

Law with Heart and Beadwork:
**Decolonizing Legal Education,
Developing Indigenous Legal Pedagogy,
and Healing Community**

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ABSTRACT

Beadwork – Decolonization – Ethno-stress – Feminist Legal Theory – Forced Assimilative Education – Indigenous Course Requirement (ICR) – Indigenous Knowledge Systems – Indigenous Legal Orders – Indigenous Legal Pedagogy – Indigenous Research Paradigm – Indigenization – Intersectionality – Law Schools – Legal Education – Legal Profession – Métis Beadwork Practice – Post-Secondary Education – Professionalism – Racism – Reconciliation – Research as Ceremony – Therapeutic Jurisprudence – Therapeutic Jurisprudence+ (Plus) – Universities

Employing decolonized, Indigenous research methods, the author considers Métis Beadwork Practice through the analytical lens of Therapeutic Jurisprudence and establishes the practice as a holistic Indigenous Legal Pedagogy for knowledge creation and mobilization in legal education.

The author agrees with Drs. Friedland and Napoleon who suggest that a significant challenge in and to Indigenous legal research is that such research occupies a space of “deep absence,” with the starting line moved back as a consequence of colonialism. Building on the work of Dr. Shawn Wilson, the author espouses an Indigenous Research Paradigm which requires a prioritization of the relationship to the ideas and making space for non-linear logic systems and Indigenous ways of knowing in scholarly research. In her work, the author prioritizes synthesis over deconstruction on the belief that deconstructing relationships to ideas for the purpose of analyzing them would have the effect of damaging the cognitive and emotional relationships developed through the research ceremony.

While the work embodies the four essential elements of autoethnography, the author argues that the work of Indigenous scholars speaking in their own voices is *sui generis* in nature. She argues that Indigenous scholars who employ storytelling and other culturally-relevant knowledge mobilization practices are engaging a distinct Indigenous Research Method.

This work ultimately progresses in a non-linear fashion and incorporates extra-intellectual knowledge including poetry, music, and photography. The use of multiple fonts and other formatting devices including right justification are used to underline shifts in voice and perspective throughout the work. These pedagogical choices valorize the ways of knowing of Indigenous women and honour the author’s Métis worldview, including her understanding that all things are interrelated. The author examines, and ultimately eschews, notions of neutral objectivity in research as colonial constructs that undermine Indigenous Knowledge Systems and contribute to the ongoing colonization of Indigenous peoples in post-secondary education.

Following an introduction to the legal and social history of Forced Assimilative Education of Indigenous Peoples in Canada, the author reviews recent research into ongoing colonialism, racism, and ethno-stress experienced by Indigenous Learners in post-secondary education. The

author subsequently explores the specific concern of the subjugation and erasure of Indigenous women's knowledge in academia. She conducts a review of existing literature in the sphere of Feminist Legal Theory, examining and ultimately rejecting intersectionality and conceptualizations of sisterhood as possible remedies to discrimination faced by Indigenous women legal scholars. She argues that the lived experience of Indigenous women is situated not at an intersection, but rather in the centre of a colonialism collision. As a consequence, the author argues that existing Feminist Legal Theory does not create adequate space for Indigenous difference, experiences, or worldviews.

Offering insight into legal education, legal ethics, and professionalization processes, the author also explores questions of lived experience of Indigenous lawyers beyond the legal academy. She argues that learning the language of law is but the first element in a complex professionalization process that engages structures of patriarchal hierarchy in addition to the other forces, including colonialism and racism, that shape the legal profession. She further argues that, for Indigenous peoples, learning to speak the linear, official language of legal education represents a collision of even more complex systems of dominance, with the regulated approach to learning and problem-solving standing in direct opposition to Indigenous ways of knowing. Consequently, Indigenous law Learners frequently experience an intellectual rupture when engaging in the professional assimilation process.

The author offers an overview of Calls to Action 27, 28, 42, and 50 of the Truth and Reconciliation Commission of Canada and an introductory environmental scan of ongoing efforts to decolonize and indigenize law schools including land-based learning and the development of Indigenous Course Requirements (ICRs). The author subsequently considers the process of decolonizing the legal academy through the analytical lenses of Therapeutic Jurisprudence and Therapeutic Jurisprudence+. She ultimately positions the act of decolonizing legal education as an act grounded in decolonial love with the potential for healing individuals and communities struggling with ongoing colonialism and racism in the academy.

Building on the work of the late Professor Patricia Monture-Angus and contemporary Indigenous legal scholars including Drs. Tracey Lindberg, Darcy Lindberg, Val Napoleon, and John Burrows, the author considers possibilities for reimaging legal education through the development and use of Indigenous Legal Pedagogies. The author argues that Beadwork Practice holds a distinctive language of possibility as an Indigenous Legal Pedagogical practice as a result of deeply entrenched links between beads and law. The author explores the social and legal history of beads as a tool for legal knowledge production and mobilization in the context of wampum belts and beyond, including the use of Métis beadwork as a mnemonic device to facilitate intergenerational knowledge transfer of stories and songs that carry law. Further, she examines colonial law and policy that served to undermine the legal value of beads, and canvases emerging trends in the revitalization of community beadwork practice. Finally, the author positions Beadwork Practice as a holistic Indigenous Legal Pedagogy to support not only the revitalization of Indigenous Legal Orders and the development of cross-cultural competency as required under Calls to Action 27 and 28, but also therapeutic objectives of individual and community healing.

AUTHOR'S NOTE

This work, ultimately defended on April 15, 2021, was written as a visitor on Algonquin Territory between July 17th and September 10th, 2020. It represents a slightly out of focus snapshot in time.

It is imperfect, and the mistakes are mine and mine alone. In this work, as in life, my goal is to smooth the often overgrown and uneven path for those who will follow. While I try to walk gently so as not to damage the landscape for those walking behind me, there are moments when you may hear the thunder in my soles as we take this journey together.



Thunder can startle us, shake us, send us running for cover. But: there are spaces where the ground is so uneven, the landscape so disturbed, the target so far, that a thunderfoot is required to level the field.

I offer you these words, Dear Reader, in a spirit of learning, hope, and love. I hope the work honours my grandmothers and their grandmothers before them, my children and my children's children, and all of those who have helped carry the weight of these words and beads. I humbly ask that you honour my pedagogical approach and read the work in her entirety before passing judgement.

A NOTE ON PRESENTATION

This work was originally presented to examiners, Learners, and community members as part of a knowledge bundle. Printed versions of the work were accompanied by physical nourishment that aligned with some of the discussions contained herein and were intended to be consumed while engaging with the work.



