive bystanders. She says,

> This country feels no shame about the need for the run. The good citizens who pass by and honk, who greet us in their hundreds and once in their thousands, feel no shame. It is shameful that forty young Native people and a handful of our elders should have to run a small feather across thousands of kilometers with prayerful visions of peace in their hearts so that death can be prevented (Ibid, 202).

Maracle further unpacks different forms of settler colonial violence in Canada and the possibilities for pushing back against them in *Sundogs* through Marianne's introspections during the Peace Run as she recollects the remarks of her Chinese university classmate, Sue. She remembers that when Sue trusted her and talked to her about their Asian Studies course, she complained about feeling singled out as a "Chinese in-house expert" (Ibid, 161) and being treated like the personal property of their mostly white classmates. Marianne frames her friendship with Sue as a form of solidarity that helped her understand how heteronormative white supremacy is expressed through denying cultural complexities in othered communities. As she puts it, notably using the first-person plural language to connect her own experience of being othered to that of Sue's, "They [..] behave as though we don't have a culture complex enough to warrant consistent and steady study like theirs. They figure our history and culture are so simplistic that they can be acquired by the process of osmosis or some such thing" (Ibid).

Apart from Marianne's recollection of Sue, Maracle also explores solidarity outside Indigenous communities through some paintings of Dorry, Lacey's teenage daughter, who dies in

a car accident shortly before Marianne joins the Peace Run. Maracle refers to Dorry's paintings as canvases "full of hope, dream, and aspiration, all painted against a stark and brutal reality" (Ibid, 84). She describes the impact on Marianne of Dorry's paintings and her strikingly mature personality as "dreamways" that Dorry carved for Marianna as she turned twenty-one (Ibid, 156). In a memorable moment, Marianne talks to Dorry about one of her paintings that captures the commonalities of Indigenous and Black lives under settler colonial conditions. In that painting, "a solitary Black woman is silhouetted over an Indigenous woman [..] in the foreground [of] "crowds and picket signs with no writing on them" (Ibid, 84). Marianne wants to know why the Black woman is silhouetted over the Indigenous woman and asks Dorry what the protest is about. Dorry answers, "Apartheid." Echoing her Gramma's belief that Canada's treatment of Indigenous peoples is an intended and ongoing genocide, Dorry adds, "It's when they leave us out because we are not like them—white" (Ibid, 85). Here, Maracle draws a connection between Canada's white supremacist settler colonialism and settle colonial white supremacy in other parts of the globe, including South Africa's former settler colonial apartheid regime that was premised on the subordination of the Black populations indigenous to the region through their spatial confinement. But also, through Dorry's painting and her explanation of it, Maracle captures the seeds of unwavering hope in young Indigenous peoples to challenge patriarchal white supremacy by forming alliances against settler colonial violence beyond Indigenous communities.

This hope is also reflected in Marianne's openness to explore a passionate but difficult relationship with Mark, a white man who is her boss at work. While Maracle describes in detail the challenges of this relationship, mostly reflecting Mark's unresolved habitual biases against Indigenous women, she also presents Mark as a promising ally and contrasts his conscious mindset with the Ontario attackers on Peace runners. When Marianne returns to Vancouver from

the Run, Mark warmly welcomes her. Marianne notes the honesty of his enthusiasm and the shift in his attitude. She feels that "the spirit of the run is in this body. He offers endless loyalty to ourselves and our capacity to re-deem those selves inside him" (Ibid, 216), and allows a deeper intimacy to unfold between them. Marianne welcomes the beginning of their deep intimacy on this note, "In his eyes I see awe not for me, but for what we can all become. I see understanding play about the gentled lines of his face, dancing drum songs of desire and singing devotion to all Indigenous womanhood." (Ibid).

In *Daughters,* on the other hand, alliance formations outside Indigenous communities are fewer and less emphasized but remarkable, nonetheless. During one of her reveries when Marilyn begins to see a moving screen in a photo of Elsie's youngest child in her last moments of life, she also remembers a visit from Ms. Wong, a social worker from her children's school. She recalls that while she was "harvest[ing] her wild mint patch" (Maracle 2002, 46), Ms. Wong showed up and wanted to know why she did not feed her children properly after telling her that her daughter had complained that "Mommy makes us eat grass" (Ibid). Once Marilyn learns that Ms. Wong is Chinese, she points out the white supremacist habit of devaluing food in racialized communities to remind her that Indigenous peoples are not the only group in Canada who experience this kind of colonial violence. She says, "[…] you must know about any food that is not theirs. Remember the controversy over your barbeque pork? My children's classmates call our food grass. My daughters copy them because they find the ignorance of their classmates amusing" (Ibid). Later in the novel, Maracle denounces the heteronormativity of Canada's settler colonialism in a conversation between Marilyn, Elsie, and the Irish hairdressers they go to when Marilyn tries to break the ice between herself and Elsie. These hairdressers who have darker hair than blonde women are aware of the "blonde obsession" of white society (Ibid, 78) and in a way,

identify with Marilyn and Elsie who have dark hair. When one of the hairdressers says, "Blonds wrinkle more severely," Marilyn notes that she had never thought "blonde obsession" (Ibid) could be oppressive to some white women, too. But she also realizes that the identification of the hairdressers with Marilyn and Elsie was formed around the broader youthful expectation placed upon all women. Maracle turns this hairdresser conversation into a spot-on observation about the heteronormative condition of white supremacy that in this case requires ignoring the fact that women age. In a brilliant passage, she says, "Marilyn was aware that the glee they shared as brunettes accentuated the unfairness of the rules governing women and aging, and she hid the realization that in order to be acceptable, they must all prevent aging" (Ibid, 79).

Last but certainly not least, these two novels offer careful analyses of gendered violence in Indigenous communities, a significant consequence of Canada's settler colonialism that is completely missing from Stewart's statement and thereby denied by it. This gendered impact is articulated in *Daughters* at several points, but most importantly, it is integral to the creation story that opens the novel. Putting clear emphasis on the matrilineal nature of Salish communities where women are the primary keepers of the peaceful co-existence of all beings, Maracle explains how settlers' colonial violence against Indigenous women was particularly devastating to Indigenous communities. She depicts how Indigenous women who witnessed but survived this violence gave up their traditional responsibilities and replaced it with stillness and apathy while surviving men were filled with shame for not being able to protect women but "swallowed [their] shame" (Ibid, 23). This swallowed or unexpressed shame, as she describes it, killed their courage, and turned their expressions of love for their families into "unwanted hated things" (Ibid). Maracle links Indigenous men's "dangerous grief" (Ibid) that makes them unable to plan the future to their lack of appreciation for time, a notion that she develops throughout this novel

as a vital component of sustaining life forces. She says that Indigenous men now "mark time. Time is the enemy of the dispirited. Those who dare not to make use of it mark time for death, for murder. These men wander aimlessly, killing time in small pieces. They bellow ominously from barstools, party houses, and booze cans in every impoverished urban centre" (Ibid, 24). She adds that because of their disconnection from the vital concept of time, Indigenous men also become violent toward their families or leave them altogether (Ibid, 25). Maracle depicts how Indigenous women both are the primary targets of settler colonial violence and pay the price for Indigenous men's turn to violence to hide their unexpressed shame. In Marilyn's life, Eddy, her own father who eventually commits suicide, Mat, the father of her two daughters who leaves the family (Ibid, 100-9, 159-161), and her other lovers who are afraid of commitments embody what Maracle calls Indigenous man's "dangerous grief." But Marilyn also visualises a different kind of Indigenous masculinities and finds its promise in T.J., the Iroquois man who sparks sensual passions in her when they meet in Toronto (Ibid, 129).

Maracle beautifully captures Indigenous women's demand for accountability in Indigenous men in a talk that Marilyn delivers at a Winnipeg Native Expressions performance. In her talk, Marilyn directly points out Indigenous women's struggle to raise their children in ways that align with their sovereignties without Indigenous men taking part in it. Even though she is unprepared for the talk, this topic is so close to her heart that she takes up the mic and allows her words to flow,

> Sovereignty, liberation, cultural revival are all words on the lips of men. I want to say, as a Native woman, keep on talking them words, but work to make them real. I need you to carry on singing for them, working for them, speaking for them. [..] We need to have our babies on our side of line. We, the women of First Nations,

> need you men on our side of the line to keep our children. We need your love and your support, and I am not ashamed to ask for it. (Ibid, 197)

In these passages, Maracle underlines her critique of male Indigenous leaders who were complicit with the government's systemic discrimination against Indigenous women, for instance through the *Indian Act*'s marrying out clause and its after-effects. As I explained in Chapter One, Indigenous feminists such as Maracle (especially in her non-fiction writing) have engaged for decades in re-articulating the terms of Indigenous people's struggles for sovereignty by putting the question of the gendered subordination of Indigenous women and the destruction of Indigenous understandings of sexuality and kinship front and centre in Canada's settler colonial project. Her critique of the male Indigenous leaders complicit with the government's systemic discrimination against Indigenous women resonates with these feminist interventions in framing Indigenous sovereignties.

Likewise, in *Sundogs*, Maracle elaborates gendered violence in Indigenous communities as emerging from settler colonial violence and its intended destruction of Indigenous masculinities, but also visualizes hope for reclaiming Indigenous masculinities. She graphically depicts gendered violence in Indigenous communities when she describes how Marianne's sister-in-law, Paula, and her two children arrive where Marianne and her Momma live to take refuge after being beaten by Rudy, Marianne's eldest brother. Marianne cannot reconcile the image of Rudy's kindness to herself when she was a baby and the way he has treated his own wife and children. Here, too, her eldest sister, Lacey, shows up to help them in the crisis and voices her awareness of the violence against Indigenous women within Indigenous communities, linking it to other forms of settler colonial violence. As Marianne narrates it, "Lacey marches through the door, assures me 'We'll fix it' between cursing the world, patriarchy, Rudy, racism, and every

other white male conspiracy against Native womanhood and swabbing blood from below the gash Momma is sewing up" (Maracle 1999, 66). Later, when Marianne has a conversation with James, her university classmate, about Elijah's resistance, she cannot help comparing James and Rudy. She realizes that Rudy's youthful transformation must have been a struggle to keep his dignity in the face of white boys "who drove fast cars and played chickens with Indian pedestrians every Friday night" (Ibid, 97). She describes the destruction of Rudy's masculinity as being "whited out" (Ibid). Likewise, during Dorry's burial ceremony, Marianne notes that Rudy cannot grieve and links his unwillingness to live and to love to his inability to grieve (Ibid, 148). That said, Maracle clearly leaves room for agency in reclaiming Indigenous masculinities. This agency is expressed by Marianne's other brother, Joseph, who acknowledges their family's many challenges, but supports Momma to buy a new house so that Paula and her children can live with them and encourages Marianne to dream and to make her dreams come true (Ibid, 68-74). Maracle also traces how Rudy begins to allow grief in his life and tries to reconcile with Paula after his encounter with the RCMP while blocking a road in Mount Currie in support of the Mohawk occupation in Oka. Noting that Rudy, like everyone else, has transformed through engaging with political uprisings of the summer of 1990, Marianne says, "We have all been through hell. The crisis at Kanesatake and Elijah's 'no' persuaded us to stop inflicting the hell of the outside world on the corridors of our own private universe. The warriors turned us all around and made us reconsider ourselves" (Ibid, 112).

In the next section, I examine Canada's 2008 apology to Indigenous peoples and argue that while this apology significantly differs from Jane Stewart's statement, it remains focused on reconstructing Canada's national sovereignty at the expense of Indigenous sovereignties. This analysis will provide a background for my engagement with Maracle's two remaining novels.

4-3 The Consolidation of Canada's Sovereignty in the 2008 Apology

In Chapter Two, I explained that under the pressure of the 2006 Indian Residential School Settlement Agreement (IRSSA) and shortly after voting against the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) in 2007, Canada hesitantly attempted to offer a proper apology to Indigenous peoples. This apology was delivered by Prime Minister Stephen Harper in the House of Commons on June 11th, 2008.[118] It was framed as the inauguration of the Truth and Reconciliation Commission (TRC), which was mandated to investigate residential school harms with the primary purpose of educating Canadians about such abuses, and was in part meant to offset the negative impacts of Canada's 2007 vote against the UNDRIP (Dorrell 2009, 28). The day this apology was offered began with a sunrise ceremony on an island in the Ottawa River behind Parliament Hill and the whole event was broadcast in a room outside the House, on Parliament Hill, and thirty events staged across Canada (CBC News 2008). Unlike the government's 1998 statement, Harper's apology was formal, but it was rather short and focused exclusively on the harms of residential schools. While it acknowledged that isolating Indigenous children and assimilating them to Canada's dominant culture was the intended outcome of residential school policy, it failed to take full responsibility for this policy and to situate it within Canada's broader settler colonialism. In Chapter Two, I unpacked how the TRC and the government's engagement with the TRC's discourse of reconciliation function as normative tools that consolidate the state's sovereignty through separating the past from the present and the future and creating a sense of social cohesion at present to legitimize Canada's ongoing Indigenous land theft and violence against Indigenous peoples, especially women. Here, I briefly

[118] *House of Commons Debates*, 39th Parl, 2nd Sess, Vol 142, No 110 (11 June 2008) at 6849-51 (Prime Minister Stephen Harper): https://www.ourcommons.ca/DocumentViewer/en/39-2/house/sitting-110/hansard.

review how interconnected rhetorical moves in Harper's 2008 apology build an affective foundation for the normative framework of the TRC's discourse of reconciliation and the government's engagement with it.

Much like Stewart in 1998, Harper began this apology by framing Canada's mistreatment of Indigenous children in residential schools as merely a "sad chapter"[119] in Canada's history. He continued by acknowledging that the residential school policy was based on the assumption that Indigenous cultures and beliefs were inferior, and he made generic references to the harms caused by residential school policy without specifying the nature of these harms, especially how residential school experiences intensified the disproportionate violence against Indigenous women and girls. This narrow acknowledgement works as a strategy to downplay the wrongs against Indigenous peoples and to deny how gendered and sexual violence in residential schools was constitutive to establishing Canada's settler colonial structures of domination. Through denying this gendered violence, Harper reproduces it in his apology. He stated that "this policy has had a lasting and damaging impact on [Indigenous] culture, heritage, and language" and that it "has contributed to social problems that continue to exist in many communities today."[120] Furthermore, he constructed a linear notion of national progressive time from which the historical context necessary for connecting the residential school policy to Canada's larger settler colonial project was removed. This notion of time is a central theme in this apology and reflects a major strategy used in liberal settler colonial state apologies to separate the present from the present and the future, as I explained in Chapter One. On the one hand, as Matthew Dorrell notes, Harper constructed present day Canada as a mature and benevolent nation that now recognizes residential schools were harmful and therefore no longer bears responsibility for it

[119] Ibid, P. 6849.
[120] Ibid, P.6850.

(Dorell, 31-2). Harper said, "Today, we recognize that this policy of assimilation was wrong, has caused great harm and has no place in our country."[121] Later, he identified the subjects of Canada's constructed national progress and fixed the reference of the "we" in this apology by specifying on whose behalf it is offered. He announced, "*on behalf of the Government of Canada and all Canadians*, I stand before you, in this chamber so central to our life as a country to apologize to [Indigenous] peoples for Canada's role in the Indian residential schools."[122] This rhetorical move constructs all non-Indigenous populations in Canada as a unified group and naturalizes linking "all Canadians" to the government of Canada while excluding Indigenous peoples. It simultaneously masks how Canadian government has committed violence against different non-Indigenous as well as Indigenous communities and misrepresents everyone in Canada as already on the right track toward reaching reconciliation with Indigenous peoples. This move both denies how Canada's anti-Indigenous violence is part of the state's broader gendered racial settler colonial structures of domination and turns the entire nation into a feeling entity that shares the pain of the Indigenous peoples. The attempt to portray the nation as a feeling partner for the wronged parties is a major objective of settler colonial apologies, as discussed before in Chapter One. On the other hand, he specifically offered the apology to the "80000 living former students and all family members and communities,"[123] while separating them, twice, from former residential school students who had died while attending the schools or otherwise never returned home. The dichotomy that he thereby created between dead and living former residential school students speaks back to the linear notion of national progress and re-

[121] *House of Commons Debates*, 39th Parl, 2nd Sess, Vol 142, No 110 (11 June 2008) at 6850 (Prime Minister Stephen Harper): https://www.ourcommons.ca/DocumentViewer/en/39-2/house/sitting-110/hansard.
[122] Ibid, italics mine.
[123] Ibid.

enacts Canada's settler colonial violence by presenting the dead or missing former students as irrelevant to the present reconciliation process.

The rest of this apology articulates the government's terms for reconciliation and prioritizes reaching closure on lawsuits from residential school survivors over what reconciliation might look like from the perspective of Indigenous peoples. Assuming that this apology has already been accepted by all Indigenous peoples, Harper said, "You have been working on recovering from this experience and in a very real sense, *we are now joining you* in this journey. The government of Canada sincerely apologizes and *asks for the forgiveness* of the [Indigenous] peoples of this country for failing them so profoundly."[124] Following this government self-invitation to join Indigenous peoples in recovering from colonialism and asking for Indigenous people's forgiveness, he presented the 2007 IRSSA as a "a new beginning and a new opportunity to move forward together in partnership," and the TRC as,

> an opportunity to educate all Canadians on the Indian residential school system [..], a positive step in *forging a new relationship between [Indigenous] peoples and other Canadians*, a relationship based on the knowledge of our shared history, a respect for each other, and a *desire to move forward* with a renewed understanding that strong families, strong communities, and vibrant cultures and traditions will contribute to *a stronger Canada for all of us*. God Bless all of you. God bless *our land*.[125]

These passages frame the government's take on reconciliation as a renewed relationship between Indigenous peoples and what Harper calls "other Canadians," the two groups of people that are constructed as internally coherent, with the intent of contributing to a "stronger Canada

[124] Ibid, italics mine.
[125] Ibid, P. 6851, italics mine.

for all of us." This framing implies that reconciliation is just the government's attempt to bring Indigenous peoples into the fold of the nation to privilege the interests of Canada as a nation-state and seeks to legitimize Canada's ongoing settler colonialism. Drawing on James Henderson's treaty-based account of Indigenous sovereignty that traces the legitimacy of Canada as a nation-state back to its full compliance with treaties with Indigenous peoples, Dorell problematizes the phrase "other Canadians" in Harper's apology. Just as Henderson argues that the call to federal citizenship to Indigenous peoples denies the constitutive role of Indigenous peoples through signing treaties in giving legitimacy to Canada, Dorell problematizes the phrase "other Canadians" in this apology as another call to compliance with the colonial order rather than the terms of the treaties. He identifies this phrase as serving the rhetorical purpose of undermining Indigenous peoples' "longstanding demands for state recognition of the unceded sovereignty of First Nations" (Dorrell 2009, 36). This unilateral articulation of reconciliation as a renewed relationship toward bringing Indigenous peoples into the fold of the nation that reflects this apology's social cohesion mandate also re-enacts the earlier theme of a linear notion of national progress in this apology. By emphasizing that reconciliation is premised on a desire to move forward based on what it calls "the knowledge of our shared history," Harper indicates that restoring the knowledge targeted by Canada's settler colonialism only takes looking as far back as the arrival of Europeans to the continent and associates European colonization with the beginning of time in Indigenous lives. What is remarkably missing from this enfranchising framework for reconciliation that primarily focuses on creating a sense of social cohesion is an acknowledgment of the land-based nature of struggles for Indigenous sovereignties. In fact, as Eva Mackey aptly points out, the harms that Harper acknowledges are inflicted on Indigenous peoples are considered "apologizable" because they are constructed as irrelevant to the core

questions of land, territories, and treaties (E. Mackey 2013, 54). The only mention of land in this apology is in the last sentence where Harper said, "God bless our land," a phrase that re-enacts Canada's seizure of Indigenous lands and de-emphasizes how restoring inherently land-based Indigenous sovereignties is exactly what is at stake for Indigenous peoples in their fight against Canada's ongoing settler colonialism.

Even though five Indigenous leaders were present at the event and responded to Harper's apology from the floor of the House of Commons, they were only invited at the last minute while Harper maintained, until the day before the apology, that he would not break the parliamentary tradition by letting them in (Ibid, 55). Present Indigenous leaders were Phil Fontaine (the National Chief of the AFN), Chief Patrick Brazeau (National Chief of the Congress of the Aboriginal Peoples), Mary Simon (President of Inuit Tapiriit Kanatami), Clement Chartier (President of the Métis National Council), and Beverley Jacobs (President of the NWAC). They all thanked the government for the apology and acknowledged it, but not even one of them said they accepted it (Ibid, 57). On the contrary, some voiced direct challenges to the statement. Simon, for instance, emphasized the significance of the hard work that should follow the apology[126]; Chartier expressed disappointment for the exclusion of Métis residential school survivors from the apology and the continued exclusion of the Métis Nation of Western Canada from the House[127]; and Jacobs demanded respect for Indigenous peoples in return for the credit she gave the government for the apology. She importantly ended the responses from the House's floor by asking a question that marked the open-ended nature of the reconciliation process from her perspective. She said, "What is it that the government is going to do in the future to help our peoples? Because we are dealing with major human rights violations that have occurred to many

[126] *House of Commons Debates*, 39th Parl, 2nd Sess, Vol 142, No 110 (11 June 2008) at 6855 (Ms. Mary Simon).
[127] Ibid, P. 6856 (Mr. Clem Chartier).

generations: my language, my culture, and my spirituality. I know that I want to transfer those to my children, and my grandchildren, and their children, and so on. What is going to be provided? That is my question. I know that is the question from all of us. That is what we would like to continue to work on, in partnership."[128] These responses were among many other voices that directly challenged Harper's apology. In the next section, I argue that Maracle's *Celia's Song* and its prequel could be interpreted as challenging major rhetorical moves in Harper's apology that re-enact different strategies for consolidating the state's sovereignty.

4-4 Reading *Celia's Song* and *Ravensong* in the Context of the 2008 Apology

Maracle's last novel, *Celia's Song*, an elegant story of a contemporary Salish community's rise above pervasive suicide and internal violence, was published in 2014, a few years after Harper's 2008 apology. This novel picks up twenty-one years after its prequel, *Ravensong*, left off and provides a Salish perspective on what it takes for a village to deal with tragedies of Canada's ongoing settler colonialism. While no references are made in *Celia's Song* to any government apologies, major rhetorical moves in Harper's apology that seek to re-assert the state's sovereignty are strongly challenged in the novel. In fact, Maracle frames the entire novel as a rejection of a twice-repeated theme in Harper's apology that portrays dead and missing former residential school students as irrelevant to the present and to the reconciliation process. She dedicates it "to all those children who were removed from our homes and who did not survive residential schools" (Maracle 2014a, Dedication page), using the first-person plural to mark their belonging to living Indigenous communities. Building on *Ravensong*, *Celia's Song*'s dedication to those who did not survive residential schools is also reflected in the novel's content that

[128] Ibid, P. 6857 (Ms. Beverley Jacobs).

creates a powerful space for envisioning reconciliation in ways that challenge Harper's apology's strategic consolidation of the state's sovereignty.

While *Celia's Song* is narrated from multiple perspectives and reflects multiple voices, it is mainly about Celia's transformative journey to come to terms with the suicide of her son, Jimmy, and to join her community in recovering from tragic violence and child abuse. The novel is narrated by smoothly interwoven voices of an omniscient narrator and Mink who is a shape-shifting witness, moving through place and time. The story starts and ends with Mink's voice. Mink begins by describing his visit to a deserted longhouse in a Nuu'chalnulth village (located in the Westcoast of what is now called Vancouver Island, BC). In this village, the bones of the dead former inhabitants of the longhouse are still alive and await proper burial while a carved double-headed sea serpent that used to protect the house is dislodged by a storm and comes to life to destroy human spirit. Mink links the sea serpent's anger to his lack of spirit food, or human songs and ceremony, promised to him by original humans. Observing that the longhouse inhabitants broke their contract with the serpent by abandoning their ceremonies under the pressure of government bans and witnessing how the storm that represents continued settler colonialism after the removal of government bands released the serpent, Mink reminds the readers of the centrality of Indigenous traditions in keeping balance in Indigenous communities. He says, "In any agreement, both parties must hold up their end in a timely manner for the deal to be secure. I guess in these days of fast cars and electric fire, it may not appear all that rational to restore old practices" (Maracle 2014a, 3).

Maracle's choice to frame *Celia's Song* as a re-telling of the double-headed sea serpent story is her assertion of Salish sovereignty by reviving its oral tradition. As I explained in Chapter Two, the oral nature Indigenous knowledge and ways of living has been emphasized by

Indigenous scholars such as Dale Turner who criticize Canada's constitutional framework for Indigenous rights as well as the RCAP for disregarding this foundational aspect of Indigenous lives. The significance of oral traditions, as Turner puts it, is that it re-enacts the legitimacy of practices such as storytelling, songs, and other ceremonies that emphasize interrelations between people, the land, and all its living beings. The double-headed sea serpent is a Salish legend known to English speakers mostly through the famous work of the nineteenth-century Mohawk poet, author and performer, Pauline Johnson, namely her *Legends of Vancouver.*[129] Maracle has said she wanted to write this novel since she was ten both because the sea serpent legend as the elders told it fascinated her and also because re-telling Indigenous stories has been a skill she was taught in childhood. When asked about how early she started telling stories, she said her storytelling talents were nurtured by her grandfather to whom she once lied as a child. He reacted by saying "that was a good story, but never lie to me again," and began to tell her traditional stories and asked her to "tell them back, different but the same" (Maracle 2019). Practicing what she learned from the elders, Maracle sees bringing Indigenous stories to life and integrating them in the fabric of contemporary stories as exercising Indigenous traditions in addressing new challenges. *Celia's Song* reflects the mature stage of Maracle's skill of re-telling Indigenous stories and establishes a sense of time that refuses to comply with the colonially-constructed linear notion of national progress, re-iterated in Harper's apology. On the one hand, it disrupts the association of the arrival of Europeans to Turtle Island with the beginning of time in Indigenous lives on this continent. By presenting the government bans on Indigenous ceremonies and the continued dispossessing of Indigenous peoples in different forms after removing the bans (as I explained in Chapter One) as what created a destructive monster in Indigenous

[129] The story was told to her by Chief Capilano and his wife, Mary Agnes.

communities, Maracle turns Canada's settler colonialism into a rather recent chapter in Indigenous lives that has just interrupted their commitments to their old traditions. On the other hand, this story challenges the sharp separation of the past and the present in Harper's model of reconciliation by emphasizing that the past lives in the present. For instance, she deploys the image of the bones of the dead that demand due respect now to emphasize that, from the perspective of Mink who witnesses truth beyond settler colonialism, the dead are not irrelevant to the present. Other images that reflect the same emphasis are ancestral voices that are heard by some living characters in the novel who have partial access to what Mink witnesses.

Apart from contesting the colonially-constructed notion of national progress, Maracle's re-telling of the sea serpent legend in *Celia's Song* also importantly depicts land-based communal practices as central to contemporary restorations of Indigenous sovereignties. This story begins with Mink's visit to a deserted longhouse in a Nuu'chalnulth village and ends with former villagers rebuilding the longhouse and resuming abandoned communal practices that would restore the position of the sea serpent as the house's protector. The destructive monster that Maracle chooses in this novel to represent the disasters born from settler colonialism in Indigenous communities is a sea serpent with two heads that fight each other, the "Loyal" and the "Restless" (Maracle 2014a, 20)., with only the Restless head seeking to cause trouble by encouraging suicide and murder in the community. The story creates space for the emergence of Indigenous subjectivities that defeat the purposes of the serpent's Restless head exactly because it portrays the colonially reborn serpent as a monstrous creature with two heads in an internal power conflict. Not only does Maracle represent Canada's settler colonialism as a rather recent interruption of Indigenous traditions on Turtle Island, but she also visualizes its end by portraying characters who develop the power to defeat colonially inflicted suicide and murder in

their community. Defeating the serpent's Restless head and restoring Salish sensibilities at present in this community requires the hard work of addressing the loss of their past sense of community and establishing a "context" that early in the novel Maracle says was missing for "reconcile[ing] new life with the old story" (Maracle 2014a, 63).

As the novel progresses, we learn that Maracle is completing a conversation (Ibid, 45) that she has decidedly left unfinished in *Ravensong*. In *Ravensong*'s epilogue, we are told that the whole story was narrated by four women gathered in a kitchen, twenty-five years after the 1954 flu pandemic in a Nuu'chalnulth village (Maracle 1993, 197-99). These four women are Celia, Celia's sister (Stacey), their mom (Momma), and another former villager (Rena), who try to explain to Jacob, Celia's nephew and Stacey's son, why Jimmy, Celia's son, committed suicide. But Celia is mostly silent in this gathering and that makes the story incomplete. *Celia's Song* begins a few years after the 1979 end of *Ravensong* and focuses on Celia's transformation while depicting what Maracle calls the "new pandemic" in their community, which is the prevalence of suicide and violence against women and children (Maracle 2014a, 218). Celia, who now lives on a reserve in the Sto:lo territory, is a seer and has fragmented access to the story's larger picture that Mink witnesses, but she initially thinks her visions are just delusions (Ibid, 9). She keeps replaying Jimmy's last day alive in her mind and escapes to wakeful dreams in her private world to avoid engaging with current time. (Ibid, 44-6). Yet, to complete the story and help stop new tragedies in her community, she must join former villagers in rebuilding the longhouse in Nuu'chalnulth. Celia's transformation, like those of Marianne's and Marilyn's in Maracle's other novels that I discussed above, is at the same time both deeply personal and inherently communal.

The main tragedy that brings the community together in *Celia's Song* is the torture of Shelley who was raped, burned, and beaten by a man who used to live with Shelley's mother, Stella, one of Celia's cousins (Ibid, 130-152). Through helping others save Shelley and support Stella in recovering from years of abuse as a sex worker, Celia learns to trust her visions as gifts that show her how to restore her Salish sense of justice. She notes that Jacob also has visions and is able to hear ancestral voices (Ibid 212), and she tries to support him by recovering from her own old griefs that hold her back from fully engaging with life. Her care for Shelley makes her realize that she had made her son, Jimmy, her anchor to life to protect herself against her yearning for her own Momma from whom she was separated during the 1954 pandemic (Ibid, 218-9 & 245). But she decides not to make Shelley a new anchor in her life. Instead, she learns from a cousin of hers, Alice, to connect with her own bodily wisdom by tapping into the power of songs, starting by writing poetry about one of Momma's songs. The significance of restoring songs as embodied exercises of Indigenous sovereignty is beautifully articulated by Mink who contrasts singing with merely surviving life,

> Without song, the wind cannot play inside our bodies. The spirit of our co-creators cannot adore us unless we sing. [..] Without song, the body cannot rest, cannot rise again, cannot face tyranny, cannot look at itself, cannot see, think, or feel. Without song, the body cannot grieve the dead, send them off to another dimension, without song, the body cannot recover from loss, from divorce, cannot express its yearning, and cannot dream. Four generations of men and women have not been allowed to sing. Without song, all that is left, is the thinnest sense of survival. (Ibid, 215-6)

During his visits to the mountain, Jacob who also hears ancestral voices begins to sing songs that he had learned from Celia's grandmother and decides to rebuild the deserted

longhouse and restore Salish singing and dancing ceremonies. Jacob's courage frightens the serpent's Restless head (Ibid, 236) but encourages Celia and others to help him rebuild the longhouse. The process of rebuilding the longhouse establishes a context for this community to use Indigenous sensibilities in making decisions about their present challenges. By beginning and ending this novel with a description of a Nuu'chalnulth longhouse and detailing embodied practices that restore its communal life in between, Maracle puts special emphasis on the land-based nature of Indigenous sovereignties. This emphasis on the inherent relationship between Indigenous sovereignties and the land contrasts with Harper's 2008 framework for reconciliation that seeks to create a sense of social cohesion at present by bringing Indigenous peoples into the fold of the nation partly through de-emphasizing land-based Indigenous sovereignties and referring to Indigenous lands as "our lands." Harper's re-enactment of the settler colonial logic of Indigenous land theft in his apology foreshadows the government's ongoing engagement with the reconciliation discourse to intensify the non-consensual extraction of resources from Indigenous lands as I explained earlier in the chapter. So, Maracle's emphasis on the land-based nature of Indigenous sovereignties should also be understood in connection with these ongoing settler colonial practices of land theft.

In her re-assertion of land-based Salish sovereignty in *Celia's Song* and *Ravensong*, Maracle places particular emphasis on the sexual and gendered dimension of violence within Indigenous communities. Her detailed depiction of gendered violence within this Indigenous community, reflecting the heteronormative nature of Canada's settler colonialism speaks back loudly to Harper's denial of the gendered and sexual nature of Canada's settler colonial violence against Indigenous peoples. Harper's effective denial that reproduced this gendered violence is also later echoed in the government's response to the TRC's Call to investigate the MMIWG. As

I explained in Chapter Two, Canada has responded to this Call by expanding the carceral power of the police state to create a sense of social cohesion and legitimize the state's ongoing violence against Indigenous women. This constituent perpetuation of violence against Indigenous women makes understanding Maracle's take on the gendered nature of Canada settler colonialism in these two novels more relevant and urgent, capturing the same emphasis that she puts in her non-fiction work, along with other Indigenous feminists, on the centrality of gender in Canada's violence against Indigenous peoples.

In *Celia's Song*, Maracle introduces Shelley's torturer, Amos, as the first man whom the released serpent approaches as he begins to roam around, craving human souls susceptible to his urge for murder and torture. The serpent's Restless head succeeds in getting inside Amos and "swallow[ing] his [..] conscience" (Ibid, 40). Later, Jacob hears from Celia and Momma about a former villager they called "the old snake" and heads over to the cabin where "the old snake" used to live and sees two men torturing and raping a woman and her infant daughter. But he is too horrified to believe what he sees and thinks he has imagined it (Ibid, 112-5). After joining Celia and others in saving Shelley and with the help of the serpent's Loyal head and the spirit of her gramma Alice, he realizes that what he saw had happened and identifies Amos as the torturer (Ibid, 206). Celia and Jacob bring Amos and Shelley's other torturer to the rebuilt longhouse and spend the summer with them before performing a ceremony to "dance" them to death (Ibid, 251). Maracle describes the community's ceremony of dancing Amos to his death as a collective "clubbing" (Ibid) that saves Amos' spirit before exiting this world. In this ceremony, Amos re-lives and then releases his memories of getting sexually abused in residential school and living with starvation, followed by years of his own bullying, hating, and hurting others. Depicting Amos' liberation in this ceremony, Maracle says, "[..] he feels like he could fly, he could dance

forever. As he dances, the horror stories his body collected float in his bell and leave his body through his song. [..] Finally, here she is, her grandma; [..] He raises his face to his long-gone family and determines to dance himself into their arms, to dance his way to the other side" (Ibid, 254-5). Amos' violence against Shelley and Stella is portrayed as unforgivable according to Salish laws and is traced back to distorted Indigenous masculinity through sexual abuse in residential schools. While Maracle is very clear about how some Indigenous men's violence has worsened the lives of Indigenous women and children, she offers a complex perspective on contemporary Indigenous masculinity that is far from a hopeless image. She importantly introduces powerful personalities of Indigenous men such as Jacob who make uncompromising decisions to defeat the cycle of violence in their communities and join leading Indigenous women in their hard work of restoring Indigenous ways of living.