Foodstuffs varied depending on the physical location and the dietary requirements of the reader. For example, local bundles contained fresh berries, a package of Oreos, and a can of Diet Coke. Bundles sent by mail contained shelf-stable cola and berry-flavoured gummy candies that would survive their journey through the post. Vegan- and sugar-free options were sourced for readers with allergies and specific requirements.

All readers were offered art cards designed by Métis artists. The cards were sourced directly from the artists' websites or through local Indigenous-owned shop BeadedDreams.ca and served as a space to allow the author to describe the contents and the origins of each item in the bundle.

Indigenous readers were offered ceremonial whole-leaf tobacco wrapped in broadcloth with their bundles where appropriate and possible.

All items were smudged using medicines gifted to the author by her Learners before the bundles were tied.

Some bundles were wrapped in kokum scarves purchased from a young and mighty entrepreneur from Kitigan Zibi Anishinabeg First Nation (kokomscrunchies.ca). Other bundles were presented in bags sewn from beadwork-printed fabric by the Assistant Dean of the JD program at the University of Ottawa.



All bundles were tied with home-tanned moose hide scraps sourced through *Cvltvre Bead* – *Culture Through Craft* (cvltvrebead.com), adding to the multi-sensory experience of engaging with the work through its contribution to the scentscape of the project.



“To accept education without betraying it, you must love it for those values that show what it might become. You have to have enough love of learning to have the courage to remake it, imagine it, and teach it. My friend Rita Bouvier often shared with me what her mother taught her in her Michif language. She said, “Nitanis, passing on what we know is an act of love.” Decolonizing education, then, is an act of love that generates my passion and my activism and my truths. It is, then, a call to action for all educators to take on as well.”¹

“Small wonder, then, that teaching tugs at the heart, opens the heart, even breaks the heart – and the more one loves teaching, the more heartbreaking it can be. The courage to teach is the courage to keep one’s heart open in those very moments when the heart is asked to hold more than it is able so that teacher and students and subject can be woven into the fabric of community that learning, and living, require.”²

“Love has a tendency to shatter;
it is prone to weakening and to running amok without notice.
Perhaps, ironically, this is how it anchors us to a world,
how it makes us want to give everything to the project of living well with others.”³

“The greatest act of love
– indeed, the only religion she could comprehend –
was to speak the truth about the world.
Love must be, then, an act of truth-telling,
a baring of mind and spirit just as ardent as the baring of the body.”⁴

“The right love is an adhesive.”⁵

¹ Marie Battiste, *Decolonizing Education: Nourishing the Learning Spirit* (Vancouver: UBC Press, 2013).

² bell hooks, *Teaching Community: A Pedagogy of Hope* (New York: Routledge, 2003) at 19.

³ Billy-Ray Belcourt, *A History of My Brief Body: A Memoir* (Canada: Hamish Hamilton, 2020) at 2.

⁴ Rachel Kardish, *The Weight of Ink* (Boston & New York: Mariner Books – Houghton Mifflin Harcourt, 2018) at 391.

⁵ Terese Marie Mailhot, *Heart Berries: A Memoir* (Canada: Doubleday Canada, 2018) at 119.

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DEAR READER

When Jeremy Dutcher, “performer, composer, activist, and musicologist” of Tobique First Nation,⁶ performed at the National Arts Centre on September 25, 2019, I was seated somewhere in the middle of the Babs Asper Theatre beside my friend and fellow scholar Vanessa MacDonnell.

It was a Wednesday. It had already been the kind of week you can only talk to your aunties about after consuming half a Pyrex of shepherd’s pie straight from the dish and a good-sized bowl of berries.

Truth be told, I wasn’t convinced about a mid-week outing on the town. I had heard the album.⁷ I had read the stories. I had watched the video of the Polaris Prize award ceremony.⁸ It was all brilliant and I had long been curious about Dutcher’s pedagogical approach that creates beauty in the spaces in between generations, disrupted.⁹ But: I was tired in my bones.

The concert literally *began* with a standing ovation as the artist asked for the house lights to be raised so he could live a moment he declared to have been a childhood dream he never actually dreamed would happen. I sincerely believed that he was trying to kill me, but I held it together through the first 70 minutes, only gently weeping in the moments when he sang to his ancestors

⁶ “About” (last visited 30 August 2020), online: *Jeremy Dutcher* <jeremydutcher.com> [perma.cc/V82T-CQJM].

⁷ Catalina Maria Johnson, “Jeremy Dutcher, The Newest Light In Canada’s Indigenous Renaissance” (24 September 2018), online: *npr* <npr.org> [perma.cc/779U-KK4N].

⁸ Aaron Brophy, “Jeremy Dutcher Has Won the 2018 Polaris Music Prize for the Album *Wolastoqiyik Lintuwakonawa*” (17 September 2018), online (blog): *Polaris Music Prize* <polarismusicprize.ca> [perma.cc/4HP8-SBML].

⁹ *Dutcher*, *supra* note 6.

into the strings of the grand piano, making them reverberate through the generations with his voice alone.

The week had been heavy for a few reasons, and I had earned the release of some mild weeping in public. The Saturday prior had represented an intellectual turning point in my doctoral studies, as it was the day when I realized there was no getting around writing about The Bad Day. Earlier the week before, in my office sitting at the community table talking and working through the latest act of violence against our community perpetuated in the halls of the law school, one of the Learners turned and asked me how I was ever going to write my dissertation and come out the other side alive. I declared it would be fine because it was a love story, and each and every one of them looked at me like I had a curious understanding of love, indeed.

Sunday was a day filled with an uncontrolled deluge of writing. I had not written anything relating to my own work in a full year, having taken a leave of absence from my studies to take on full-time work within the Faculty. A fear of writing through anger and colonial violence had been paralyzing and I had long worried it would consume me. In a way that anyone who knows me will acknowledge was wildly authentic, I sought advice from an Auntie as to how I could harness the energy and write what needed to be said in a way that was safe - not academically safe, but heart-safe - by text message while watching my older children cling to the backboards at curling practice.

The advice she gave me felt more like permission, because there really was no other option available to me. She suggested that I should write from a place of love and think about who I was

writing for. Grounding the writing in the violence, the anger, the trauma and hurt, would destroy me. Write it as a love story, she said, and it can't eat you up.

“Loving can be angry. But. It has to forgive you.”¹⁰

It had always been a love story; and that she also understood it as such without a declaration like the one I had made to the Learners brought me comfort and strength. How to translate the narrative so that it could be understood to academic audiences was another matter entirely.

A follow up note that she must have known I needed arrived during the requisite mid-morning hot-chocolate break that drives the Little Rockers. She told me to write now and edit later.

"To this day,
I approach the blank page with the "spirit" in mind.
I believe that all good writing
– writing that reaches into the heart and soul –
comes from a sacred place,
our medicine place,
a place unmarred by convention or restriction,
a place we all carry within."¹¹

I began to write about The Bad Day, the beads, and the infinite reading list.¹² It came out sideways, fractured into pieces, timelines askew with loving anger and violent love. The thing was a beautiful mess. Birthing always is.

Somewhere in the middle of this horrible deluge of words, my community of Learners experienced several traumatic incidents in a very small window of time. An act of open hostility

¹⁰ Personal conversation, September 2019

¹¹ Gregory Scofield, *Thunder Through My Veins: A Memoir* (Toronto: Anchor Canada, 2009) at 107.

¹² As it turns out, while it is written, the story of the infinite reading list is not for public consumption.

towards the community as a whole occurred. A family ruptured. Learners from away began to feel the distance from kin in acute ways.

And then it was Wednesday.

In minute 71 and following of his concert, Jeremy Dutcher spoke about the wax cylinders that carried the voices of his ancestors in song. Gathered by anthropologists who visited his home community in 1907, he said, the fragile wax cylinders were held in “safekeeping” at the Canadian Museum of History in Gatineau, Quebec.¹³ He explained that these cylinders, as physical objects, are inherently fragile and that some were, in fact, far from safe in their keeping.

He told the story of his discovery of a broken cylinder as one of grief and coming to terms with the loss of a song that would forever be unheard. I felt an unexpected surge of emotion and the Indigenous stranger sitting to my left also stiffened in his seat. The artist appeared to show no anger at all, even in the telling of this story steeped in paternalistic, colonial violence and neglect. To be fair, he had presumably had more time to sit with the implications of the loss. It takes me a long time to reach a point of anger, but so violent was the story that feelings of rage started escaping through my tear ducts.

¹³ Sean Brocklehurst, “‘Deep Listening’: How Jeremy Dutcher Crafted His Fascinating Polaris Prize-Winning Album”, *CBC* (18 September 2018), online: <cbc.ca> [perma.cc/QL84-GPA7].

Dutcher continued that as he was flipping through the field notes of the anthropologist tasked with documenting the “vanishing” culture of his ancestors, he found some sheet music. Suddenly he had a melody and, with it, an opportunity to reimagine the music and create something new.

You see, he explained, when he put the pieces together, it was a love song. The nature of the song never changed, even when we couldn’t hear it.

“Even when it was broken, the pieces carried a love song... and doesn’t that sound like Canada?” he asked.

Dear Reader:
Please, sit down.
We need to talk.

STATEMENT OF RELATIONALITY

It is my intention to build a relationship between the readers of this story, myself as the storyteller and the ideas I present. This relationship needs to be formed in order for an understanding of an Indigenous research paradigm to develop. This paradigm must hold true to its principles of relationality and relational accountability. As I cannot know beforehand who will read this book, I cannot be sure of the relationships that readers might hold with me or the ideas I share. So, I will start from scratch just to make sure that we begin this book from a common ground. Finding this common ground is one of the struggles of cross-cultural communication. Yet it is necessary so that both sides in the communication process can begin to see or understand the same things.¹⁴

The work that follows cannot begin in a good way or be properly considered without the context of my kin and a statement of relationality to the work and the territory, on which I am a long-term visitor.

I will begin by reminding readers that I benefit daily from my long-term and continued presence as an uninvited visitor on unsundered Algonquin territories.

I am a Red River Métis, born and raised by my mother in the Homeland of the Métis Nation on Treaty 1 Territory. My mother was the first in her family to pursue post-secondary education, and she earned a Bachelor of Human Ecology from the University of Manitoba when I was a young teenager. As a child I frequently attended classes with my mother when childcare was unaffordable or otherwise inaccessible. Witnessing my mother's journey navigating post-secondary education as a mature student and single mother most certainly informs my

¹⁴ Shawn Wilson, *Research is Ceremony: Indigenous Research Methods* (Halifax: Fernwood Publishing, 2008) at 6.

understanding(s) of the academy and the roles and spaces occupied by Indigenous women within it.

In their lives, my maternal grandparents have spent time in various places throughout southern Manitoba. They have now settled in Winnipeg, a stone's throw from the shadow of The Forks. My grandmother is a Dumont, and her grandmother before her was a Carrière. Desjardins, Leclerc, and Dion are other surnames found in our family line(s). We are also descended of Betsy Assiniboine and her husband Edwin Denig. Denig made something of a name for himself as an amateur ethnographer, writing on what he observed of Indigenous communities on the prairie thanks, in part, to access afforded to him by his Indigenous wives.

Our (Québécois) ancestor Joseph Huppé married into the Nation and had recently welcomed his newborn daughter Thérèse when, as an agent of the Northwest Company, he fought at the Battle of Frog Plain in a moment widely recognized as a coalescing moment for the Nation. Some even suggest the Victory at Frog Plain represents the moment of political birth of the Métis Nation,¹⁵ but we will come back to that in time.

All of the foregoing means something on my home territory. We are nothing without our relationships to people and places.

My father is a second-generation Ukrainian Canadian from Saskatchewan. He frequently relocated for work, and he and his family lived in various cities across the prairie provinces during

¹⁵ Jean Teillet, *The Northwest is Our Mother* (Toronto: HarperCollins Canada, 2019) at 63.

my youth. Without the significant financial support offered by my father during my undergraduate studies, I would never have accessed the educational opportunities which underpin my life, career, and the work you are reading today.

I hold dual citizenship as a member of the Manitoba Métis Federation and as a citizen of Canada. I am fluent in the two official colonial languages of Canada but have only elementary proficiency in Michif. I benefit from significant white-skin privilege, and I acknowledge that I do not face the same barriers to accessing privileged spaces as Brown and Black-skinned Indigenous women.

I am mother to three young children, all born as visitors on Algonquin territory and holding a second-class of citizenship in the Métis Nation as members of the diasporic community.¹⁶ My oldest child actively works to reclaim his language engaging primarily with learning online, largely unable to engage with other youth of our Nation in person. My middle child is an artist.¹⁷ My second daughter joined us the morning after I handed in the last assignment for my final course in my doctoral program. All three will change the world.

I have been claimed as an Auntie by Zachary Thiffault and as a Cousin by Kelly Duquette, both proud youth citizens of the Métis Nation of Ontario. Dr. Tracey Lindberg is my cousinsisterfriendauntie. My children, in turn, claim my frequent co-conspirator in beads Tara

¹⁶ Not residing on our home territory, we cannot exercise hunting, harvesting, or gathering rights that are accessible to Métis citizens who reside in the Homeland.