Likewise, in *Ravensong*, the main tragedy that brings the villagers together is rooted in the violence of Jake or the old snake, an alienated Indigenous man from the village who has turned into a violent alcoholic, filled with hatred and rage, since he returned from fighting in the war and working in the white town (Maracle 1993, 148). Stacey notes that, "After the old snake returned from working with white town rail-workers he came back full of crazy notions about his wife's place. 'I am the head of my household,' he bragged to everyone on the village" (Ibid, 149). The tragedy in *Ravensong* unfolds when after years of being beaten and mistreated by the old snake, his wife, Madeline, shoots him with a gun, aiming to kill him, but failing and instead leaving him critically injured (Ibid, 155). Stacey's Momma interferes to stop Madeline and the elders arrive to help. Momma saves the old snake even though the villagers think that "saving him was as much a punishment for him as letting him die" (Ibid, 162). The elders' decision is that Madeline and the children were to stay, and nobody should turn Madeline to state authorities

while the snake had to leave (Ibid, 164) “without a goodbye from anyone” (Ibid, 182). Here, too, Maracle highlights the gendered dimension of violence within Indigenous communities and the need for restoring Indigenous accounts of gender. She also importantly depicts the heteronormative edge of the old snake’s violence by pointing out his hatred toward Rena, a woman in the village who lives with another woman, German Judy. She describes how every now and then the old snake would “stagger to their doorstep” to offend them by “holler[ing] ‘queers’” (Ibid, 77) to the point of making Rena’s own sister feel ashamed of her (Ibid, 121). The rest of the village, as Maracle depicts them, have an ambivalent attitude toward Rena and Judy: they accept them but are mostly silent about their relationship, especially because Judy is a white woman, and the villagers are uncomfortable with trusting white people.

While Maracle does not fully unpack Salish perspectives on homosexuality in *Ravensong*, she associates direct and explicit hatred toward it with the old snake’s toxic masculinity and heteronormativity. She offers a more nuanced view of the villagers’ attitude toward non-heteronormativity in portraying Stacey’s Momma’s sexuality. When the man Stacey knows as her father dies of flu, she learns that her biological father was not actually him but his twin brother with whom her Momma also had a relationship since she could not have children with her husband. Stacey struggles to come to terms with her Momma’s sexuality and feels disgusted and ashamed by it, especially because other than a few elders, her Momma, and the twin brothers nobody in the village knew about it. The fact that Maracle depicts Momma as feeling safer to keep her sexuality a secret in the village indicates the prevalence of colonial heteronormativity in the village in the 1950s. But she also taps into alternative Salish views on non-heteronormativity in conversations between Stacey and two elders who talk to her about her Momma. Both Grandpa Thomas and old Ella try to alter Stacey’s moral judgment of her Momma

by telling her stories about villagers who chose not to live heteronormative lives in the past and were accepted in the village (Ibid, 101-5). So, while Maracle does not depict the villagers as fully embracing non-heteronormative lives in the 1950s, she points out alternatives to the learned hatred toward it by touching on elder memories that helped loosen the grip of heteronormativity in the village.

The colonial construction of heteronormative gender roles in Indigenous communities is inseparable from mandatory residential school practices and other forms of settler colonial violence in Canada. Unlike Harper's apology that focuses squarely on the harms of residential schools, these two novels depict residential school policy as one among many genocidal colonial practices that sought to dispossess Indigenous peoples. Even though these novels' main characters do not attend residential schools, the residential school policy is a formative element of major themes in both. In *Ravensong*, Stacey's decision to study education at UBC to open her own school at the village takes shape in the shadow of residential schools. Stacey attends a school in the white town across the bridge but does not feel like she belongs there. In the village, too, she feels like an outsider because she cannot relate to others who attend residential school. Maracle captures this double alienation in an interaction between Stacey and one of her cousins, Stella, who attended residential schools. She says, "each in some way was disjointed from the other. [..] The two of them felt a disjointedness from the life of the village as well. Stacey had come to rely on the friendship of the adults and old people in the village because none of her peers lived there most of the time. Stella was at one with her peers but divorced from her elders and her parents" (Ibid, 140). This sense of alienation arising from lack of proper education for Indigenous children in residential or other schools underlies Stacey's dream to open her own

school. In a conversation filled with hope and despair with Stella and others, Stacey plans what kind of school she would run in five years after she graduates from UBC.

Stacey realizes that the lack of proper education for Indigenous children is only one aspect of the genocidal violence that threatens the villagers' lives; on the one hand, throughout the novel, she has to go back and forth between the colonially demarcated living spaces of her village and what Maracle calls "the white town" across the bridge where she is treated like an outsider and constantly carries the burden of bridging the vast gap between these two spaces. Stacey's efforts to bridge this gap are depicted as being planned by Raven, the trickster figure who opposes the wish of Cedar, the tree spirit character in the novel that aspires to keep the village separate from the outside world (Ibid, 43-4). Despite her best attempts, however, Stacey soon realizes the depth of the gap between these two worlds as she cares with her family for sick villagers during the flu pandemic and witnesses how the white town withholds care for villagers. She traces back this withholding to what she calls "the hierarchy of care" or the unspoken assumption that "white folks were more deserving of medical care" (Ibid, 69). Likewise, in the epilogue, we learn that Canada's anti-Indigenous violence was much deeper and stronger than Stacey's hope for returning to the village and building a school; twenty-five years after the story's end, the village had fallen apart and Stacey had not been allowed to open her own school while "no one in the white town [had] hire[d her] either" (Ibid, 198). Yet, in the very same epilogue, Maracle plants the seeds of new hopes for overcoming colonial alienation within the village: Stacey, Celia, their Momma, and Rena come together to explain to Stacey's son their lost sense of community and set the stage for restoring it.

On the other hand, in *Celia's Song*, other key aspects of Canada's anti-Indigenous violence come up in conversations and build the context for Shelley's torture by situating it

within harmful government policies that negatively impacted Indigenous peoples. Tapping into her fierce sense of humor, for instance, Maracle mocks the futility of the government's policy to forcefully baptise Indigenous peoples in exchange for medicine to treat the diseases that the settlers had spread in Indigenous communities. In one of Celia's daydreams, Maracle depicts a conversation between the grandfather and grandmother of Celia's gramma, Alice. Alice's grandmother has the same name as hers. Her grandfather laughs and re-tells the story of how Christian names like his wife's name, Alice, were imposed on them. He recalls a priest who encouraged them to take Christian names to "live forever in the lap of Jesus Christ" (Maracle 2014a, 52) and when his idea of living on Jesus' lap was teased, he threatened that without baptism, they wouldn't get medicine against the settlers' diseases (Ibid, 52-6). These passages highlight Maracle's strong critiques of the colonial impacts of institutionalized Christianity on Indigenous lives. She also highlights the hollowness of the granting of the federal vote to Indigenous peoples in the 1960 and the subsequent removal of the compulsory enfranchisement of the *Indian Act* that meant Indigenous peoples could now vote without losing their designation as "status Indian." This topic comes up when Momma explains to Jacob how the government vote was introduced to their community. She says when we ran out of wood and asked the government for more wood, the government "demanded a vote" on it but gave us nothing (Ibid, 64). Momma calls the government vote "some powerful piece of nothing" and Celia thinks, "The vote was powerful in its ability to silence the village and isolate each from the other. It was like the white man, all-powerful and silencing except it was invisible" (Ibid, 65). Through drawing these interconnections, Maracle depicts residential schools as intertwined with other government policies that targeted Indigenous lives at different historical stages.

While in these two novels Maracle focuses on unpacking Canada's genocidal treatment of Indigenous peoples, she also clearly points out how white supremacist heteronormativity unfolds within the white town, exposing gendered hierarchies within the Canadian nation. In this sense, she elaborates anti-Indigenous violence as a reflection of Canada's broader structures of settler colonial domination, based on white supremacist heteronormativity. Harper's apology, on the other hand, draws a sharp contrast between Indigenous peoples and the rest of Canada; it constructs the nation as a unified community and thereby refuses to acknowledge that the harms inflicted upon Indigenous peoples are part of the larger fabric of violence that constitutes Canada. In *Ravensong*, a central theme that exposes marginalization and gendered hierarchy within the white town and informs Stacey's understanding of parallels between the white town's internal violence and its violence against the villagers is the suicide of Polly, one of Stacey's classmates. When the rumours circulate at school about Polly's lack of chastity because she had sex without being married, she feels so ashamed that she kills herself. The notion of someone killing oneself does not make sense to Stacey, and she keeps searching for an explanation for it. As she passes by the house gardens in the white town and sees how women pull out and throw away mint, dandelion, plantain, and mullein from between the rows of flowers and call it weeding, she thinks of Polly as having been "weeded from the ranks of her own" like a dandelion from a flower garden (Maracle, Ravensong 1993, 31). Even though Stacey does not feel like there is any genuine effort from her classmates, even from only friend, Carol, to understand her life in the village, when she thinks about Polly, her intimate knowledge of what it is like to be othered by the white town makes her scold herself for not having interfered to stop the rumours against Polly (Ibid, 39). On a different occasion, Stacey speaks up for Polly when Steve, a white boy from the school who joins Stacey for the first time on her walk back to the

village, dismisses Polly's sex life. Steve says, "No girl who is loved at home would go out and look for sex" (Ibid, 71). Stacey finds this thought funny and does not know how to explain away Steve's illusion that virginal behavior is virtuous, but tells him, "You love your point of view so much that you make sweeping pronouncements about everyone else's' behaviour" (Ibid, 72).

By depicting Stacey's sympathy for Polly and bringing together their respective feelings of being thrown aways by the white town, Maracle underlines the inseparability of the colonial and heteronormative aspects of white supremacy. She says, "Polly had perished under the dome of arrogant insecurity that her people had erected for her. They set up morals no human could possibly follow, then established a judgment system based not on whether or not you actually lived within the moral code, but whether or not you could deceive people into thinking you lived by this code. 'Discretion' they called it" (Ibid, 64). Her sympathy for Polly makes Stacey appreciate that her village was not as cruel to her Momma as the white town was to Polly. She says, "Polly and Momma were the same woman – good-hearted and passionate. In the white world, her Momma would have perished. No wonder she never left her village much" (Ibid, 206). The white town's heteronormative biases are also marked in *Celia's Song* even though the habits of the white town are much less in focus in this novel because it is mostly about the transformation of Celia who always lived in the village. When Stacey's father, Ned, tries to teach Steve, who is now getting accepted in the community as Stacey's new lover, how to be humble and follow the lead of women, Steve feels scared. But Ned thinks what is scarier "is that they don't think their own women are very smart on the other side of the bridge, and so they cannot imagine the women in this village being smart either" (Maracle 2014a, 203).

Other than violence against women in the white town, Maracle also underlines the punitive aspects of white supremacy against children. In *Ravensong*, Stacey tries to explain to

her Momma how she learned to follow the rules at her school and says, “Rules and bizarre forms of punishment, not their God, govern them” (Maracle 1993, 152). Momma tells her, “No wonder why these people kill themselves. [..] They don’t value their own children. No small wonder they don’t like us if they don’t like their own” (Ibid, 153). She feels guilty that she has sent Stacey to the white town’s school and warns her that she must unlearn these rules before opening her own school.

Finally, Maracle’s elaboration of what it takes to be allies of Indigenous peoples in their fight against Canada’s ongoing settler colonialism in these two novels offers a model of reconciliation as an uncertain, difficult, and open-ended process. This model contrasts with the simplistic image of reconciliation in Harper’s apology that is premised on bringing Indigenous peoples into the fold of the Canadian nation simply by offering an apology in which the government invites itself to join Indigenous peoples in recovering from colonialism and asks for their forgiveness in return. The Salish community that Maracle portrays in these novels is unwilling because of its colonial history to interact with the white town or to trust its people. In fact, except for German Judy who is Rena’s partner, Carol who is Stacey’s only friend from school, and Steve who is the white boy from Stacey’s school and her lover in *Celia’s Song*, there are no major non-Indigenous characters in the story**.** In depicting how Judy, Carol, and Steve are received in the community, Maracle uses a conversational framework that allows for disagreements and tensions to reflect the communal and self-reflexive nature of Indigenous decision-making. In *Ravensong*, Stacey’s Momma voices an uncompromising attitude toward all white people, not unlike Marilyn’s Momma in *Sundogs*. Her voice is echoed by Cedar that wants to keep the village separate from the white town but is also interwoven with other significant voices, such as the voice of Raven who plans to get the villagers to know the white town and the

voice of Old Dominic, a village elder who believes understanding a complex world takes the combined wisdom of different peoples (Ibid, 67-9 & 95). The tensions among these points of view shape the dynamic context in which Stacey, the main character navigating the colonially separated worlds of the village and the white town, decides about how to interact with the white town as an Indigenous woman.

The reader learns the full landscape of contradictory feelings that these tensions arise in Stacey. When Stacey hangs out with Rena and Judy without her Momma's permission, she gets snapped at by her Momma who refers to Judy and says, "She is white and so she does not count" (Ibid, 123). Momma's strong reaction confuses Stacey. Maracle depicts how Stacey's thoughts run in contradictory directions, "What did she mean by the white one does not count? How could Stacey know that the white one did not count? How could she not know? Came back at her. It was not an answer she could accept" (Ibid, 127). Later, on the day of her departure, Stacey experiences similar contradictory feelings when she realizes that Judy was not present to avoid making Momma angry again. She knows that her Momma thinks Judy is white and she does not count. But she also hears the voice of Nora, a deceased elder, who tells her, "Momma is neither wrong nor right. Of course, they count, but not right now" (Ibid, 194). Likewise, when Stacey's only friend from school, Carol, asks her for help, she feels enraged because Carol had ignored the village throughout the pandemic. Her anger makes her sympathize with her Momma. But she also remembers how old Dominic had warned her that anger could turn to destructive bitterness, emphasizing that "we have a right to the anger of any given moment. What we are not entitled to do is hold unto it becomes bitter bile spilling out indiscriminately, so that the person receiving the anger ends up paying for the misdeeds of others" (Ibid, 130). She decides not to hold on to her anger toward Carol but does not push herself to sympathize with her either. Stacey's feelings

toward Steve are similarly ambivalent when he tries to get closer to her; she feels like there is no context for their relationship, and tells him, "[..]until you have experienced the horror of an epidemic, a fire, drought, and the absolute threat these things pose to the whole village's survival – *and care about it, care desperately* – you will be out of relevant context" (Ibid, 186, italics mine). She reminds Steve that although his father was a doctor, he did not bother to visit the village during the pandemic and lets him feel the shame that comes with it. Yet, she also feels sorry for him for the first time.

In *Celia's Song*, Carol is no longer in the story, but a context is established for the participation of Judy and Steve in the village life. We see that Judy has joined kitchen table conversations (Maracle 2014a, 45) and helps villagers save Shelley and her mother, Stella, even though her suggestions about taking them to the hospital and reporting the crime are strongly rejected by Momma and others (Ibid, 143). On the other hand, Stacey has an easygoing romance with Steve who now has "no debts and no obligations besides [her] daughter's future wedding – if she has one" (Ibid, 183-4). When Steve proposes to Stacey, she feels delighted about the promises of their relationship but is also filled with doubts about it. She asks him, "Could you ever see your way to breaking your rules for us, for this sorry-ass village?" (Ibid, 188), and says, "There are so many compromises both of us will have to make every day. Do you have any idea how trying that will be?" (Ibid, 190). Only after Steve tells her that he cannot see himself going forward without her, Stacey accepts his proposal and says, "We've got the rest of our lives to negotiate the maze this relationship is going to be" (Ibid, 196). This maze takes shape when Steve closely engages with Shelley's recovery and stands by the community in their refusal to take her to the hospital. When Shelley recovers, both Judy and Steve join Momma as she sings, and Steve realizes, for the first time, that he is ready to commit to Stacey and her community. As

Maracle puts it, he knows that "as long as they came together like this, he will get through every completely insane demands Stacey makes of him" (Ibid, 205). Later, Steve risks losing his profession by participating in the community's justice for Shelley's torturer, which was clubbing Amos. But when the RCMP tries to charge Steve with "criminal negligence" as a physician who participated in sorcery, the villagers protect him and do not give the RCMP the evidence to prove that he participated in any ceremony (Ibid, 258).

By depicting the price that Judy and Steve willingly pay to join the village, Maracle identifies the willingness to embrace uncertainties and contradictions of leaving established positions in white dominated settler colonial society as the condition of possibility for joining Indigenous communities in overcoming colonial legacies and peacefully inhabiting Turtle Island with them. There is a noticeable contrast between Maracle's depictions of Judy's and Steve's participations in the village and the attitudes of the marine biologists who are introduced early in the novel when Mink visits a lab after witnessing the release of the sea serpent. The biologists are perplexed when they see a mysterious shadow on a film in their lab and cannot believe that it might be cast by the serpent that Mink has just seen. One of them suggests that they should ask for an explanation from someone who knows Indigenous stories about sea creatures, but he is reminded that they are "marine biologists, not myth hunters" (Ibid, 17). Maracle mocks the Western attitude of refusing to engage with perspectives beyond the dogmatic belief in scientific evidence by narrating this scene from the point of view of Mink who describes the lab biologists as "the hopeless who now inhabit Turtle Island" (Ibid, 19).

Judy and Steve, on the other hand, learn to live in relation to Indigenous sovereignties by taking the leap of faith to participate in communal decision making and ceremonies that are part of the process of decolonization. The novel ends when Momma and Ned die, making Stacey,

Celia, Rena, and Judy realize that they now must take on the role of elders in their community with the bits and pieces of knowledge they had gathered from previous elders. They notice that the new choices and challenges in their lives have something to do with Raven's plan to make connections between the village and the white town. On this note, Mink brings the story to a close and says, "I am done here. This is all I committed to tell. You know what to do with the story now. I skitter up the hill, away from the humans, and under the moon's light I lie down to sleep" (Ibid, 269). Maracle speaks through Mink's last sentences to all her readers, calling us to take responsibility for the knowledge she has just shared and asking us to actively imagine living in relation to Indigenous sovereignties and resisting Canada's settler colonial violence that continues to violate Indigenous sovereignties, including through state redress projects that gesture toward addressing the harms inflicted upon Indigenous peoples.

4-5 Conclusion(s)

In this Chapter, I have offered a close reading of Maracle's four novels in the context of Canada's 1998 merged statement and its 2008 apology to Indigenous peoples. I have explained, in detail, how unlike the 1998 statement and the 2008 apology that seek to foreclose conversations about Canada's ongoing anti-Indigenous violence and disinvite noting commonalities among Canada's different forms of state violence, Maracle's novels underline the open-ended nature of these conversations and lay out intertwined structures of Canada's settler colonialism from a Salish perspective. *Daughters are Forever* asserts Salish sovereignties as absolute and preceding Canada's national sovereignty by re-telling the Salish creation story that links contemporary Indigenous lives to cosmic eternal forces that govern life on earth, beginning with Westwind, the sky woman, and the creation of human life. *Celia's Song* picks up the narrative introduced in

Ravensong and frames its continuation as a re-telling of the Salish legend of destructive two-headed sea serpent that is re-born in a Salish community by Canada's ban on Indigenous ceremonies and continued violence against Indigenous peoples after the removal of bans. The re-telling of these legends establishes a sense of time that refuses to comply with the linear notion of national progress embedded in the 1998 statement and the 2008 apology. These novels as well as Maracle's *Sundogs*, also importantly highlight what Coulthard calls grounded normativity or the land-based nature of Indigenous sovereignties that are completely erased in the 1998 statement and the 2008 apology. *Sundogs* offers a detailed depiction of the summer of 1990 in general and the Oka confrontation between the Mohawk of the Kanesatake and the Canadian Army and the RCMP, while *Daughters* re-visits the Oka crisis in narrating the 1995 Ipperwash crisis. These land-based disputes are constitutive to transformative, decolonial journeys of the protagonists in these stories. In *Celia's Song* and *Ravensong*, the centrality of land-based practices in Indigenous lives is mostly depicted through Maracle's emphasis on the need for re-building a longhouse in a deserted village in Nuu'chalnulth territory and restoring communal embodied practices that would revive the life of the longhouse.

All these novels highlight the distinctive patterns of gendered and sexual violence in Indigenous communities that reflect the heteronormative dimension of Canada' settler colonialism, a dimension that is completely missing and therefore denied in the 1998 statement and the 2008 apology. This lack of acknowledgment of the gendered and sexual dimension of Canada's settler colonial violence against Indigenous peoples in these apologies effectively perpetuates this gendered and sexual violence. It also foreshadows the government's response to the TRC's Call to investigate the MMIWG. As I discussed in Chapter Two, the government responded to this Call through expanding the carceral power of the RCMP and thereby

effectively sought to legitimize the state's ongoing violence against Indigenous women. Contesting the perpetuation of this gendered and sexual violence, in these novels, Maracle portrays the gendered nature of Canada's settler colonialism in ways that resonate with her account in her non-fiction work. As I elaborated in Chapter One, Maracle, along with other Indigenous feminists, emphasize the centrality of gender in Canada's violence against Indigenous peoples. While pointing out how some Indigenous men's violence has worsened the lives of women, girls, and non-heteronormative Indigenous peoples, Maracle also fiercely keeps the hope alive for restoring non-violent Indigenous accounts of gender by portraying alternative forms of Indigenous masculinities and tapping into Salish elder stories about non-heteronormative ways of living.

While these stories primarily focus on depicting Canada's anti-Indigenous violence, they present violence against Indigenous peoples as a crucial but not exclusive part of the broader web of settler colonial state violence that constitutes Canada. This layer of Maracle's novels also contrasts with the ways in which the 1998 statement and the 2008 apology in different ways have constructed the harms inflicted upon Indigenous peoples as exceptions to Canada's otherwise unblemished national story. The commonalities among different forms of state violence are mostly portrayed in Maracle's novels in conversations that point out parallels between the ways in which Indigenous characters and those outside Indigenous communities have experienced the oppression of heteronormative white supremacy. Finally, unlike the 1998 statement and the 2008 apology that portray reconciliation with Indigenous people as an easy, predictable goal that has already been achieved, Maracle's stories underline the difficulties and uncertainties of this process while offering examples for the conditions under which people outside Indigenous communities may join Indigenous peoples as their allies.

Each story in its own way demands the readers' active response to the narrative. As Maracle elaborates in a 2018 interview about her short story "Goodbye, Snuaq" about the 2001 *Mathias V. The Queen* Supreme Court decision on Snuaq, the purpose of writing stories for Indigenous peoples, herself included, is to move the readers. She says,

> When we work with a story, we take it in and we see how it sits inside us, and then we see how it makes us feel and how it makes us want to move and then we work with it to move in a way that the story wants us to move. [..] So, when someone reads [my story], I want them to ask: "What does this mean to me?" [..] not in a sarcastic way, but in a genuine and interested way" (Maracle 2018).

By writing stories, Maracle intends to create a real community of readers who ground themselves in their own lives while also immersing themselves "in a genuine and interested way" in the truths about injustices that these stories share and act in response to them. In this sense, too, Maracle's stories contest narratives of historical harms in Canada's 1998 statement and 2008 apology: while state narratives seek to reconstruct the nation as a passive, imaginary community whose existence allegedly legitimizes the ruling power of a state that seeks to put an end to conversations about the past, Maracle's stories seek to create a real community of grounded persons who are moved by the story to connect the present and the future to the past through collaborations. My aspiration has been to demonstrate how Maracle's re-telling of the Salish legends to address Canada's ongoing settler colonialism enriches other dissenting voices that continue to challenge the ways in which settler colonial violence is now significantly, but not exclusively, reproduced through state apologies and other forms of redress. Her novels are vital reminders that genuine transformation requires engaging with Indigenous knowledge systems and fostering solidarity among diverse dissenting voices.

I wrote this Chapter over the course of Fall 2022 and Winter 2023 as I was closely engaged with grassroots uprisings led by women in my homeland, Iran, seeking to keep my hope alive for my people's victory over brutal Islamic dictatorship. Writing about how Maracle's decolonial vision in her fictions helps transcend Canada's ongoing settler colonialism that is now partly perpetuated through state-sanctioned redress was very different from being part of a movement that fights back against Iran's unapologetic state-sanctioned terrorizing and hanging of dissenting voices. Yet, I did feel deep resonances between the young women who are now risking their lives to shape and sustain a movement for "Women, Life, Freedom" against Iran's corrupted regime and Maracle's depiction of young Indigenous female subjects who decided to break through Canada's colonial genocide. As Eve Tuck and K. Wayne Yang aptly remind us, "decolonization is not a metaphor" for different forms of anti-oppression resistance that we need "to improve our societies" (Tuck and Yang 2012, 1), and I certainly do not intend to offer a solution to Iran's Islamic dictatorship based on Maracle's decolonial wisdom and her call to people like myself to live in relation to Indigenous sovereignties on Turtle Island. But I do appreciate how writing about Maracle's novels during Iran's new revolution reminded me of the resonances and tensions between my own multiple decolonial and diasporic responsibilities and offered teachings on how to hold conceptual and emotional space for the contradictions that arise from this multiplicity. I know that I will continue to look after the seeds of growth that my reading of Maracle's works, partial and incomplete as it may be, has planted in my mind, and I look forward to future conversations with others who also appreciate her legacy.

Chapter Five

Canada's Role in Post-9/11 Security-related Human Rights Violations: State Apologies to Arar (2007), Almalki, El Maati, Nureddin (2017), and Khadr (2017) vs. Sharon Bala's Novel, *The Boat People* (2018)

Canada's only three apologies regarding its involvement in post-9/11 global human rights violations related to national security stand out due their personalized approach, squarely focusing on individuals. Unlike all other apologies offered by the federal government that are addressed to a group of people and purport to acknowledge the collective nature of some forms of state violence, these apologies are separately addressed to five specific Canadian citizens. All these citizens are Muslim men who have been detained and tortured abroad after 9/11 partly because Canada's intelligence agencies had circulated global misinformation about them, representing them as affiliated with terrorist organizations. These five men are Maher Arar, Ahmed El Maati, Muayyed Nureddin, Abdullah Almalki, and Omar Khadr. As I detailed in Chapter Three, the individual experiences of each of these men during their interrogation under torture outside Canada varied, as did the legal trajectory of their struggles in Canada that ultimately led to the government's redress settlement with them. Arar, El Maati, Nureddin, and Almalki were separately detained and tortured in Syria (and Egypt, in the case of El Maati) for varying durations ranging from two months to two and a half years. On the other hand, from the time he was only fifteen years old, Khadr endured a decade of torture and prolonged detention at the hands of the U.S. military in both Afghanistan (Bagram) and Cuba (Guantanamo Bay).

The three apologies offered to these five men are part of three separate redress settlements that the government reached with them towards the end of their long and very different legal battles. The apology to Arar was issued on January 26th, 2007, by Prime Minister

Stephen Harper as a short statement published on the government website and was also mailed to Arar as a letter (Governmnet of Canada 2007). The apology to Almalki, El Maati, and Nureddin, and the apology to Omar Khadr, on the other hand, were offered by the Minister of Public Safety and Emergency Preparedness Chrystia Freeland and the Minister of Foreign Affairs Ralph Goodale. The apology to Almalki, El Maati, and Nureddin was released on March 17th, 2017, as a public statement published on the government website (Public Safety Canada 2017a). Within a few months, on July 7th, 2017, the apology to Omar Khadr was released, also as a public statement on the government's website (Public Safety Canada 2017b). The very format of these apologies points to the government's exception-making tactic of evading the acknowledgment of past and ongoing collective harms pertaining to its post-9/11 involvement in the U.S.-led global networks of human rights violations under the guise of fighting terrorism. This format reflects the broader pattern within Canada's redress politics of diminishing various forms of racial state violence, portraying them as exceptional occurrences contrary to the state's professed liberal benevolence. Both the content of these apologies and the political implications of the redress settlements they are part of reinforce the exception-making logic evident in their individual-focused format.

In this chapter, I analyze these apologies as part of the government's efforts to legitimize Canada's current racial security discourse. This analysis enables me to set the political context for discussing the significance of Sharon Bala's novel, *The Boat People*, in pushing back against the settler colonial violence inherent in the current racial discourse of national security. Specifically, I highlight how the rhetorical tactics in these apologies affectively complement the relevant redress settlements and render these Muslim men's experiences exceptional to the state's liberal values while constructing a linear notion of national progress that denies Canada's

entrenched settler colonial structures of domination. Through this analysis, I demonstrate how the exception-making narratives in these apologies about the racial injustices inflicted upon these men in the past construct a hegemonic framework for interpreting Canada's current security discourse as indispensable in combating terrorism to ensure public safety. This hegemonic framework is geared toward eliciting public trust in the government as the racially innocent guardian of public safety against the so-called threat of terrorism. The affective idealization of the state in these apologies as the protector of public safety deflects attention from the ongoing enactment of settler colonial violence and the reinforcement, rather than the dismantling, of the logic of white supremacy within the state-sanctioned fight against terrorism. Against the backdrop of this hegemonic framework, I offer a reading of *The Boat People* as a nuanced articulation of the voices of people who continue to be targeted by Canada's current racial security discourse, amidst its active involvement in the ongoing global "War on Terror."

Bala's novel is a fictional depiction of the lives of Sri Lankan Tamil migrants who arrived in Canada aboard the MV *Sun Sea* in 2010 to seek refugee status, only to be detained and labeled terrorists. This affectively powerful story exposes the underbelly of Canada's post-9/11 security discourse and situates it within the state's larger settler colonial project. The ordeal faced by the Tamil passengers as terrorist suspect, racialized migrants in Canada differ significantly from the experiences of Canadian citizens like Arar, Almalki, El Maati, Nureddin, and Khadr, who endured interrogation under torture abroad due to false terrorist accusations based on Canadian intelligence agencies. Nonetheless, Bala's fictional portrayal of the struggles of these Tamil migrants as terrorist suspects offers a significant critical lens through which to examine the multifaceted gendered and racial dynamics of Canada's national security discourse – a discourse

that Arar, Almalki, El Maati, Nureddin, and Khadr were also trapped in despite their Canadian citizenship status and because of their religious background.

As a profound critique of the inherent violence within Canada's current approach to counterterrorism, Bala's narrative highlights the impact of this approach on racialized migrants, providing a much-needed space for challenging its wide-ranging effects and envisioning alternatives to it. By situating Bala's fictional depiction of the struggles of Tamil passengers in Canada within the emotionally charged political context of the 2007 and 2017 apologies to five Muslim citizens tortured abroad, I emphasize how she redirects readers' attention to the inherently violent, racial nature of Canada's security discourse, despite the state's glorified portrayal as a trustworthy protector of public safety in these apologies. Engaging with Bala's novel within this political context enables putting into broader perspective the gendered and racial logic of Canada's current security discourse under the *Anti-Terrorism Act (ATA)* that violates the rights of both citizen and non-citizen constructed as terrorist suspects in interrelated yet distinct ways. This gendered and racial logic, as I will explain, is perpetuated through the government's seemingly benign (even benevolent) apologies to five Muslim citizens tortured abroad, characterizing the racial injustices inflicted upon them as exceptions in the past. However, the affective appeal of these hegemonic narratives can be challenged by pointing out their internal contradictions. Bala guides her audience to recognize the inconsistencies of the government's portrayal as the guardian of public safety, as crafted in these apologies, by immersing them in the lived experiences of the racialized subject who continue to bear witness to the racial violence of the Canadian national security discourse.

5-1 The Consolidation of Canada's Sovereignty in the 2007 and 2017 Apologies for Post-9/11 Human Rights Violations

In Chapter Three, I examined the settler colonial carceral logic underpinning Canada's post-9/11 racial discourse of national security. This racial discourse of security, rooted in historical practices of heteronormative white supremacist nation-building, relies on the perpetual creation of what Agamben terms states of emergency or states of exception. These states are spaces for the suspension of the rule of law on certain racialized bodies through criminalizing them. The racialized citizens and non-citizens who are targeted through different modes of criminalization are pushed outside the realm of political life and reduced to a state of bare life or civil death.

The normalization of this discourse after 9/11 is facilitated in part by the security provisions of the *ATA* which have introduced extensive racial criteria for terrorist allegations against citizens under the *Criminal Code* and against non-citizens under the *IRPA*. The *ATA*'s security provisions work hand in hand with court rulings that have upheld practices like abandoning racialized citizens under torture abroad and deporting racialized non-citizens despite the risk of torture. Mass media representations also play a significant role in perpetuating this discourse. After 9/11, these dominant media representations primarily target certain racialized communities, especially (but not exclusively) Arabs and Muslims, through an orientalist lens that frames them as inherently threatening to modern liberal democracies. Muslim masculinity is often depicted in such representations as synonymous with the dangerous terrorist figure and Muslim femininity as that of a helpless victim. Such portrayals fuel public feelings about certain racialized people, contributing to the racialized narratives that Razack contends divide individuals into the deserving and the undeserving based on their allegedly inherited traits (Razack 2007, 8-10).

Noticing the continued racialization of Muslim or Muslim-looking citizens and non-citizens in Canada, in Chapter Three, I emphasized the significance of understanding how the three redress settlements that Canada has reached with Arar, Almalki, El Maati, Nureddin, and Khadr also legitimize state sovereignty through perpetuating this ongoing racialization. Indeed, these settlements: (1) affirm the carceral logic of Canada's post-9/11 criminalizing discourse of national security; (2) re-enact the gendered dimension of this discourse; and (3) endorse the judicially supported security practice of returning non-citizen terrorist suspects to torture. Here, I unpack how the three apologies that accompany these settlements deploy rhetorical tactics that affectively bolster these settlements and seek to coercively restore the state's moral authority.

Harper's 2007 apology to Arar references the final report of the O'Connor Commission and is presented as a response to it. The O'Connor Commission was the 2004-6 Commission of Inquiry to investigate the Canadian officials' wrongdoings in relation to Arar's so-called "extraordinary rendition" and to recommend policy changes based on these investigations. As discussed earlier, this Commission's approach was deeply embedded in the racial logic of Canada's post-9/11 security discourse (Allspach 2016, 174-213). While this Commission acknowledged the government officials' wrongdoing against Arar, including supplying false information that led to his torture and accepting his false confessions, it justified these actions as legitimate measures within the framework of the global "War on Terror." By attributing these wrongdoings to individual mistakes in exceptional circumstances that purportedly demanded protecting the nation's security, rather than explaining them in terms of the ongoing systemic racism within Canada's security discourse, O'Connor effectively normalized denying the humanity of racialized people in the name of national security. Furthermore, the Commission's narrow mandate limited its scope to recommending oversight mechanisms for enforcing existing

security provisions. The failure to challenge these provisions for both citizens and non-citizens underscores the Commission's alignment with the carceral logic of Canada's post-9/11 discourse of national security. Also, the emphasis in this Commission on Arar's rights being contingent on his status as a Canadian citizen reflected previous court rulings that rendered deporting non-citizen terrorist suspects despite the risk of torture constitutional. Likewise, Arar's legal team's strategy to avoid mentioning Arar's Muslim background (Ibid, 199-202) in order to present him as an assimilated man in a white society that passes as an acceptable male Canadian citizen exposed the gendered nature of Canada's security discourse, demonizing Muslim masculinity by associating it with terrorism.

By referencing the O'Connor report, Harper's apology endorses the ways in which the O'Connor Commission and its report re-articulated the gendered racial logic of Canada's post-9/11 security discourse. Moreover, the apology brings in major rhetorical tactics to turn the violation of Arar's rights into an exception to what it constructs as Canada's liberal benevolence. Harper presents a deliberately vague description of the state's involvement in Arar's torture and apologizes to Arar and his family for "any role Canadian officials may have played in the terrible ordeal that all of you have experienced in 2002 and 2003" (Governmnet of Canada 2007). Likewise, the blame for Arar's torture is deflected to the Syrian and the U.S. governments to distract from noting Canada's major role in his torture (Wakeham 2013, 286). These exception-making tactics seek to invisibilize the gendered racial nature of Canada's post-9/11 discourse of national security and to deny its collective harms while delinking it from other forms of gendered racial violence in Canada's settler colonial project.