¹⁷ Louis Riel, July 4, 1885: “My people will sleep for one hundred years, but when they awake, it will be the artists who give them their spirit back.” from “Louis Riel Quotes” (last visited 17 July 2020), online: *Manitoba Metis Federation* <mmf.mb.ca> [perma.cc/GCJ9-N3E4].

Rose McDonald as Auntie of their own. These are to name but a few important kinship ties in our lives.

My desire to pursue my post-secondary education in French required that I leave my home territory in 2002. I have consequently been a visitor on unceded Algonquin territories since my first year of study at the University of Ottawa where I earned a *Licence en Droit* in 2006, a Bachelor of Laws through the vehicle of the Common Law National Programme in 2007, and a Masters of Laws with a Specialization in Women's Studies in 2008. I chose to be called to the bar in Ontario in 2009, and I have served as a member of the Indigenous Advisory Group of the Law Society since 2018. My concerns about the accessibility of legal education and access to the legal profession by Indigenous peoples run deep and have manifested at various points in my career and along my academic pathway.

At the time of writing, I served as an advocate for Indigenous Learners within the Faculty of Law at the University of Ottawa, as advisor to the Dean of the Common Law Section, and as a part-time professor of Indigenous Legal Traditions.

I am a beadwork artist who began my beadwork journey following the birth of my third child. Beadwork is a community-grounded therapeutic practice in my life. It was the experiences of reclaiming and revitalizing traditional artforms and knowledge systems within my own family in adulthood, and the creation of therapeutic beadwork spaces in my life, that prompted me to consider Métis Beadwork Practice as a pedagogical tool with the power to heal from the colonial

violence experienced by Indigenous Learners in Faculties of Law. I firmly believe that beadwork can encourage changes in how each of us might think, teach, and speak about law.

All of the foregoing, including the order in which I pursued my academic credentials and the roles that I currently hold, has been informed by my lived experience as a voluntarily displaced Métis woman. It, in turn, informs my doctoral research.

COMMUNITIES TO WHOM I AM ACCOUNTABLE

An extension of the act of expressing a statement of relationality is the act of holding oneself accountable to their communities. Here, I have chosen to separate this act, of expressly stating the communities to whom I am accountable, from my general statements that set out kinship ties and my relationship(s) to the Homeland. I do this for a few reasons.

First, as a long-term visitor on Algonquin Territories with no immediate plans to return to the Homeland to live or raise my children, this question is more complicated than it would be had I chosen to pursue my academic credentials or complete my research on my own home territory. Despite having made my home in Ottawa for almost twenty years, I continue to struggle to find a balance between using my many positions of privilege, including white skin and bilingualism in the two colonial languages of Canada, to work to create space to amplify the voices of the people on whose territory I reside, while ensuring that my own voice as a Métis woman continues to resist ongoing colonial efforts to silence Indigenous voices within the national narrative.

The ethical context of living, working, and raising my children here, benefiting from educational, employment, and other location-specific opportunities while permanently visiting, is complex. The way in which I conceptualize my responsibility in the context of this work specifically is through the lens of “do no harm” – I consider my work from the perspective of ensuring that nothing in my thesis undermines Algonquin efforts in political, cultural, or spiritual spheres. I do my best. I frequently get it wrong.

The reality is that my work speaks less to the peoples and Nations who host me, and more to other communities including some comprised primarily of other long-term visitors. One unfortunate aspect of the academy, in my experience, is that while universities attract Learners and scholars from around the world, they often operate as islands of knowledge production largely divorced from the territories where they are located. For example, scholars may find their tenure home in Ontario, where a critical mass of other scholars working in their field are located, but conduct their research primarily in Manitoba, or Nunavut, or Europe.

Geography can, of course, matter a great deal. The University of Ottawa, for example, attracts Learners who are keen to access experiential learning opportunities that are exclusively available to post-secondary students in Canada’s capital, such as parliamentary page programs in the House of Commons and the Senate. If a student hopes to pursue a degree in veterinary medicine, however, they will be unable to do so on Algonquin Territory, and will need to relocate to pursue those credentials. Prospective law students face a similar reality, often relocating to attend law schools far removed from their home territories as a function of necessity. When Learners and scholars relocate to attend or work at a post-secondary institution, they often find community

amongst peers and colleagues, also visitors, in their respective programs and faculties. I think there is a term for this often artificially secluded existence but let us not digress too far down this rabbit hole.

I have many hopes for this work, including that it might prompt significant introspection that ultimately results in a culture shift within law schools as it relates to how we conceptualize learning and teaching within legal education. I fully acknowledge that this research does take on an ivory patina in that it speaks primarily to law Learners, scholars, and the academy. While I do hope that working towards valorizing Indigenous knowledge systems within the academy, speaking difficult truths about ongoing colonialism and racism, and reimagining legal education through the use of Indigenous Legal Pedagogies might improve the lived experience and push forward conversations about intellectual self-determination of Indigenous peoples generally, I fully acknowledge that my research does not specifically speak to my Algonquin hosts.

I hold myself specifically accountable to the Indigenous community of Learners and scholars at the University of Ottawa's Faculty of Law. This diasporic community, comprising individuals who identify as First Nations, Métis, and Inuit from across Turtle Island, represents my home away from home. As I do this work, I think of them.

As a citizen of the Manitoba Métis Federation, I also hold myself accountable to my Nation. I do not speak for my Nation, but I am a voice within it. Through my multiple positions of privilege, I seek to advance goals of self-determination, including intellectual self-determination, of the Métis Nation. Always.

At this moment, as we begin our work together, I feel as though I stand on the edge of a precipice. I am grounded, however, in the words of the late Patricia Monture-Angus: “Real change will come when the women stand up. When the women stand up, the men and the children will also soon be standing.”¹⁸ This is my most important sphere of accountability: this work seeks to serve the generations that follow, including the Trio of Tiny Métis.¹⁹ This is my primary responsibility as an Indigenous woman, mother, and Auntie.

¹⁸ Patricia Monture-Angus, *Journeying Forward: Dreaming of First Nations' Independence* (Halifax: Fernwood Publishing, 1999) at 15.

¹⁹ “The Trio of Tiny Métis” is a collective term of endearment used by my Learners for my children.

A FIRST RELATIONSHIP TO IDEAS: ESTABLISHING A COMMON VOCABULARY

It is not my intention to offer a vocabulary lesson, but I would be remiss if I did not provide a few notes on terminology before we begin the long walk we are about to take together. Indigenous peoples are not a homogenous monolith, and I err on the side of being as specific as possible when referring to specific individuals or Nations. For the sake of readability, I will use the word “Indigenous” throughout this work when providing over-arching background information or speaking of broader phenomena and theory, espousing Chelsea Vowel’s proffered context: “*Indigenous* tends to have international connotations, referring to Indigenous peoples throughout the world rather than being country-specific. It can be both a legal and colloquial term; like *Aboriginal*, it includes First Nations, Inuit, and Métis peoples.”²⁰

As a general rule, I will not paraphrase Indigenous Elders, knowledge keepers, or knowledge sharers. This necessarily results in the inclusion of direct quotes, often of considerable length, in the text. The language used by these educators varies by generation and region, and may include terms like NDN, Aboriginal, Native, Half Breed, and others. Generally speaking, the quoted text speaks for itself. Where appropriate or required, I will offer explanations or definitions.