This apology's vague acknowledgment of the mistreatment of Arar abroad is importantly coupled with another rhetorical move that frames Canada's denial of Arar's citizenship rights as

belonging to the past. It emphasizes that "this terrible ordeal happened under the previous government" (Governmnet of Canada 2007) and underlines Canada's national progress by announcing that "Canada's new government has successfully completed the mediation process with Mr. Arar, fulfilling another one of Commissioner O'Connor's recommendations" (Ibid). This explicit move to separate the past from the present also constructs a linear notion of national progressive time. This linear notion of time re-surfaces again at the end of the apology where Harper offers an image of hopeful future that is based entirely on individual efforts and denies how Canada's structures of settler colonial domination continue to dispossess many and block genuinely hopeful futures for them. Harper's apology ends on the hopeful note for Arar that "these words and actions will assist you and your family in your efforts to begin a new and hopeful chapter in your lives" (Ibid).

Unlike the Arar apology, the apology that was coupled with the 2017 settlement with Almalki, El Maati, and Nureddin was not offered by the Prime Minister but by Minister of Public Safety and Emergency Preparedness Chrystia Freeland and Minister of Foreign Affairs Ralph Goodale. There was no mention in this apology of the many concerns raised about the Iacobucci Commission and its gendered racial logic. The Iacobucci Commission, established to investigate the Canadian officials' involvement in the mistreatment of Almalki, El Maati, and Nureddin, did not recommend policy changes or offer compensations or apologies to these men (Allspach 2016, 249-50), but it mirrored the O'Connor Commission in reaffirming Canada's ongoing settler colonial violence through a gendered racial discourse of national security. As I explained in Chapter Three, despite admitting the complicity of the RCMP, CSIS, and DFAIT officials in these men's ordeals, the report delinked these wrongdoings from directly impacting these men's torture abroad (Ibid, 243-49). Instead, the Iacobucci report shifted blame onto Syria and Egypt

while emphasizing Canada's non-cooperation in the violence (Ibid, 245-6). The report emphasized the men's dual citizenship as the cause of their mistreatment while making their rights contingent on their status as Canadian citizens, thereby endorsing the court rulings that allowed deporting non-citizens to torture even in the face of the risk of torture. Furthermore, the report and the inquiry process behind it re-enacted the gendered dimension of Canada's post-9/11 security discourse both by distancing the ideal of a male Canadian citizen from these men's masculinity and by conducting the Inquiry through secrecy and exclusion while justifying it as measures taken for the sake of national security.

The government reached the 2017 redress settlement with Almalki, El Maati, and Nureddin only after the CBC revealed secret government files showing the direct cooperation of Canadian officials in these men's torture abroad. The apology that accompanied this settlement endorses the gendered racial logic of the security discourse by bracketing the long legal battle that led to this redress settlement and by failing to address the many concerns raised about the Iacobucci Commission and its manner of conduct. Much like the 2007 apology to Arar, the 2017 apology to Almalki, El Maati, and Nureddin only announces bringing these men's civil cases to a close. In doing so, this apology, too, introduces a linear notion of national progressive time and separates the past from the present. This linear notion of time is conjoined with the trope of a hopeful future, similar to the image of a future that Harper introduced in his apology to Arar a decade before, which was based entirely on individual efforts and denied how Canada's settler colonial violence continues to block genuine hopeful futures. The underlying redress settlement is represented in the 2017 apology to these three citizens as supporting them and their families "in their efforts to begin a new and hopeful chapter in their lives" (Public Safety Canada 2017a).

Apart from seeking to strategically shift attention from the past to the future and offering an individual-focused account of the future, this apology, too, deploys exception-making tactics to render Canada's vaguely admitted role in the mistreatments of these men abroad as exceptions to the government's liberal benevolence. Canada's role in the torture of these men for which the apology is offered remains unspecified and is described as "any role Canadian officials may have played in relation to [the men's] detention and mistreatment abroad and any resulting harms" (Ibid). This tactic for obscuring Canada's direct involvement in the suspension of these men's rights is further enhanced in a separate paragraph that emphasizes the Canadian state's liberal value of protecting human rights. This paragraph states, "The government of Canada strongly condemns abuse and torture of any kind and is committed to fulfilling its obligations under the Canadian Charter of Rights and Freedoms to respect and protect human rights" (Ibid). This statement enables the government to use the occasion of gesturing towards admitting its involvement in the abuse of these men as an opportunity to fabricate innocence for the state by denying the ongoing gendered racial forms of settler colonial violence in Canada in order to reinstate the state's authority. This move to foreground Canada's commitment to liberal values is followed by an odd caveat that specifies, "The government of Canada is committed to keeping the *Canadians* safe and safeguarding their Rights and Freedoms, no matter where they are in the world" (Ibid, Italics mine). The apparent retreat in this caveat resonates with the Iacobucci Commission's emphasis on making the rights of Almalki, El Maati, and Nureddin contingent on their status as Canadian citizens. This move in the Iacobucci Commission was, in turn, in alignment with the court rulings that confirmed the constitutionality of deporting non-citizens to torture despite the risk of torture. In the same spirit, by emphasizing Canada's exclusive commitment to protect the rights of citizens while paradoxically acknowledging its constitutional

obligation to "respect and protect human rights" (Ibid), this apology, too, confirms the constitutionality of deporting non-citizens who are deemed inadmissible under the *IRPA*.

Finally, the apology that followed the 2017 settlement with Khadr includes patterns very similar to the previous two state apologies related to post-9/11 rights violations for security concerns, even though the ordeals of these five men and the legal trajectories leading to their three respective settlements have been very different. As mentioned before, the apology to Khadr was not offered by the Prime Minister. It announces bringing Khadr's civil case to a close and thereby represents the government's ongoing racial profiling that also led to the prolonged suspension of Khadr's citizenship right as belonging to the past. This announcement introduces the linear notion of national progressive time, which delineates a clear separation between past and present, a notion that was prominent in the previous apologies extended to the other four citizens who also suffered torture abroad. In the apology's last sentence, this notion of time is conjoined with an image of a hopeful future based entirely on individual efforts, also deployed in the previous two apologies, to deny the impact of Canada's ongoing setter colonial violence on blocking genuinely hopeful futures. This apology and its relevant settlement are framed in the last sentence as what "will assist [Khadr] in his efforts to begin a new and hopeful chapter in his life *with his fellow Canadians*" (Public Safety Canada 2017b, italics mine).

The image of Khadr's hopeful future in this sentence that emphasizes his effort to assimilate into Canada's white supremacist citizenship norms also importantly resonates with how the government's redress settlement with him made Khadr's rights contingent on his status as a citizen. Neither this image nor the settlement underlying this apology ever challenge the ongoing routine suspension of the citizenship rights of racialized Canadian citizens trapped within Canada's security discourse. However, they both also implicitly uphold the suspension of

the non-citizens' right to not be returned to torture. As I explained in Chapter Three, this form of rights suspension for non-citizens deemed inadmissible under the *IRPA* is now judicially supported. Furthermore, Canada's role in Khadr's torture and sustained illegal detention at Guantanamo is vaguely admitted in this apology only as "any role Canadian officials may have played in relation to his ordeal abroad and any resulting harm" (Ibid). Like the previous two apologies that I discussed above, the framing of Khadr's experience as an anomaly to the government's liberal values is a rhetorical move to deny the gendered racial nature of Canada's post-9/11 security discourse. It also effectively isolates this discourse from other forms of gendered racial violence in Canada's settler colonial project.

5-2 Reading *The Boat People* in the Context of the 2007 and 2017 Apologies

Sharon Bala's first novel, *The Boat People*, came out in January 2018, a few months after Canada's apology to Khadr. This #1 national bestseller is inspired by the August 2010 arrival of the MV *Sun Sea* in Vancouver Island, carrying hundreds of Tamil survivors of the thirty-year-long civil wars in Sri Lanka who were immediately labeled terrorists and detained in Canada. In the story, the Tamil ship arrives in 2009, on Canada Day. Bala portrays the lives of the passengers in their first year in Canada while narrating the conflicts between Sri Lanka's Sinhalese supremacist government, the anti-government terrorist organization of Liberation Tigers of Tamil Ealam (LTTE), and the civilian Tamil population. Her choice of Canada Day as the arrival date of the fictional Tamil ship (Bala 2018a, 7) is remarkable. It sets the tone for the novel's juxtaposition of the oversimplifying narrative of celebrating Canada as a multicultural democratic society with the poignant realities faced by the Tamil passengers. In doing so, the novel unveils the dehumanizing impact of Canada's post-9/11 security discourse on racialized

migrants, while contextualizing the experiences of these migrants within broader forms of state violence in Canada that precede them. I argue that through this juxtaposition, *The Boat People* can also be read as providing a timely counter-narrative to the government's celebratory re-assertion of national sovereignty in the rare occasions of gesturing towards vaguely admitting its role in dehumanizing five citizens tortured abroad for security concerns. I explain how this novel's narrative tools could be interpreted as challenging the gendered and racial logic of the current national security discourse as it is perpetuated through the 2007 and 2017 apologies to Arar, Almalki, El Maati, Nureddin, and Khadr and their relevant redress settlements.

Through exception-making tactics that I discussed above, these apologies and the settlements of which they are a part fail to acknowledge, let alone to challenge, Canada's routine exercise of suspending the citizenship rights of racialized citizens who continue to be constructed as terrorist suspects. By sidestepping acknowledgement of such routine injustices against racialized citizens, these apologies in effect endorse them. Yet, paradoxically, by emphasizing to reinstate the rights of Arar, Almalki, El Maati, Nureddin, and Khadr only as Canadian citizens, the 2007 and 2017 apologies also resonate with the court rulings that allow deporting non-citizens despite the risk of torture if they are deemed inadmissible under the *IRPA*. Canada's now constitutional practice of returning criminalized migrants to torture, a practice that the 2007 and 2017 apologies also endorse, takes centre stage in Bala's novel. Her novel creates a powerful space for challenging how these apologies not only endorse the state's routine suspension of the rights of racialized Canadian citizens but also have significant implications for non-citizens criminalized under Canada's current security discourse. Bala offers a textured portrayal for a broad audience of how using dehumanizing immigration regulations that target racialized migrants is constitutive to Canada's purported fight against terrorism. The ship passengers in her

novel, like the real passengers aboard the MV *Sun Sea*, are immediately intercepted after arriving. Subjected to the government's process of detention reviews and admissibility hearings, run by arbitrarily appointed immigration adjudicators, they are denied the opportunity to even apply for refugee status.

Bala begins exploring this process by highlighting the power of the adjudicators, in a conversation between a refugee lawyer, Mr. Gigovaz, and Priya, a young Tamil-Canadian articling student assisting him. En Route to Vancouver Island on Canada Day to meet their clients among the passengers, Gigovaz recounts how asylum seekers over the past decade have increasingly been branded as criminals, heightening their risks of deportation to countries where their lives would be in danger. He remembers his first client, a stateless Muslim minority man from Myanmar, who, with resilience, embraced his powerlessness in the face of Canada's criminalization of migration. The man even encouraged Gigovaz to persevere, saying, "Inshallah Mr. Gigovaz [..] Whatever God wills" (Bala 2018a, 11). Gigovaz comments, "We do our level best [..]. Our clients do their best. The rest is up to…," prompting Priya to interject, "Allah?" But he corrects her and says, "the adjudicator" (Ibid, 12). This exchange marks Bala's first portrayal of the god-like authority bestowed under the *IRPA* upon immigration adjudicators in Canada, making life-and-death decisions about migrants who seek legal protection from the state.

Soon after, the story introduces Grace Nakamura, one of the immigration adjudicators tasked with determining the passengers' (in)admissibility. Unlike her colleague, Mitchell Hurst, who has years of experience in working with refugees (Ibid, 43), Grace is new to this role, transitioning from a prior unrelated government position in Transportation and Infrastructure. Initially flattered for being selected for this job by her old mentor, Fred Blair, now elected as the Minister of Public Safety, who promises it as a stepping stone to "bigger and better

appointments" (Ibid), Grace soon finds herself grappling with conflicting pressures. While immigration adjudicators are seen as maintaining neutrality (Ibid, 58), Fred, aligning himself with the Prime Minister's hard line against migration, feeds Grace racially biased government intelligence, painting half of the Tamil passengers as LTTE members and dubbing them "Terrorists." He describes them as "Losers in an overseas war who had fled to Canada to lick their wounds and regroup" (Ibid, 47). Encouraged by Fred, Grace accepts this position, but feeling overwhelmed by the weight of the decisions that she must make, she feels like an imposter. Yet, she refrains from seeking help, fearing it would signal defeat (Ibid, 88). Opting to educate herself about refugee law, she faces discouragement from Fred, who insists that she should solely rely on her instincts (Ibid, 89). Bala's depiction of the contrast between the gravity of Grace's decisions as an immigration adjudicator and the government's lax criteria for her appointment, coupled with their biased influence against the passengers, is the prelude to the novels' critique of Canada's continued criminalization of migrants through the post-9/11 discourse of security.

In foregrounding the non-citizen side of Canada's post-9/11 national security discourse, Bala emphasizes the ideological nature of this carceral discourse. She captures how this discourse operates by manufacturing national emergencies to justify dehumanizing certain racialized people, reducing them to what Agamben calls bare life, labelled as threats to the nation. Highlighting the ideological nature of these national emergencies that are now also perpetuated through the 2007 and 2017 apologies and their relevant redress settlements ruptures the carceral narrative of national security. In the novel, Fred serves as a mouthpiece for the government's narrative that the irregular arrival of the passengers – due to their lack of proper documentation - is already an assault on Canada's security, warranting their dehumanization

under a state of national emergency. In a key passage, Fred reminds Grace of recent shootings in Vancouver and directly blames immigration officers for being too lenient about who gets to enter and stay in Canada. By framing current shootings in Canada as a problem that could and should have been solved by more strict immigration rules, he constructs migration as a root cause of terrorism and portrays Tamil passengers as emerging security risks whose refugee claims should be assessed under extraordinary measures. Repeating his normative guidelines to Grace, he says, "they're making a mockery of public safety [in Immigration and Refugee Board]. Things have to change. I expect you to set a new tone" (Ibid, 89).

The same anti-immigration rhetoric surfaces repeatedly during detention reviews conducted by Grace and Mitchell, often articulated by Amarjit Singh, a representative of Border Services (Ibid, 61), who opposes Gigovaz's litigations for his clients. However, the profound psychological toll of upholding the government narrative of national emergency is most evident in Grace's internal conflict as an adjudicator. While she generally embraces Fred's and Singh's directives to prioritize Canada's safety at the cost of denying the humanity of these passengers, at several points during or after the detention reviews and admissibility hearings, she has moments of insight that give her a fleeting grasp of the passengers' human condition. For instance, in her first detention review, when Gigovaz raises concerns about the psychological impact of separating Mahindan, one of his clients, from his son, Sellian, who is held in women's detention center, Grace dismisses his concern and says, "some delay is to be expected" (Ibid, 66). Yet, shortly after, she sees some children playing in a swimming pool near her house, prompting a fleeting feeling of empathy as she recalls feeling a "small twinge" (Ibid, 90) upon learning about Sellian's separation from Mahindan. But she quickly rationalizes this emotional response within the framework of her career narrative. Normalizing Sellian's forced separation from Mahindan,

she reflects on brief absences of her own twin daughters and reassures herself, “These little absences were only short chapters in the long parent-child histories. The man and his son had the rest of their lives together and if their case was legitimate, they would spend it in Canada” (Ibid).

On another occasion, Grace’s twin daughters, Meg and Brianne, ask her about an old photo of Grace’s grandfather, Hiro, who came to Canada from Hiroshima. Grace recounts the story of the ship that carried Hiro to Canada in 1924 and the matchmaker who exchanged photos between Japanese men in Canada and women in Japan and who connected Hiro and Aiko. Aiko, Grace’s grandmother, later came to Canada as a picture bride and married Hiro. As Grace shares this story, she briefly thinks of the Tamil ship, but pushes away this thought, reassuring herself that the Tamil ship is “different” (Ibid, 6). Likewise, while running the admissibility hearing of another passenger called Hema, who recounts how one of her two daughters was raped by Sinhalese soldiers after crossing to the Sri Lankan Army side to avoid the LTTE recruiters (Ibid, 149-159), Grace immediately thinks of her own daughter, Meg. She feels tensed and grips the table in fear, but again disciplines herself to focus on her job and to get over her feelings. Resisting her feelings, she reassures herself that “There was no proof, none at all, that any of this was true,” and she feels more clearheaded. After this hearing, Grace struggles to make a judgment about Hema’s narrative. Looking at Hema’s daughters’ photos, she cannot help comparing them with her own daughters, but remembers Fred’s warning that Tamil Tigers had invented suicide bombing before Al Qaeda and that female Tigers had practiced it by pretending to be pregnant (Ibid, 165). She redirects her mind and thinks,

> These girls had been born into a country at war, in a place where children were given guns and taught to fight, where girls strapped on explosives and turned their bodies into weapons. A place where *suicide bomber* was the highest possible

calling. They had lived unimaginable lives. While all the violence Meg and Brianne had ever known was confined to a video game. (Ibid, 166)

Grace's struggles to sustain the government narrative that the alleged national emergency of the Tamil ship's arrival outweighs its passengers' rights as humans resonate with Dorothy Smith's characterization of how ideological practises prevail in liberal societies. Smith explains the ideological mode of thinking in terms of "organizational practices that do the work of transposing actual experiences into an objectified system of records defined by objectives of formal organizations" (D. Smith 1990, 144). This organizational work is mobilized through imposing top-down guidelines for interpreting lived experiences of social relations in terms of abstract categories that construct and normalize social hierarchies as objective reality and obscure actual connections between differently categorized people that are experienced at the personal level. Grace's internal conflict between her career expectations to treat the passengers as undeserving of basic human rights and her tendency to see the common humanity of the passengers and people in her own life reflects Smith's notion of the "deep disjuncture" (Ibid, 99) between the ideological (in this case the government's rhetoric of national emergency) and the personal mode of relating to experiences. To overcome this disjuncture that distracts her, Grace decides to actively discipline herself by letting her career expectations shape her intimate thoughts and feelings and by cutting out as much as possible what disturbs her career narrative.

Bala intricately connects Grace's compliance with this ideological practice of denying the humanity of migrants under the guise of safeguarding Canada to the state discourse of multiculturalism. Grace, a third generation Japanese Canadian and a mother, diligently cultivates trust in the government at home, actively discouraging her teenage twin daughters from engaging with their complex family history, especially her previous generation's experience of wartime

internment. Fred's decision to appoint Grace as an adjudicator to apply the government's criminalizing, anti-migrant stance against the Tamil passengers underscores how Canada's official multiculturalism serves as a vehicle for implementing other forms of state violence, in this case by helping manufacture a national emergency to deny legal protection to Tamil passengers. As I briefly outlined in Chapter One, Canada's multiculturalism policy, initiated in 1971, emerged as the government's response to major protests from racialized communities against the Anglo-French supremacy of the 1963 Royal Commission on Bilingualism and Biculturalism (RCBB). From its inception, state multiculturalism has functioned to depoliticize racial conflicts within the nation by recognizing cultural diversity while containing it. Although the multiculturalism policy has undergone several modifications, its core objective of remained unchanged. Eva Mackey describes the overarching aim of state multiculturalism as establishing a framework for selectively supporting acceptable forms of cultural difference to regulate the terms of cultural diversity (E. Mackey 1999).

Mackey's analysis of state multiculturalism as the government's selective support for acceptable forms of cultural difference to regulate the terms of cultural diversity is instantiated in Bala's novel by Fred's token inclusion of Grace in advancing the government's criminalization of migration. Grace's efforts to establish Canada's dominant national culture in her family and her career makes her an ideal representative of acceptable cultural diversity in Canadian politics. Her active involvement in promoting the government's anti-migrant policies not only legitimizes such practices but also obscures their inherent white supremacist underpinnings. In fact, one of Fred's lines of reasoning to persuade Grace that the mere arrival of the Tamil passengers warrants a national emergency illustrates this, as he seeks to depoliticize Grace's family history by folding it into Canada's white supremacist national narrative. He argues, "Bottom line:

legitimate refugees should apply for status before they arrive at the High Commission in their own country. Our families took the slow, legal route in. Why should others be allowed to skip the paperwork and cut to the front of the line?" (Bala 2018a, 91). Grace's major role in enforcing the government's use of migration criminalization to purportedly fight terrorism is not just a coincidence; it serves as a stark reminder that depoliticizing racial conflicts within the nation while ostensibly recognizing cultural diversity only strengthens Canada's ongoing criminalization of migration, further depriving non-citizens targeted as security threats of basic human rights.

In her depiction of the ideological nature of Canada's post-9/11 carceral discourse of security and its ramifications for the Tamil passengers, Bala also specifically challenges the legal mechanisms used to criminalize migrants. This aspect of her novel also calls into question the implications of the 2007 and 2017 apologies and their relevant redress settlements for migrant criminalization within Canada's security discourse. As seen in the previous section, the only changes recommended to Canada's security regulations in the course of reaching the 2007 and 2017 settlements can be traced back to the O'Connor Commission's policy review. However, the O'Connor Commission's narrow mandate did not grant it the power to recommend changes to the *ATA*'s security provisions for either citizens (under the *Criminal Code*) or non-citizens (under the *IRPA*). Consequently, through these settlements, Canada's legal framework for regulating national security, including the *IRPA*'s extensive criteria that target racialized non-citizens as security threats, has been endorsed rather than challenged. In contrast, *The Boat* People contests, in detail, the murderous ramifications of the *IRPA's* inadmissibility provisions on security grounds for racialized migrants, inviting readers to note how these provisions systematically exclude certain human conditions to foster a white supremacist sense of national cohesion.

In detention reviews and admissibility hearings of four fictional adult Tamil passengers (Savitri, Prasad, Ranga, and Mahindan) and their child dependents, the *IRPA*'s inadmissibility provisions provide the main frame of reference for the adjudicators to assess if the passengers pose security threats to Canada, as claimed by Singh, the Border Services representative. On the one hand, by contrasting the proceedings led by Grace and Mitchell, Bala unpacks how government-assigned adjudicators who endorse the government's ungrounded terrorist accusations are instrumental in both implementing and challenging the settler colonial logic of migration criminalization. Grace, viewing her job as protecting Canada against potential terrorist attacks and guided by Fred's repeated warnings regarding the passengers' terrorist ties, tends to side with Singh's line of reasoning, whereas Mitchell, drawing upon pertinent legal precedents, tends to question it. However, Bala also marks the limits of the adjudicators' ability to individually challenge the grounds of the government representatives' security allegations. She observes how once strong evidence of terrorist affiliations is presented by the government representatives, all adjudicators are bound by a legal framework with narrow definitions of such affiliations that require deporting the so-called inadmissible migrants to places where they may face torture. In this context, she uses different narrative tools to underscore the human conditions overlooked by this narrow legal framework that reinforces a Euro-centric normative notion of the human.

Despite Singh's oppositions, Savitri and Prasad are granted admissibility. Savitri's detention is initially prolonged by Grace, months after the ship's arrival, when Singh announces that Savitri's thali (the necklace she had given to the smugglers as part of her fare to get to Canada) is the evidence of her LTTE membership (Bala 2018a, 130-134). She is only released later when the other adjudicator, Mitchell, decides that the expert's report on Savitri's thali is

inconclusive and fails to prove that there is a difference between a generic thali and what Singh calls a Tiger thali, the alleged evidence for Savitri's LTTE membership (Ibid, 201-2). Mitchell's less biased approach helps Savitri get off the inadmissibility hook of the *IRPA*'s terrorist organization membership provision that Singh relies on. Singh also brings evidence to convince Mitchell that Prasad has LTTE affiliations. Prasad is the most articulate and knowledgeable passenger in the story, making Gigovaz and Priya, who consider him their "model migrant," (Ibid, 60) more confident in advocating for him. He is a university-educated Tamil journalist who managed to live and write in Sri Lanka's Sinhalese-run capital, Colombo. But Singh tries to turn Prasad's strengths and privileges against him by linking them to what she calls his "PRO-LTTE stance," based on one of Prasad's articles where he compares the LTTE to freedom fighters and describes their conduct as "*working toward a homeland to which they are entitled*" (Ibid, 264, italics original). It is only after Priya calls out Singh's cherry-picking and emphasizes that Prasad has been critical of both the Sri Lankan government and the LTTE that Mitchell announces he does not buy Singh's argument. Priya quotes from the rest of Prasad's article where he says, "*This should not be read as an endorsement of the LTTE's method. The Tigers are ruthless and bloodthirsty. No question, they must be eradicated*" (Ibid, 265, italics original). Then, she takes the next step to present Prasad as a person in need of legal protection because of the death threats he had received as a journalist in Sri Lanka. Yet again, Singh pushes to raise a case against him. She points out that Prasad has arrived with a passport and asks him, "so, why not take a flight? Why use this irregular means of arrival?" (Ibid, 267). At this point, Prasad advocates for himself. He says, "I am reading a book right now about a very famous railroad under the ground. I believe there is a long history in this country of… *irregular* arrivals" (Ibid, italics original). He connects the Tamil ship's arrival to the arrival of Black fugitives who fled the U.S. through the famous

Underground Railroad to seek refuge in Canada where slavery was formally abolished during the last decades of slavery in the U.S. Prasad's smart move stops Singh's interrogations and impresses Mitchell, who we later learn grants him admissibility. What turns the table in favor of Prasad is his higher education, the city in which he had lived that kept him out of the direct reach of the LTTE, and his ability to explain his condition to a Canadian audience in relation to Canada's history. Savitri's and Prasad's release is contingent upon Mitchell's emphasis on questioning the grounds of the Border Services evidence for their terrorist affiliation. The very contingency of their release is, therefore, a challenge to the claimed neutrality of immigration adjudication that could easily be undermined by biased government-appointed adjudicators who side with security allegations presented by government representatives.

Besides challenging the claimed neutrality of immigration adjudication, the deeper challenge of how the *IRPA*'s inadmissibility provisions constrain all adjudicators, regardless of their individual political perspectives, is captured in Bala's portrayal of another passenger, Ranga, who is deemed inadmissible by Mitchell. Early in the novel, Ranga is described as the man with an injured leg who is fraught with fear and exhibits an uncooperative, sulking behaviour (Ibid, 96 & 168). During his hearing, Singh presents a copy of Ranga's passport, obtained from the Sri Lankan government based on the identity card he had provided, as evidence of his purported ten-year involvement as a weapon smuggler for the Tigers, urging Mitchell to immediately issue his deportation order (Ibid, 277-9). Gigovaz and Priya are shocked by this last-minute evidence disclosure, contrary to the mandated process of evidence disclosure prior to the hearing, and request a recess while Ranga vehemently denies being the man depicted in the passport photo. Back at the detention centre, when Prasad asks Ranga about the possible discrepancy in their identification of him as a Tiger member, he just says, "It was not me" (Ibid,

293). Despite efforts by Gigovaz and Priya to challenge Singh's evidence, Ranga remains uncooperative. With no viable alternatives, Mitchell ultimately issues Ranga's deportation order, a decision publicly celebrated by Fred (Ibid, 303). Shortly after, Ranga tragically takes his own life by hanging himself in his detention cell, choosing to escape the prospect of deportation to Sri Lanka and the inevitable torment awaiting him.

Ranga's suicide is the ultimate expression of his frustration with Canada's immigration laws that allow deportation to torture in the name of safeguarding the nation against terrorism. Bala braids Ranga's frustration with the frustration that Mitchell feels with his own job. After issuing Ranga's deportation order, Mitchell has a genuine conversation with Grace for the first time and tells her, "I fucking hate this job" (Ibid, 304). Nailing down the murderous nature of using immigration and refugee regulations as a tool against terrorism, a framework within which they must operate, he observes, "I'm not a judge and we don't have capital punishment and yet I've just ordered a man to his death. Execution. Our citizens are too precious for that. But anyone else? They can all go to hell" (Ibid). Mitchel traces this murderous setting to the black-and-white inadmissibility rules that serve to criminalize migrants and contrasts the neatness of these rules with complex factors limiting migrant people's choices in the context of war and organized violence. He highlights how this oversimplifying legal framework forecloses noting the moral dimension of migrant people's restricted choices under extreme conditions. Mitchel says, "were they coerced? Is there regret? Who's a terrorist and who's a freedom fighter? How about child soldiers? There's no way to know if someone deserves asylum" (Ibid, 305). Through Mitchell's reflections on what frustrates him about his job, Bala articulates her main critique of the settler colonial violence of Canada's legal means for turning migrants into bare life under the guise of

fighting terrorism. Bala's critique of this dehumanizing logic is framed through highlighting the human landscape within which people who are treated as bare life had to make decisions.

Bala's emphasis on noting the inherent violence of this legal framework is perhaps most pronounced in her depiction of Mahindan's narrative. Mahnidan, who is one of the main characters in the novel, stays in the Tamil-run city of Kilinochchi for too long but decides to leave the city when the UN convoy abandons the area after being warned by the Sri Lankan government that their employees' safety can no longer be guaranteed (Ibid, 238-44). Mahnidan and his son, Sellian, join other Tamils on a months-long journey towards the East to survive the government's approaching army. They finally leave Sri Lanka with the aid of the smugglers after the government's final attack on Tamils in the East that killed their remaining relatives but ended the war. In Canada, Mahindan's detention reviews and admissibility hearing are adjudicated by Grace, but the novel ends before his admissibility hearing begins. His open-ended admissibility and the different angles from which Bala narrates his story invite the readers to assess the adjudicator and the legal framework that will shape Mahindan's future without engaging with his past. In one of Mahindan's detention reviews, Singh brings evidence of his LTTE affiliation based on Mahindan's involvement in repairing a LTTE-owned bus. Singh says, "On May 2003, the LTTE drove a bus rigged with explosives into an airplane hangar in Ratmalana and killed seventeen people [..]. In repairing the bus, this man was directly responsible for the death of seventeen civilians" (Ibid, 197). When Mahindan defends himself and explains that as a simple mechanic with a child, making a living in a LTTE-controlled area, he had no choice but to do what the LTTE members would order him, Singh further pushes him and asks if it bothered him that the bus he fixed killed innocent people. Mahindan then answers that only after the bombing he knew it was the bus he had repaired, but Singh uses his answer to strengthen her allegations

against him. She tells Gigovaz, "[..] by his own admission, your client continued to work with the LTTE even after he knew what they were capable of. [..] The migrant aided and abetted a terror attack. In repairing an LTTE-owned bus, he was party to a war crime" (Ibid, 199).

After this review, Grace denies Mahindan's detention release. Mahindan remains in limbo until the novel's last chapter where he prepares for his admissibility hearing, fearing that his life which was a series of ups and downs would not make sense within Canada's black-and-white security rules for migrant inadmissibility. He tells himself, "This was Canada, [..] where they drew straight lines between right actions and wrong. Messy and fragmented was how you ended up like Ranga. Neat was Prasad making his bed every morning, folding his dirty clothes before giving them for washing" (Ibid, 382). These passages capture how Canada's narrow legal lens for engaging with Mahidan's past reflect the settler colonial violence of reinforcing white supremacy by representing racialized bodies as deviant, based on a Euro-centered normative notion of the human, to criminalize them and to reduce them to bare life, deserving to be tortured. Bala challenges this settler colonial violence by elaborating Mahindan's life from his own perspective to highlight a moral landscape that is unintelligible within Canada's legal means for assessing racialized migrants. In a 2020 interview, Bala describes this shift between perspectives as a narrative tool that she loves the most and uses to create a dynamic flow of the "characters who are seen and characters who are seeing" (Bala 2020). Deploying this narrative tool in depicting Mahindan's perspective on his own past, Bala highlights the structural nature of the LTTE's terrorist agenda and the oppositional subjectivities of Tamil people who had to work with the LTTE under duress. As Mahindan sees it, the majority of Tamils joined the LTTE either by force or because they were without jobs and saw engaging with them as the only path toward peace (Ibid, 141). He contrasts this majority with the LTTE leaders and recruiters who were

invested in the organization's terrorist cause. This contrast is very clear in Mahindan's description of Arun, the LTTE recruiter who spares Mahindan from joining the LTTE but gets him to prepare vehicles for suicide bombings. He says, "Arun had joined to terrorize. Even during the short-lived ceasefire the year before, he had found a way to stay on" (Ibid). While Bala depicts how Mahindan is forced to obey Arun's orders, she also describes Mahindan's moral deliberation on his own contradictory situation as a significant expression of his will against participating in terrorism despite his forced situation. Bala's description of Mahindan's human agency under severe restrictions challenges how Canada's blanket inadmissibility provisions on security grounds that make torture acceptable for humans caught in racial conflicts reproduces a white supremacist sense of social cohesion premised on a Euro-centered normative notion of the human. Bala observes,

> Every time [Mahindan] had to rig up the brakes on a car or strap bombs to the underside of a truck, he thought of how he was bound to these weapons, one link in a chain of events that would end a life. [..] But what choice did he have? [..] Tigers claimed it was all in service of the greater good. Short-term sacrifices for long-term gain. Mahindan hated the Sinhalese and wished to be free of them, but blowing up this or that minister, sending a woman strapped with explosives into a market in Colombo, how would this bring them closer to Eelam? (Ibid, 146)

Bala's novel also portrays the gendered dimension of Canada's security discourse, a constitutive part of the settler colonial violence of this discourse that has been re-enacted, in different ways, in the 2007 and 2017 apologies and their relevant redress settlements. As I explained in Chapter Three, the gendered dimension of this discourse is especially notable in mass media representations that shape public affects around proper gender roles by normalizing a

Euro-centered notion of gender. Deploying orientalist tropes to represent Muslim expressions of gender as deviant in general and associating Muslim masculinity with the figure of a threatening terrorist in particular has been a powerful tool for normalizing Euro-centered notions of gender, especially since 9/11. The 2007 and 2017 apologies and their relevant redress settlements also reflect the association of Muslim masculinity with terrorism. While these public affects have been formative in redress settlements with five citizens tortured abroad, they remained completely unacknowledged and thereby denied in the apologies offered to Arar, Almalki, El Maati, Nureddin, and Khadr. Bala's novel, by contrast, identifies and challenges the gendered dynamics of Canada' security discourse. Although this novel addresses the ordeal of Tamil survivors of Sri Lanka's civil war in Canada and is not about displaced Muslims, it critically reflects how the constitutive gendered representations within Canada's post-9/11 security discourse impact all terrorist-labeled non-citizens.

Bala deploys the affective power of her story to identify and interrupt these strong biased public affects structured by gendered racial assumptions. This interruption is especially notable in Bala's depiction of her novel's central child, Sellian, while Mahindan remains in detention, but it is also implied in how she frames Gigovaz's instructions for his male clients, Mahindan, Prasad, and Ranga, about preparing for their detention reviews. Gigovaz does not want to show the adjudicators "a brown man with a beard begging for asylum" and orders his clients to show up clean-shaven (Ibid, 60). The gender dimension of Canada's publicized image of the dangerous terrorist that rests on stigmatizing appearances of Muslim masculinity shows up strongly in the novel in the strategy of the Tamil passengers' legal team for presenting their clients as acceptable candidates for Canadian residency. This gender dimension is foreshadowed early in the novel where the arrival of the Tamil ship is described. Upon the arrival of the Tamil ship, Sellian

whose mother died in childbirth and who has Mahindan as his only parental figure is separated from him and placed under the care of Savitri in a gender-segregated women's detention centre (Ibid, 16-8). The place where the Tamil men are detained is considered to be too risky, even for their own children. Although Mahindan is taken aback by this forced separation, he decides to act brave and soothe his crying son by encouraging him to think of other children that he can play with in women's detention centre. Then, he tells the officials who separate them, "we are just happy to be here" (Ibid, 16).