So it begins.

²⁰ Chelsea Vowel, *Indigenous Writes: A Guide to First Nations, Métis & Inuit Issues in Canada* (Winnipeg: Highwater Press, 2016) at 10.

RESEARCH QUESTION

How can Métis Beadwork Practice be mobilized as an Indigenous Legal Pedagogy in legal education? More specifically, how can this culturally-informed practice be utilized as a teaching tool with a view to learning, sharing, and mobilizing Indigenous Legal Knowledge and decolonizing legal education?

Employing decolonized, Indigenous research methods, I will consider Métis Beadwork Practice through the analytical lens of Therapeutic Jurisprudence (TJ)²¹ and explore the possibility of using the practice as a tool for knowledge sharing and learning within the legal academy. I will consider possibilities for decolonizing legal education and for healing from the destructive nature of the experience of living and learning Canadian law by reframing the act of law learning through the use of Indigenous Legal Pedagogies.

²¹ David B Wexler, “An Introduction to Therapeutic Jurisprudence” in David B Wexler, ed, *Therapeutic Jurisprudence: The Law as a Therapeutic Agent* (Durham: Carolina Academic Press, 1990) at 4.

DECOLONIZING METHODOLOGY

*Eurocentric research has helped in the colonization and oppression of our people.*²²

*The Master's Tools Will Never Dismantle the Master's House.*²³

Māori scholar Dr. Linda Tuhiwai Smith disrupted the dominant academic research paradigms relating to research on and with Indigenous communities with the publication of the first edition of her book “Decolonizing Methodologies: Research and Indigenous Peoples” in 1999.²⁴

As Dr. Shawn Wilson, an Opaskwayak Cree scholar from Northern Manitoba,²⁵ explains, Dr. Linda Tuhiwai Smith’s work aided in shifting conversations away from the position of adapting or comparing research methods to those used in dominant academic research streams, and towards efforts to decolonize methodologies or “developing theory, practice, and methods that are uniquely Indigenous.”²⁶

The importance of this shift in conversation cannot be understated for Indigenous researchers. It is for this reason that I have chosen to begin my own reflections on methodology with the work of Dr. Linda Tuhiwai Smith.

²² *Wilson, supra* note 14 at 13.

²³ Audre Lorde, *Sister Outsider* (Berkeley: Crossing Press, 1984) at 110.

²⁴ *Wilson, supra* note 14 at 53.

²⁵ “Shawn Wilson” (last visited 4 September 2020), online: *Sage Publishing* <us.sagepub.com> [perma.cc/KR7D-EENS].

²⁶ *Wilson, supra* note 14 at 16.

Interpreting Edward Saïd, Dr. Linda Tuhiwai Smith reminds us that the theory of positional superiority has historically positioned Indigenous knowledge as existing for Europeans to discover, extract, appropriate, and distribute.²⁷ Colonies were viewed as laboratories in which Europeans could conduct their research at will,²⁸ with little or no regard for Indigenous peoples as human.

The theory of positional superiority persisted for centuries beyond the broad strokes painted by Dr. Linda Tuhiwai Smith and characterized by Dr. Shawn Wilson as the *Terra Nullius* Phase of “Aboriginal Research.”²⁹ The theory served to underpin “Aboriginal Research” through several waves and trends in academic research including the “Traditionalizing Phase” (1900 through 1940) wherein research often focused on proving or disproving Indigenous “humanness”³⁰ and the Assimilationist Phase that operated through the height of modern residential schools and the 1960s Scoop (1940-1970).³¹

During the “Early Aboriginal Research Phase” Indigenous scholars began to emerge in the academy, but found their work and knowledge subjugated (1970s-1990s).³² This subjugation and marginalization of the work of Indigenous scholars within the academy continues today, with Eurocentric attitudes emerging in various spheres of research and teaching, sometimes taking

²⁷ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd ed (Dunedin: Otago University Press, 2012) at 61.

²⁸ *Ibid* at 68.

²⁹ *Wilson, supra* note 14 at 45–46.

³⁰ *Ibid* at 46–48.

³¹ *Ibid* at 49–50.

³² *Ibid* at 50

the form of tokenism,³³ other times as challenges to “authenticity”³⁴ or rigour³⁵ of Indigenous researchers and their research, amongst others.

The period from 1990 through to the development of Dr. Linda Tuhiwai Smith’s ground-breaking work is referred to by Dr. Shawn Wilson as the “Recent Aboriginal Research Phase.” During this phase, Dr. Wilson explains, “Indigenous scholars began to assert their power” and articulate their own perspectives within the academy.³⁶

The work of Mohawk legal scholar Patricia Monture-Angus, the first Indigenous woman to teach at the University of Ottawa’s Faculty of Law in the late 1980s and who we will frequently return to as we learn together here, would likely be considered by Dr. Wilson as straddling the lines of the Early Aboriginal Research Phase and the moment of emergence of decolonized Indigenous research agendas in the Recent Aboriginal Research Phase.³⁷

Speaking of Canadian legal processes more generally, Professor Monture-Angus argued that visible and invisible oppression are an integral part of these systems that had a profound impact on the lives of Indigenous peoples.³⁸ Dr. Hadley Friedland and Dr. Val Napoleon, member of Saulteau First Nation and adopted member of the Gitanyow (Gitksan) House of Luuxhon, Ganada

³³ Sheila Cote-Meek, *Colonized Classrooms: Racism, Trauma and Resistance in Post-Secondary Education* (Halifax: Fernwood Publishing, 2014) at 84.

³⁴ *Ibid* at 79.

³⁵ Lana Ray, “Mshkikenh Ikwe Niin (I am Turtle Woman): The Transformative Role of Anishinaabe Women’s Knowledge in Graduate Research” (PhD, Trent University, 2015) at 120 [perma.cc/LAG3-26YE].

³⁶ *Wilson, supra* note 14 at 5.

³⁷ *Ibid* at 50–51.

³⁸ Patricia Monture-Angus, “Standing Against Canadian Law: Naming Omissions of Race, Culture, and Gender” (1998) 2 Yearbook NZ Jurisprudence 7 at 10.

(Frog) Clan,³⁹ agree when they state one of the most significant challenges in and to Indigenous legal research is the idea of Indigenous legal research occupying a space of “deep absence,” with the starting line being moved back as a consequence of colonialism.⁴⁰

Fortunately for the Indigenous scholars who are following Professor Monture-Angus, Dr. Napoleon, Dr. Wilson, and others, we now find ourselves in a time where Indigenous scholars have developed and continue to refine Indigenous Research Methods and pursue Indigenist research agendas. For example, Anishinaabe/Ojibway scholar and member of the Chippewa of the Nawash First Nation Dr. John Borrows, who currently holds a Canada Research Chair in Indigenous law at the University of Victoria’s Faculty of Law,⁴¹ encourages researchers to resist employing methodologies that “confine” Indigenous peoples to “essentialized, authentic categories and frameworks.”⁴²

In a statement that I often return to as I reflect on generating academic work in a space of multi-layered oppressions and colonization, Dr. Borrows contends that “the trick is to chart the course that is less oppressive in the short and long-term, while still leaving broad possibilities for engaging in alternative ways of acting in the real world when better options present themselves.”⁴³ For Dr. Linda Tuhiwai Smith, this requires a “re-centering” of Indigenous concerns,

³⁹ “Val Napoleon” (last visited 9 October 2020), online: *University of Victoria Law* <uvic.ca> [perma.cc/S445-GWJE].

⁴⁰ Hadley Friedland & Val Napoleon, “Gathering the Threads: Developing a Methodology for Researching and Rebuilding Indigenous Legal Traditions” (2015-2016) 1:1 *Lakehead LJ* 16 at 44.

⁴¹ “John Borrows” (last visited 4 September 2020), online: *University of Victoria Law* <uvic.ca> [perma.cc/8JPE-32M7].

⁴² John Borrows, *Freedom and Indigenous Constitutionalism Paperback* (Toronto: University of Toronto Press, 2016) at 128.

⁴³ *Ibid* at 179.

framing research from Indigenous perspectives and for Indigenous audiences.⁴⁴ It does not, for Dr. Smith, require a sum total rejection of all existing theories or research methods, but it does require a decolonization process.⁴⁵

Dr. Linda Tuhiwai Smith's assertion that "decolonization must offer a language of possibility, a way out of colonialism"⁴⁶ is also critical to the conversation surrounding Indigenous Research Methods. It is not enough to say the old ways are inadequate, we must also seek ways to continue moving forward as there remains much work to be done.

With their hybrid common law and Indigenous law case method, Drs. Friedland and Napoleon are effectively "offering a language of possibility."⁴⁷ Many of the approaches espoused by Friedland and Napoleon were adopted as part of an effort to decolonize existing methodologies and address issues of power imbalance and oppression, while still having the resultant work product remain accessible to their audience.⁴⁸ These approaches encompassed both concrete acts and intellectual frameworks and were designed to "supplement and not supplant" Indigenous legal traditions.⁴⁹ Drs. Friedland and Napoleon contend that even if the theory is imperfect, it is important to start somewhere in order to move the conversation ahead.⁵⁰

⁴⁴ *Smith, supra* note 27 at 41.

⁴⁵ *Ibid.*

⁴⁶ *Ibid* at 204.

⁴⁷ *Ibid.*

⁴⁸ Hadley Friedland & Val Napoleon, "An Inside Job: Engaging with Indigenous Legal Traditions Through Stories" (2016) 61 McGill LJ 725 at 746.

⁴⁹ *Friedland & Napoleon, supra* note 40 at 30.

⁵⁰ *Ibid* at 32.

I appreciate both Dr. Borrows position that it is appropriate to use the best tools we have available to us at any given moment and Drs. Friedland and Napoleon's position that even imperfect work will still have value,⁵¹ as they avoid research paralysis that I am all too familiar with. Unable to gain intellectual traction with existing theories and methods but unsure what might be a viable alternative, my own work has often stagnated as I found myself unable to move forward. My own work is often produced in fits and starts as I sit for days, months, and sometimes years before my relationship to an idea is sufficiently established for me to begin to interact with it in a healthy way.

Peers and colleagues have historically raised eyebrows when I speak of my slow research and writing processes being one of building relationships with ideas. I found the language to properly explain my methods when Dr. Shawn Wilson's 2008 work "Research Is Ceremony: Indigenous Research Methods"⁵² caught my eye in my colleague's office following teach-ins with Shawn's parents, Elder Stan and Peggy Wilson, and his sister Dr. Alex Wilson in the fall of 2019.

I had "carted" the slim volume in my virtual shopping cart many times before but had never physically held it in my hands before. I wish I could say I immediately began developing relationships with the ideas in this book that has proven critical to advancing my doctoral project from the moment I borrowed it from my colleague, but in fact it stayed on a shelf in my own office until 7pm on an evening in May 2020 when it was hastily shoved into a suitcase during a time-limited and monitored access to the space in the middle of a global pandemic. Unpacking

⁵¹ *Friedland & Napoleon, supra* note 40 at 32.

⁵² *Wilson, supra* note 14.

the suitcase after it sat in quarantine in my garage for fourteen days, I held the volume while surrounded by the “stuff” of a professional life that I no longer recognized, and something told me it was time to read it.

Perhaps it was the instability and stress of the times that encouraged me to sit with a piece insisting that academic pursuits were a form of ceremony. Perhaps it was a desperate need to connect with community and escape the deep physical and intellectual isolation experienced after months of “stay home” orders. Perhaps it was, most importantly, a way to connect with community in a safer way that wouldn’t ask so much of my careworn heart, as most of my kin were also struggling to exist in unprecedented times and with the fallout of self-isolation.

Whatever the reason, I sat down with Dr. Shawn Wilson’s work in May 2020, in the middle of a provincial state of emergency, at a moment when my beadwork was stranded on the Québec side of an artificial boundary through Algonquin territory being patrolled by armed officers enforcing an interprovincial travel ban. I had no idea that Dr. Wilson’s work would ultimately empower me with the language of possibility⁵³ necessary to allow me to move the conversation forward on my own work. It assisted me in contextualizing my own work and enabled me to reframe the thesis you are reading now.

⁵³ *Smith, supra* note 27 at 204.

Espousing an Indigenous Research Paradigm

*This is our epistemology. Thinking of the world around us as a web of connections and relationships. Nothing could be without being in relationship, without its context. Our systems of knowledge are built by and around and also form these relationships.*⁵⁴

Dr. Shawn Wilson's work was developed contemporaneously alongside the works of several of his Indigenous colleagues who are featured as a community of practice throughout the book. This allows the reader to read perspectives of several Indigenous scholars from different backgrounds while developing a relationship with Dr. Wilson's conceptualization of Indigenous Research Paradigms.