After their separation, Mahindan gives instructions to Sellian during his weekly visits, similar to Gigovaz's instructions for detention review preparations, to prevent his son from raising suspicion of having terrorist family ties. In one of his visits, when Sellian compares his experience of seating, for the first time, in a car's child seat with the special seat of the LTTE's leader Prabhakaran (Ibid, 99), Mahindan immediately pauses him and asks him to never say that again. He tells his son,

> Sellian, don't say this. [..] And no more Lions and Tigers, okey? You must not play this game with the other children. [..] Listen, all of that… Tamil Eelam, the Tigers, Prabhakaran… that is all in the past now. We have left Sri Lanka and we must leave all that behind. Put it out of your mind. (Ibid)

The "Lions and Tigers" game that Mahindan forbids Sellian to play with other Tamil children is a game that Bala describes towards the end of the novel as the favorite game of Tamil boys, imitating the violent antagonism of Tamils and Sri Lankan government. Sellian cannot understand why he should no longer play his favorite game and asks for an explanation. But Mahindan just tells him, "The Canadians, they don't like this kind of talk here. [..] We must make the Canadians happy, or they will not let us stay here. Do you want to go back?" (Ibid).

Shortly after this, the gender dimension of preventing terrorist suspicions returns to the novel as the theme of rescuing the child victim from his terrorist-affiliated male family member. Just as Prasad tells detained Tamil men about the result of a poll that showed "three out of five Canadians believe the [Tamil] vessel should have been turned away" (Ibid, 169), Mahindan is informed that Sellian is leaving the prison to live with a couple who have agreed to take care of him as his foster parents (Ibid, 174). As a prospective Canadian citizen, Sellian is ordered by Grace to be adopted by a Canadian white family and kept away from his allegedly LTTE-affiliated father. Feeling confused about Canada's contradictory messages about them, Mahindan says, "I thought the Canadians hated us. They wish the boat had been sent away. Now it seems they want our children" (Ibid). When Gigovaz tells him that Selian's adoption is non-negotiable, he is enraged and shouts, "He's my son! How is he to live with these strangers who cannot speak our language? [..] How will they know how to care for him?" (Ibid, 175). Bala notes the presence of gendered racial assumptions in Sellian's out-adoption by highlighting how detained women from the ship get to keep their children. But Mahindan's masculinity makes him an easy target for stronger terrorist allegations and brings his son closer to the status of a victim of a terrorist-affiliated family member from whom he should be taken away. Mahindan complains, "Savitri is keeping her son [..]. But mine is getting stollen. Because I am a father" (Ibid, 176). Eventually, he is only promised that Sellian will keep visiting him after being adopted. Mahindan realizes that the hold of Canada's gendered racial notion of terrorist threats is stronger than his rage and surrenders to despair. The contrast between Bala's detailed description of Mahindan's pain in response to Sellian's forced out-adoption and the indifference with which his pain is received marks the wide range of harms that biased public affects inflict to help uphold settler colonial national narratives.

While Bala's depiction of the Tamil passengers' ordeal primarily highlights Canada's ongoing systemic use of racial immigration regulations under the guise of counterterrorism, it also situates this form of state violence within the broader framework of gendered racial violence inherent in Canada's settler colonial project. In doing so, her novel also challenges the rhetoric of exceptionality in Canada's apologies to Arar, Almalki, El Maati, Nureddin, and Khadr, which portray the harms inflicted upon these citizens within the state's purportedly benevolent liberalism. This rhetoric effectively isolates the experiences of these citizens from Canada's settler colonial structures of domination. The deeply engrained theme of linking the Tamil passengers' ordeal to the experiences of other racialized groups in Canada is extensively articulated in at least two contexts in the novel. One of these contexts is Sellian's first encounter with his foster parents, the Flanigans. Priya and Charlie, the legal team's Tamil translator, who are assigned to take Sellian to the Flanigans are both angry at their assignment and struggle to find the words to explain to Sellian where they are taking him. Charlie wonders why there are no accredited Tamil foster parents to take in Sellian and says, "The government is going to all this trouble – jailing five hundred people in suburbs, busing them to hearings, setting their lawyers on attack mode. They couldn't fast-track a few foster parent applications and get our families certified" (Ibid, 190). Charlie's concern about the lack of accredited Tamil foster parents underlines the white supremacist framework for what is an acceptable socialization for migrant children in foster care. Priya, on the other hand, feels like she is handing Sellian over to kidnappers and remembers her own reaction when Gigovaz told her about this assignment. Thinking of the 60s scoop and the out adoption of Indigenous children, she tells Gigovaz, "Haven't we learned our lesson on this? Stealing children from their *Native* parent and putting them in *white* homes? What is next? A special school run by pedophiles?" (Ibid).

Through the lens of the forcefully separated child, Bala highlights how the increasing use of immigration regulations to purportedly fight terrorism after 9/11 and the ongoing genocide against Indigenous peoples in Canada are tied together through the settler colonial logic of sustaining heteronormative white supremacy. Her critique of Canada's disruption of racialized migrant kinship to sustain the heteronormative white supremacist boundaries of national belonging is carefully framed as a critique of settler colonial structures of domination rather than the intentions of individual foster parents. Although Priya initially projects her anger of this structural problem onto the Flanigans, she notices and appreciates upon their arrival the benign, hopeful expressions of these foster parents and the effort they have put into preparing their home for Sellian by deep cleaning their place and setting up his room. In their short conversation, she realizes that the Flanigans were also worried about their lack of knowledge of Tamil language. They say, "We only found out yesterday that Sellian was coming here. [..] We would have tried to learn a little Tamil if we'd known. We've been fostering for three years [..]. But this is our first time with … a language barrier" (Ibid, 191). The chapter ends with Bala's graphic description of Sellian's agony when he wakes up from a short nap at Flanigans and realizes that Priya and Charlie have left him there while he was asleep. By engaging her readers with Sellian's pain without putting the blame on the Flanigans and by drawing a parallel to the out-adoption of Indigenous children, Bala highlights the interconnectedness of different forms of racism that partly work through assimilating children in non-white families to re-install the white supremacist core of the liberal notion of the human.

The other context in which Bala links the Tamil passengers' ordeal to other forms of settler colonial violence in Canada is in conversations in Grace's family about the Japanese Canadian internment during the Second World War. As Grace's mother, Kumi, grapples with

anxieties of her progressive Alzheimer's, she takes up uncovering the family's past in detail even though she had been trying to avoid the topic all her life. Kumi begins to look for documents to assess how much the laundromat business that her parents owned in Vancouver before the war was worth. She decides to visit Slocan (where she was interned with her parents during the war) and takes Grace with her to visit her parents' old home in Vancouver. All this surprises Grace. She remembers when as a child she used to ask Kumi what happened to the Japanese in Canada during the war, Kumi would tell her that the topic was off limits and discourage her to ask her parents about this to avoid reminding them of a difficult time in their past (Ibid, 111). But now Kumi blames her own past silence for Grace's compliance with the current government's anti-migrant position in her new job. She insists on educating Grace' twin daughters about how the government betrayed them in the past and how they need to learn to question the government's decisions now. When Grace complains and says she wished her mother would not expose the girls to the past's ugliness, Kumi brings up her main point about the impact of understanding the past on the present. She says, "It was a mistake to keep quiet all these years [..]. I see that now. [..] People who forget the wrongs that were done to them perpetuate those same wrongs on others" (Ibid, 235). The tension becomes explicit between them when Grace mentions her grandmother's silent approach to the past to dismiss Kumi's new mission of encouraging the teenage twins to link the past to the present. Seeking to reduce Kumi's efforts to merely playing the victim, she asserts, "Obaachan knew there was nothing to be gained from being the injured party" (Ibid, 236).

This unresolved tension resurfaces towards the end of the story as Grace prepares for Mahindan's admissibility review. When Grace visits Kumi in a nursing home she stays at after having a concussion that speeds up her Alzheimer's progress, their conversation focuses on

Grace's job. Kumi tells Grace about the community work she has been doing to keep alive the memory of injustices inflicted on Japanese Canadians and links Grace's job to racial injustices that she cannot forget. Struggling to keep her train of thought, she tells Grace, "I know what your job is [..] Making history… history… making it happen. And happen. Again. Again" (Ibid, 380). But once more, Grace refuses to admit that Tamil passengers are the new victims of the government's racial violence and falls back into Fred's rhetoric of the Tamil ship as a real national security threat. She notes,

> This is totally different! These people… we're fighting a war on terror. [..] You know very well it's not the same thing. This is a new kind of war, one we've never seen before. The country's security is at stake. It's *my* job to protect you. (Ibid)

Through Kumi's voice, Bala highlights the continuity of the settler colonial logic of sustaining the white supremacist ruling power of the state by constructing states of emergency to label racialized bodies as threats to the nation and to turn them into bare life devoid of rights. The tensions between Kumi and Grace indicate the difficulty of noting the perpetuation of this settler colonial logic. Grace persistently denies that Canada's current use of security measures to deny refugee status to the Tamil migrants and to allow their deportation to Sri Lanka where they would face torture has any bearing on the state's wartime atrocities against its own racialized citizens. But Kumi's first-hand experience of being interned makes her demand her grandchildren's attention to the state's repeated pattern of racial policing. She insists on underlining how these patterns draw the boundaries of national belonging in ways that sustain Canada's white supremacist national narrative. Her voice is a sobering reminder that unless Canadians actively remember past atrocities that the state did not hesitate to commit against its

own racialized citizens, they cannot take meaningful steps toward banishing current re-enactments of the same logic against both citizens and non-citizens.

Finally, although *The Boat People* foregrounds the plight of the Tamil passengers within Canada's repeated patterns of settler colonial violence, it also offers compelling visions for forging alternative futures in spite of these entrenched patterns of brutality. The story's future-oriented visions of hope portray transformative political possibilities that appear at different points like sparks of lights in the dark paths that the readers are called to walk along with the story's characters. By linking alternative futures for the Tamil passengers to the need for transforming Canada's ongoing settler colonial violence, Bala challenges the linear notion of national progressive time that is also re-constructed in the apologies for post-9/11 rights violations. The linear notion of national progress in these apologies is specifically framed through individual-focused images of hopeful futures that deny the impact of Canada's ongoing settler colonial violence against racialized lives. This novel's visions of genuine hope contest individual-focused images of hope in these apologies. The story's obvious transformative political possibilities are captured in the choices that Prasad and Priya make to directly challenge the racial logic of Canada's boundaries for national belonging that partly work through criminalizing migration. When a feeling of despair falls upon the detained Tamil passengers after hearing Fred's repeated public announcements that label them as terrorists and the result of a public poll that shows most Canadians wish the Tamil ship had been turned away, Prasad makes the initiative to publish a letter on behalf of the passengers. He notes, "These politicians [..] know if they repeat something over and over, eventually people will believe them. [..] We must change their beliefs" (Ibid, 170). His idea is to write a letter in English to express the passengers' side of the story and to get the Tamil Alliance to publish it on their behalf. His letter gets

published on the *Globe and Mail* on Christmas Eve (Ibid, 220) and initiates conversations in support of the passengers. Here, Bala identifies engaging with the perspectives of people turned into bare life as one step toward the possibility of creating alternative futures where structures of setter colonial domination could be confronted. In this sense, she again emphasizes the power of public feelings structured around racial profiling in creating and sustaining white supremacy and the need for speaking back to these public feelings. In the story, the Tamil passengers who are situated outside the boundaries of humanity strategize to make their voice heard on Christmas Eve. Their collective voice is, therefore, depicted as a gift extended to those within the nation's constructed notion of humanity, who are ready to listen to their voice and take action to confront the structural white supremacy upholding the nation's boundaries.

Likewise, Bala links the possibility of genuine hopeful futures to challenging Canada's legal means for regulating national security and advocating for people who are turned into bare life through these laws. The promise for this legal challenge from within is notable in Priya's decision about what to do as a lawyer. Her decision gradually shifts as a result of her experience of working with the Tamil passengers. Priya who initially wanted to work in corporate law, hesitantly joins the Tamil passengers' legal team as a part-time articling student, hoping to return to full-time corporate law practice after passing her bar exams. But as she advocates for her clients and their children, she develops close personal bonds with them. When it is time to prepare for her bar exams and apply for jobs, she finds herself "physically" incapable of sending her application for new corporate job postings (Ibid, 368). Instead, she keeps checking her phone in anticipation of receiving a message from Gigovaz about their clients. Eventually, when she meets with her former supervisor who offers her a one-year contract position in corporate law that she has recently lobbied to create to keep Priya on board, she admits that she now wants to

work with immigration and refugee law. Even though this corporate position is what Priya had always wanted, when she hears the offer, she is unmotivated to take it. She tells her supervisor, "If it's my choice [..] I'd like to continue to work with immigration and refugee law. [..] We have a client in detention and three others who still have to face the Refugee Board. I'd like to see those cases through" (Ibid, 373). She makes this choice even though she knows it meant sacrificing her one-year offered guaranteed job because working with these passengers might take several years. But she is happy to make this choice because she realizes that there is a greater need for people like her to continue challenging Canada's continued criminalization of migration. Priya's decision is especially remarkable when contrasted with Grace's choice. Grace chooses to continue to mobilize the government's anti-migrant position despite the internal conflicts that she experiences in detention reviews and admissibility hearings and the tensions in her own family as her mom, Kumi, tries to make her note the connection between deeming the Tamil passengers inadmissible and the wartime internment of the Japanese Canadians.

Priya's decision to advocate for migrants trapped in Canada's national security net, on the contrary, is premised on the capacity that she develops for opening up her family's closed off past as they all engage with the Tamil passengers. After Ranga's review, when Priya tells her uncle how disappointed she was that Ranga had lied to them, her uncle for the first-time shares with her the story of his own past. As her uncle opens what Bala calls his "pandora box of old demons," (Ibid, 317) Priya learns that her own uncle had also joined the LTTE for a short time when he was young, hoping to overthrow Sri Lanka's Sinhalese supremacist government (Ibid, 313-21). Hearing about her uncle's false hopes for joining the LTTE without having any terrorist intentions is another factor that makes Priya determined to advocate for racialized migrants.

The transformative political possibilities reflected in Prasad's and Priya's decisions are paralleled by transformations in relation to the story's major child figures. A major expression of these transformations is the growing political awareness and sense of justice in Grace's teenage daughters. As they bond more closely with their grandmother, Kumi, through learning about her childhood experiences of internment and her reasons for revisiting them now, their political imagination expands beyond the celebratory national narratives that they have been surrounded with. They witness political tensions in their family about what revisiting the past means for the present and begin to question Grace's dismissive assumption that connecting the government's past injustices to its ongoing wrongs can only leads to choosing anarchy (Ibid, 234). Bala portrays the process of the twins' political maturation towards envisioning a different future by challenging patterns of settler colonial violence as being premised on their hard work of emotional engagement with intergenerational impacts of injustices in their own family and giving them new expressions. The beginning of their emotional engagement with Kumi's stories is very difficult. Brianne is frightened by the government's wartime evacuation order for people of Japanese descent in Vancouver and says, "It's scary [..]. The government just deciding one day to take everything away" (Ibid), and Meg feels devastated imagining this helpless situation (Ibid, 235). But as they come to terms with the large impact of these injustices on their family, they also learn to note how similar injustices might be inflicted upon others now. A highlight of the process of their political maturation is the confrontation between Meg and Fred in the middle of Fred's conversation with Grace in their kitchen. After Ranga's suicide when Grace doubts their criteria for labeling the Tamil passengers as dangers to the nation, Fred visits her at home. He tries to keep her on track by animating her fears. He asks Grace, "Who do you want in this country? People who share our values, or warmongers who bring their fights here?", and repeats

his speech on how the passengers are illegal criminals (Ibid, 342). Meg who has entered the kitchen to grab a drink, stares at Fred and teasingly interrupts him, "It's a free country… [..] unless no one wants you" (Ibid). The sting in her comment makes Fred leave and angers Grace but the incident is a chance for Meg to recognize Fred's rhetoric as a re-enactment of the structural nature of the state's settler colonial logic of sustaining white supremacy. She notes, "He would have sent us to Slocan first chance he got. [..] he likes people best when they are behind bars" (Ibid, 243). Her observation that her family's wartime internment experiences are not unlike the Tamil passengers' current detentions and deportation threats to torture is depicted as unwelcome by Grace. But it does foreshadow possible future dissenting voices against the perpetuated carceral logic of settler colonial violence that turns racialized bodies into bare life to sustain white supremacy.

Another major expression of transformative political potentials in relation to the child figures in the story is the emphasis that Bala puts on the vital parenting role that Mahindan continues to play in Sellian's life after Sellian's forced out-adoption. This expression of transformation is less explicit but perhaps deeper and more effective. Despite all obstacles that threaten to disconnect Sellian's future from his past, Mahindan tries to keep his intimate connection with his son during Sellian's weekly visits. This intimate connection provides a space for Sellian to navigate the emotional contradictions of his situation in a way that is denied to him by gendered racial norms of Canadian citizenship. To be socially accepted as a future male citizen, he is expected to only show gratitude for the opportunities he is offered in Canada and to learn to perform a normalized masculinity that opposes what Canada associates with the dangerous terrorist figure. At the same time, he has loads of anger, frustration, and grief at his forced separation from his father and all his memories. Mahindan's parenting despite his growing

fear that he might be deported back to Sri Lanka reassures Sellian that he does not have to be ashamed of his difficult feelings. At each visit, Mahindan lets him list all his grievances and acknowledges them to help him process them (Ibid, 250-1). So, despite Sellian's out-adoption, Mahindan's parenting gives both of them the gift of integrity. However, as Sellian gradually gets used to his new life routines and notes the contrast between his father's condition in immigration detention and his new life, visiting Mahindan becomes increasingly more painful for him. This pain comes to the surface in one visit when Mahindan is moved to a regular Canadian prison and Sellian witnesses a conflict between other prisoners in the visit room. Feeling frightened, Sellian refuses to listen to Mahindan and instead screams and sobs to leave while Mahindan desperately attempts to calm him by holding on to him (Ibid, 351). The two eventually reconnect and Mahindan whispers to Sellien the only words that come to his mind, "You are loved. You are so loved" (Ibid, 352). Mahindan's display of unconditional love as a parental figure despite his precarious condition in detention that denies his humanity in Sellian's moments of unbearable distress helps him learn to honor himself and accept the complexities of his situation instead of running away from them. In this sense, Mahindan's parenting provides a transformative space to protect Sellian against the gendered racial expectations of Canadian citizenship.