Dr. Wilson defines "research paradigm" as "a set of underlying beliefs that guide all of our actions as researchers,"⁵⁵ and explains that his conceptualization of an *Indigenous* Research Paradigm is one that is grounded in Indigenous worldview on all levels: ontology, epistemology, axiology, and methodology.⁵⁶

In short, Dr. Wilson conceptualizes an Indigenous Research Paradigm grounded in the understanding that "knowledge cannot be owned or discovered but is merely a set of relationships that may be given a visible form"⁵⁷ and the belief that "you have to build a relationship with an idea or with knowledge, just as you have to with anything or anyone else."⁵⁸

⁵⁴ *Wilson, supra* note 14 at 77.

⁵⁵ *Ibid* at 13.

⁵⁶ *Ibid* at 20–21.

⁵⁷ *Ibid* at 127.

⁵⁸ *Ibid* at 114.

The whole is grounded in an understanding that researchers are bound to principles of relational accountability – the research must be put into community context. To be a good relation in the context of conducting research requires researchers to engage with ideas in a spirit of respect,⁵⁹ reciprocity, and with a sense of responsibility.⁶⁰

Before ethically engaging in research grounded in Indigenous research methods, Dr. Cora Weber-Pillwax insists on checking one's heart – a process wherein the researcher “ensures that there are no negative or selfish motives for doing the research, because that could bring suffering upon everyone in the community. A “good heart” guarantees a good motive, and good motives benefit everyone involved.”⁶¹ The heart check is a moment to reflect on questions of respect, reciprocity, and responsibility: to build a healthy relationship, you must have good intentions and a good heart. In research as in life.

Espousing an Indigenous Research Paradigm requires a prioritization of the relationship to the ideas and making room for non-linear logic systems – Indigenous ways of knowing – in the analysis phase.⁶² Dr. Shawn Wilson argues in favour of synthesis over deconstruction:⁶³ To deconstruct relationships to ideas (data) into small parts for the purpose of analyzing them would

⁵⁹ *Ibid* at 58 (Specifically, being kind and courteous and listening with an open heart, not insisting that your own ideas prevail over others).

⁶⁰ *Ibid* at 58, 99.

⁶¹ *Ibid* at 60.

⁶² *Ibid* at 118.

⁶³ *Ibid* at 121.

have the effect of damaging the relationships.⁶⁴ It is therefore preferable to take a more holistic view of the research and apply what Dr. Wilson refers to as an “intuitive logic.”⁶⁵

In my own work I will approach my research from my own perspective as a Métis legal scholar who has been engaged in legal education from multiple angles for nearly two decades. Using the best tools available to me at this time, I will espouse an Indigenous Research Paradigm for the totality of my research, grounding my work in the act of developing relationships to ideas as I conceptualize Métis Beadwork Practice as both ceremony and Indigenous Legal Pedagogy.

Dear Reader:
You may wish to get a cup of Red Rose,
or a triple macchiato,
and maybe some Oreos, too.
We are going to be here a while.

A note on Autoethnography

*I want to be polite and present myself as decent.*⁶⁶

When I discuss the role that presenting personal experience will play in my doctoral research with friends and colleagues, I frequently hear the “joke” that I am planning on engaging in “Me-search” (a derogatory term for autoethnography). I have no objection to autoethnography as a research framework and I believe in its inherent value, in particular as it relates to centring the

⁶⁴ *Ibid* at 119.

⁶⁵ *Ibid* at 120.

⁶⁶ *Mailhot, supra* note 5 at 16.

experiences of those whose voices are often marginalized. However, I do not claim this categorization of my own work for the reasons described below.

Dr. Amani Hamdan describes autoethnography as a conceptual framework where a researcher engages in an autobiographical retrospective on their lived experience.⁶⁷ She adds, citing Chang,⁶⁸ that autoethnography “as a conceptual framework for research rests on four foundational assumptions: (1) culture is a group oriented concept by which self is always connected with others; (2) the reading and writing of self-narratives provides a window through which self and others can be examined and understood; (3) telling one’s story does not automatically result in the cultural understanding of self and others, which only grows out of in-depth cultural analysis and interpretation; and (4) autoethnography is an excellent instructional tool to help not only social scientists but also practitioners . . . gain profound understanding of self and others and function more effectively with others from diverse cultural backgrounds.”⁶⁹

In her seminal works often referred to as the “Flint Woman” series, Professor Patricia Monture-Angus examined the spaces she occupied as a Mohawk woman in academia, both as an undergraduate law Learner and later as a professor of law.⁷⁰ Dr. Tracey Lindberg, citizen of As’in’i’wa’chi Ni’yaw Nation Rocky Mountain Cree⁷¹ and the first Indigenous woman to earn a Doctorate of Laws from a Canadian university – a degree earned at the University of Ottawa –

⁶⁷ Amani Hamdan, “Autoethnography as a Genre of Qualitative Research: A Journey Inside Out” (2012) 11:5 Intl J Qualitative Methods 585 at 586.

⁶⁸ Heewon Chang, *Autoethnography as Methods* (Walnut Creek: Left Coast Press, 2008).

⁶⁹ Hamden, *supra* note 67 at 587.

⁷⁰ See Patricia Monture-Angus, *Thunder In My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood Publishing, 1995).

⁷¹ “Tracey Lindberg” (last visited 4 September 2020), online: *Tracey Lindberg* <traceylindberg.ca> [perma.cc/N46Z-X6YG].

also published perspectives on lived experience as an Indigenous law Learner early in her career.⁷² To those unfamiliar with Indigenous Research Methods, much of the early writing on the lived experience of Indigenous women operating in the legal academy and profession could be considered autoethnographic in nature.

I fully acknowledge that the four essential elements of autoethnography described by Dr. Amani Hamdan are all present in many works authored by Indigenous scholars, but I would suggest that the work of Indigenous scholars speaking in their own voices is *sui generis* in nature. It is, in my opinion, more properly described as mobilizing Indigenous Research Methods and espousing Indigenous Research Paradigms that centre Indigenous ways of knowing.

This distinction is not semantic. Rather, I believe that the work of Indigenous women scholars such as Goenpul scholar Dr. Aileen Moreton-Robinson in her presentation of “life writings,”⁷³ Algonquin Anishinaabe scholar Dr. Lynn Gehl in documenting her experience of land claims processes,⁷⁴ Professor Monture-Angus and countless others, is fundamentally distinct from autoethnography. The conceptual framework is transformed through the integration of *debwewin*,⁷⁵ acknowledging community commitments and needs, and unashamedly claiming space within the academy for the voices of Indigenous women while eschewing the artificial notion of neutral objectivity.