Conclusion

In this chapter, I have engaged with Sharon Bals's explicit challenge in *The Boat People* to the issue of using immigration rules to purportedly fight terrorism. I have argued that her novel effectively creates a powerful space for thinking through how the 2007 and 2017 apologies and relevant redress settlements to five Canadian citizen tortured abroad for security reasons serve to uphold, rather than challenge, the current national security discourse. I have analyzed how the

novel's depiction of the ideological nature Canada's carceral treatment of the Tamil ship passengers disrupts the country's post-9/11 security discourse, as legitimized in these apologies and settlements. *The Boat People*'s detailed contestations to Canada's legal mechanisms for criminalizing migrants through the *IRPA*'s inadmissibility provisions on security grounds are part of the broader perspective that the novel offers for challenging different layers of the country's hegemonic national narrative that are effectively denied and thereby endorsed in the 2007 and 2017 apologies. Central to this critique is Bala's illumination of the gender dimension of Canada's current security discourse and its interconnectedness with other forms of settler colonial violence, notably the historical and ongoing violence against Indigenous peoples and the suspension of the rights of Canadian citizens to allegedly protect the nation, particularly highlighting the atrocities related to the Second World War internment of the Japanese Canadians. While exposing different layers of Canada's hegemonic national narrative, the novel also offers alternative visions for a genuinely hopeful future, urging the readers to continually challenge the linear notion of national progressive time, also re-constructed in the 2007 and 2017 apologies, through a lens that pushes back against the multi-faceted gendered and racial logic of settler colonial violence.

This story's nuanced critique of Canada's ongoing settler colonialism is a call to resist celebratory national narratives that obscure perpetuated gendered and racial violence. By framing this novel as a counter-narrative to the state's efforts to consolidate its sovereignty through the 2007 and 2017 apologies and relevant settlements, I aim to extend the story's public emotional impact in ways that enable us to challenge the perpetuation of settler colonial violence through the paradoxical gestures of selectively and vaguely acknowledging the harms of the current national security discourse. Bala adeptly guides us toward cultivating emotional and mental

capacity for social and political growth required for contesting and transcending these structures of domination by facing difficult social and political realities rather than turning away from them. She models this kind of emotional and mental cultivation of political growth by practicing it herself. In her 2018 interview with TVO Today's *The Agenda* (Bala 2018b), Bala describes her practice of writing this novel as a "meditation on empathy," driven by her desire to put herself in these characters' shoes to experience what it is like to face unfamiliar hardship and to contemplate on what she would do in their circumstances. For Bala, the practice of imagining oneself to be in the position of those dehumanized by different forms of state violence is the first and most important step towards resisting these forms of violence. Through writing and offering her novel, Bala has fostered a dynamic community of readers who take up her call. My hope is that my reading of her novel further engages her readers and mine with the paradoxical political demands of our time by shedding light on the enduring settler colonial violence embedded in Canada's redress politics, a kind of violence that remains largely unnoticed by the broader public.

Conclusion

In this dissertation, I have examined how the works of literature that represent Canada's ongoing settler colonial violence provide visions for dismantling state-sanctioned redress practices. The state's acknowledgements of the wrongs it has inflicted upon different subordinated groups are crucial for bringing broad public attention to these wrongs. However, in settler colonial societies such as Canada, the government's gestures of acknowledging these wrongs, through apologies and/or other forms of redress (such as funding programs for financial compensation, action plans for commemoration, Commissions of Inquiry to investigate the wrongs, and reaching redress settlements, to name a few), have often reproduced settler colonial violence in different ways. Within the scholarship on state redress practices, these mechanisms are conceptualized as postwar technologies aimed at bolstering state sovereignty under the guise of moral accountability for the injustices in the past (e.g., Miki 2013; Murdocca 2013, 2014; Coulthard 2014). They serve to consolidate the authority of liberal settler colonial states through establishing hegemonic frameworks that seek to regulate the terms of remembering the past and addressing injustices. The state apologies are discussed within this scholarship as emotionally charged ritualistic performances of sorrow and regret by state representatives that mark singular events of offering apologies as pivotal moments in the government's purported commitment to right its wrongs, while maintaining the power structures that enabled these wrongs in the first place (e.g., Trouillot 2000; Wakeham 2012(a) & (b), 2013, 2014; Bentley 2015, 2016; Kwak 2017). By creating a false sense of closure upon the wrongs that are framed as belonging to the past, these apologies seek to rebuild public trust in the state, thereby rejuvenating the national fantasies of belonging to a progressive society and fostering collective attachment to them. Drawing upon these accounts, my aim in highlighting the settler colonial functions of state

redress in Canada, with a focus on apologies as its affective face, has been to build a political framework to contextualize engaging with selected narrative writings by or on behalf of members of communities that have faced systemic state violence. The narratives that I have analyzed do not directly engage with Canada's redress practices but articulate significant decolonial perspectives about the past and its relationship to the present and the future that offer emotionally powerful guidelines to imagine social change beyond the performatively powerful national fantasies reproduced through these state redress practices.

To be sure, settler colonial violence perpetuated within Canada's redress practices has been contested by various voices from Indigenous and racialized communities that have strategically negotiated redress with the state, both before and after different apologies have been offered. In Chapter Two, I briefly reviewed some major examples of such critical engagements with state redress practices including many of the thousands of former residential school students who voluntarily shared their narratives by joining others in participating in the TRC and strategically utilized this platform to breathe new life into Indigenous traditions of testimony. Notably, as discussed by Sophie McCall, Louise Bernice Halfe included her TRC narrative in her subsequent collection of poems, *Burning in This Midnight Dream* (2016), reclaiming her TRC participation as part of revitalizing the Cree poetry tradition (McCall 2020, 10). Similarly, McCall has examined how Bev Sellars defied the TRC's prohibition on naming abusers in her autobiography, *They Called Me Number One* (2013), which she later submitted to the TRC Bent Box (Ibid, 11). Likewise, several members of racialized communities harmed by the state have deliberately asserted agency and reclaimed personal and community narratives within the broad context of Canada's redress practices. For example, Joy Kogawa's account of the long history of political and cultural struggles for redress within the Japanese Canadian community in her novel

Itsuka (1992), recounts collective redress narratives that the state's 1998 apology and redress settlement sought to overwrite. Also, as I pointed out in Chapter Three, Matt James has discussed how *Italian Canadians as Enemy Aliens*, the memorialization project of the Toronto-based Italian Canadian Columbus Centre, funded under the government's Community Historical Recognition Program (CHRP), has challenged the CHRP's neoliberal agenda (James 2015, 9). While focusing on the internment of Italian Canadians during the Second World War, the project raised public awareness about the ongoing racial carceral logic of Canada's security discourse, highlighting major episodes such as the 1950s internment of the Communists, the 1970 October Crisis, and the ongoing racial profiling of Muslim and Arab subjects as security threats (Ibid). These community-based initiatives represent just a few examples of transforming the affective spectacle of state apologies and their underlying redress infrastructures into opportunities for critical engagement with ongoing racial violence, fostering transformative conversations and alliances across racialized communities to address different forms of state violence.

Yet, the hegemonic machinery of state-sanctioned redress that is constantly refashioning itself through proliferating apologies and other redress practices, primarily serving to obfuscate the government's ongoing gendered racial violence, continues to silence the voices that unapologetically confront complex structures of Canada's settler colonialism. The state's repeated performances of its purported commitment to redressing the wrongs fuels national fantasies of trusting the government for resolving structural racial violence in ways that imply there is no longer a legitimate basis for advocating continued social transformation and grassroots feminist decolonial alliance-building. Such fantasies of benevolent liberal state that conceal the underlying neoliberal dynamics of perpetuating systemic gendered racial violence also deflect attention from the emotional landscapes portrayed by dissenting narrative voices.

The deep, emotional corners of the lived experiences of settler colonial violence portrayed by such voices provide necessary insights for affective transformation, holding a vital space for collective political growth through visualizing the active pursuit of social justice. But in the dominant political context shaped by state-sanctioned redress, the affective depth of these voices is rendered excessive and irrelevant. Thus, despite being constantly contested by activists, writers, and artists who strategically engage with it, Canada's redress politics, affectively mobilized through apologies, continues to systemically obscure public engagements with the emotionally transformative power of these dissenting narrative voices.

I have analyzed what it is like to listen to Maracle's narrative voice in her four novels in the affective climate influenced by Canada's 1998 merged "Statement of Reconciliation" and action plan and 2008 apology to Indigenous people. I have also explored what it is like to meditate on Bala's narrative in relation to the 2007 apology to Arar, the 2017 apology to Almalki, El Maati, and Nureddin, and the 2017 apology to Khadr. My analyses reveal a crucial dynamic. On the one hand, they expose the ways in which the allegedly sincere performances of negative feelings such as sorrow and regret by state representatives who deliver these regret statement and apologies serve as political rituals imploring people to trust the state in alleviating the racial tensions that persistently resurface in their everyday lives. This affective process is highly invested in the promise that "the emotional sincerity of" such performances of negative feelings by state representatives and the public affective engagement with them are the conditions of possibility for reinstating good public feelings (Wakeham 2012b, 228). This promise fosters what Lauren Berlant terms "cruel optimism" (Berlant 2011, 1), leading to public affective attachment to nationalized fantasies of happiness in neoliberal times, which in this case is particularly centered around appreciating the moral authority of the state to resolve racial

injustices through performing allegedly sincere feelings of regret. By aiming to compel the nation to perceive the state as the initiator of resolving racial injustices, these rituals effectively lead individuals to distrust their own lived experiences of racial violence or witnessing it. On the other hand, my analyses reveal how Maracle's and Bala's narratives compel the readers to rise above their own engagement with socially constructed cruel optimism and its resulting affective attachment to this fantasy by cultivating emotional and mental resilience to accept and to confront the difficult realities of living in a society that continues and will continue to re-enact its white supremacist legacy unless we find dynamic ways of challenging it. Thus, I have argued that engaging with these fictions represents a major political step toward facing the reality of living in a settler colonial society in a time dubbed "the age of apology," when attachment to the constructed national ideal of leaving the past behind becomes the source of continued alienation and investment in one's own subordination.

The law and literature approach that I have deployed in writing this dissertation is particularly useful in revealing this dynamic. Within this approach, I have modified the reading practice of juxtaposing analyses of legal discourses with the narratives of those affected by them through pointing out how the state apologies as emotionally charged performances of state representatives produce what Carmela Murdocca describes as hegemonic "interpretive frameworks" (Murdocca 2014, 220) that echo the restrictive nature of liberal legal discourses. Specifically, I have highlighted the rhetorical strategies in the 1998 merged statement and the 2008 apology to Indigenous peoples, as well as the 2007 and 2017 apologies to five Muslim Canadian citizens subjected to torture abroad after 9/11, showing how they serve to affectively legitimize the ongoing settler colonial practices of the governments that issued the apologies. I have underscored how the 1998 merged statement and the 2008 apology to Indigenous peoples

legitimize ongoing anti-Indigenous violence by co-opting the language of reconciliation and expressing regret for selected harms against Indigenous peoples to allegedly regain racial innocence, thereby concealing the homogenizing, subjugated account of Indigenous sovereignties in the government's proposed plan for renewing its relationship with Indigenous peoples. Likewise, I have elucidated how the 2007 and 2017 apologies to five Canadian Muslim men tortured abroad partly due to the global spread of misinformation by Canadian intelligence agencies aim to coercively restore public trust in Canada's current national-security discourse while vaguely acknowledging these men's ordeals and apologizing to them. By modifying this juxtapositional reading practice within the law and literature approach, I have put emphasis on the need for challenging the ostensibly benign performances of racial innocence mobilized in state apologies as a condition of possibility for moving toward substantive political change. Through parallel examinations of these apologies alongside Maracle's and Bala's novels, I have sought to instill an awareness of how writers who articulate decolonial feminist perspectives through writing fiction play a crucial role in laying a solid foundation for the readers to envision substantive political change, despite the façade of racial innocence in Canada's redress politics. In doing so, I articulated how these novels do not just tell fictional stories for entertainment but beckon to readers to actively discover their responsibilities in relation to the social truths shared in the stories, while remaining critical of the relations of power that continue to reproduce settler colonial violence, albeit no longer explicitly.

This dialogical exercise has enabled me to resolve one of the major political challenges that I have been facing as a researcher, namely the risk of rendering Canada's settler colonial structures of domination inevitable by focusing exclusively on criticizing its logic through the portal of state-sanctioned redress practices. To balance this risk, I have put my critique of the

state redress practices in dialogue with decolonial feminist perspectives articulated in my selected novels. Importantly, in bringing this balance, I have pointed out how the political perspectives within these novels do not simply represent oppositional responses to the settler colonial logic of pertinent apologies. Rather, I have de-centered the settler colonial logic inherent in these apologies by framing these novels as redefining the terms of narrating injustices, thereby marking the inadequacy of the apologies. Crucial to my analyses has been articulating how these novels point the way towards reorienting the reader's feelings about what it takes to collaboratively visualize a different future while thinking about the past. In particular, I have emphasized that Maracle and Bala urge the readers to affectively liberate themselves from their habituated linear notion of national progress, a notion that is now persistently re-constructed in state apologies, by detailing alternative accounts of time to articulate this existential notion as a complex, non-linear individually experienced communal phenomenon. Their accounts of time highlight, in different yet related ways, how genuine social and political hope can only stem from developing the emotional and mental capacity to come to terms with the complexities of one's own life, which are always already embedded in social histories that may not be immediately transparent. Expanding one's own notion of time beyond the national framework through these novels, therefore, should be conceptualized as the emotionally transformative journey of recognizing individual subjectivities within what Dorothy Smith calls "translocal forces" (D. Smith 2007, 412). In a settler colonial society like Canada, especially at a time when the "post-racial" narrative (Kwak 2017, 94) is continually propagated via state-sanctioned redress practices that mirror the neoliberal logic of perpetuating state violence, this transformative journey involves addressing the often-denied gendered dimension of different forms of racial violence and recognizing the interconnected nature of violence across different racialized communities.

While using a dialogical framework to write this dissertation has helped me address the challenge of inadvertently reproducing the very settler colonial logic that I aim to criticize, it has also presented its own set of challenges. I recognize that juxtaposing fiction with state apologies to individuals or groups who have endured state violence might give the impression of trivializing the real experiences of these people. This issue is particularly relevant to the scholars who are deeply concerned about how state redress practices already seek to overwrite these experiences. From this perspective, using state apologies to specific groups or individuals as a political lens through which to engage with decolonial feminist perspectives articulated in fiction could also be perceived as paradoxically reproducing the violence inherent in these apologies. On a related note, during my different conference presentations and interpersonal discussions with scholars from various disciplinary backgrounds, I have noticed that there is a need for clarification regarding the criteria for selecting which apologies to juxtapose with particular fictions. For instance, one could ask: why not read Bala's novel about the ordeal of Tamil survivors of the Sri Lankan civil wars as migrants in Canada alongside Canada's 2008 or 2016 apology for the *Komagata Maru* tragedy? After all, these apologies are the government's significant gestures of acknowledging its injustices against South Asian migrants, framed as racial violence that Canada has supposedly long overcome. Consequently, these apologies might seem to provide a more relevant political context for analyzing Bala's novel compared to the 2007 and 2017 apologies to the five Muslim Canadian citizens tortured abroad after 9/11 for terrorist accusations.

I appreciate such concerns as important reminders of conducting and presenting research that offers politicized readings of the works of literature in settler colonial contexts of state-sanctioned post-racial narratives with great care. Indeed, receiving constructive feedback and

engaging in the deep conversations that it sparks is an integral part of the creative and critical process of collectively visualizing a future while reflecting on the past, beyond the confines of state redress. At the same time, I also think it is necessary to avoid assumptions about the political relevance of fiction that can narrow the scope of their interpretation. For example, considering Canada's apologies for the *Komagata Maru* tragedy to offer a more relevant context for analyzing Bala's novel seems to imply that this novel is only about South Asian migration in Canada. I am sure that reading this novel alongside the state apologies for *Komagata Maru* (or other apologies such as the 2010 apology to the families of the mostly South Asian victims of the 1985 bombing of Air India Flight 182) would also shed light on important aspects of the story's decolonial perspectives, which I am eager to explore. However, I am concerned that this assumption might overlook alternative interpretations of this novel that might be less transparent but equally insightful and informative. For instance, as I have argued, this novel could be seen as a broad critique of Canada's current national security discourse, impacting racialized migrants and citizens in interrelated ways. In grappling with this challenge, I have come to realize that much critical work remains to be done in elaborating the relevance of apologies to fiction and the reasons or criteria for bringing these texts together, ensuring that this practice does not become merely another academic interdisciplinary exercise devoid of insights into ongoing struggles for addressing gendered racial violence. I remain deeply troubled by the covert yet systemic obstacles that Canada's redress politics poses to transforming gendered racial violence. But I draw inspiration from insightful activists and writers who offer alternative visions for the future while reflecting on the past to continue to engage with difficult but absolutely necessary conversations that forge communities for active remembering through ethical collaborations.

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