⁷² See Tracey Lindberg, “What Do You Call an Indian Woman with a Law Degree? Nine Aboriginal Women at the University of Saskatchewan College of Law Speak Out” (1997) 9 CJWL 301.

⁷³ Aileen Moreton-Robinson, *Talkin’ Up To the White Woman: Indigenous Women and Feminism* (St. Lucia: University of Queensland Press, 2000) at 1.

⁷⁴ See Lynn Gehl, *The Truth that Wampum Tells: My Debwewin on the Algonquin Land Claims Process* (Halifax and Winnipeg: Fernwood Publishing, 2014).

⁷⁵ We shall return to this.

Dr. Marie Battiste, Mi'kmaw educator from the Potlotek First Nation,⁷⁶ explains, “[o]bjectivity in the Eurocentric mind is thus given a higher value over subjectivity...this trust in objectivity is based on a supposed value-free framework which is thought necessary to the search for laws of regularity and eternal truths.”⁷⁷ This position is considered to be dishonest and disrespectful by many Indigenous scholars, including Dr. Eber Hampton of the Chickasaw Tribe of Oklahoma.⁷⁸ Dr. Hampton argues that:

Emotionless, passionless, abstract, intellectual, academic research is a goddamn lie, it does not exist. It is a lie to ourselves and a lie to other people. Humans – feeling, living, breathing, thinking humans – do research. When we try to cut ourselves off at the neck and pretend an objectivity that does not exist in the human world, we become dangerous, to ourselves first, and then to the people around us.⁷⁹

While many continue to insist on this notion of objectivity in research as required for academic rigour in scholarship, Indigenous researchers espousing an Indigenous Research Paradigm double down on the idea of honesty and transparency in standpoint, speaking in their own voices and centring worldview that exists in direct opposition to Eurocentric constructs of knowledge. Dr. Lana Ray, Anishinaabe scholar from Opwaaganasiniing (Red Rock Indian Band),⁸⁰ explains that, from her perspective, far from the negative connotations of terms such as “researcher’s bias,” explicitly expressing where one “stands in relation to creation is not a point of weakness but instead is a point of strength and validity.⁸¹ I understand this as an act of necessity for those who resist the intellectual bifurcation demanded of Indigenous scholars by the western academy as

⁷⁶ “Marie Battiste” (last visited 4 September 2020), online: *uOttawa* <uottawa.ca> [perma.cc/C7R5-FG93].

⁷⁷ *Battiste*, *supra* note 1 at 123.

⁷⁸ “Eber Hampton” (last visited 4 September 2020), online: *Indspire* <indspire.ca> [perma.cc/NJV9-EJQ7].

⁷⁹ *Wilson*, *supra* note 14 at 100–01.

⁸⁰ “Faculty Researchers: Dr. Manal Alzghoul” (last visited 4 September), online: *Lakehead University* <lakeheadu.ca> [perma.cc/NH49-WLEL].

⁸¹ *Ray*, *supra* note 35 at 35.

without it, relational accountability would be an impossibility. As Dr. Shawn Wilson so succinctly explains, “[i]t is not possible to be accountable to your relationships if you are pretending to be objective.”⁸²

In this refusal of Indigenous scholars to separate themselves from their work as colonial constructs of research demand,⁸³ in their unwillingness to disrespect their relationships by positioning their work from an artificially “objective” standpoint, these works move beyond autoethnography and become transformative acts of bravery and intellectual self-determination.

When considering the works of Professor Monture, Dr. Tracey Lindberg, and their contemporaries in relation to the teachings of Dr. Shawn Wilson, it is clear to me that these earliest works examining the place of Indigenous women within the legal academy and profession fall within the “Recent Aboriginal Research Phase” in the 1990s, when Indigenous scholars began to “assert their power” and espouse Indigenous and decolonized research methods.⁸⁴ In conducting research and writing in their own voices and on their own terms, these Indigenous women scholars reject notions of neutral objectivity in an act of intellectual self-determination. The work you engage with now represents my own humble efforts at intellectual self-determination by resisting silencing and erasure through the use of multiple voices, speaking from a place of *debwewin*, and incorporating extra-intellectual knowledge throughout.

⁸² *Wilson, supra* note 14 at 101.

⁸³ See e.g. *Cote-Meek, supra* note 33 at 12.

⁸⁴ *Wilson, supra* note 14 at 51.

ORIGINALITY: WALKING IN TWO WORLDS - ESPOUSING A HYBRID METHOD

Ray Barnhart and Oscar Kawagley in their writing talk about “complexity theory.” I mention this because it explains what I am doing here – and what most Indigenous scholars go through all of the time. According to Ray and Oscar, complexity theory provides an emergent system that melds the “formal” and Indigenous knowledge systems... As I understand the theory, one of the great strengths that Indigenous scholars bring with them is the ability to see and work within both the Indigenous and dominant worldviews. This becomes of great importance when working with dominant system academics, who are usually not bicultural.⁸⁵

A metaphor commonly used to describe the lived experience of Indigenous peoples pursuing post-secondary education is that of “walking in two worlds.”⁸⁶

Walking in two worlds speaks to the reality of needing to engage with two distinct worldviews and systems of understanding that are often largely incompatible. As explained in Dr. Shawn Wilson’s work, post-secondary education is often framed in ways that embolden students to espouse adversarial attitudes and is often structured to promote competition between students who are encouraged to find fault in the ideas and arguments of others – “within prescribed parameters,” of course.⁸⁷ At the same time, in many post-secondary education contexts, “Indigenous cultural knowledge is not perceived as extra-intellectual, but rather is denigrated.”⁸⁸

When I think of my own lived experience in legal education specifically, I would argue that this metaphor of walking in two worlds could be taken even further. Not only are Indigenous law

⁸⁵ *Wilson, supra* note 14 at 51.

⁸⁶ Jenn McGarrigle, “Walking in Two Worlds: Tips for Surviving University as an Indigenous Student” (last visited 14 June 2020), online (blog): *Victoria Island University* <viu.ca> [perma.cc/KX2T -Z2YA]. On the question of difficulties in learning and teaching in a context that is often irreconcilable with Indigenous worldviews, please see generally Dennis H McPherson, “Indian on the Lawn: How are Research Partnerships with Aboriginal Peoples Possible?”, *NetNewsLedger* (11 March 2013), online: <www.netnewsledger.com> [perma.cc/J6UZ-C8AS].

⁸⁷ *Wilson, supra* note 14 at 37.

⁸⁸ *Ibid* at 58.

Learners required to operate within post-secondary institutions, but also within the context of a professional program that, while not officially married to the legal profession, cannot be divorced from it. As we will discuss in a later chapter, the legal profession in Ontario isn't always a welcoming place for racialized licensees.⁸⁹

The divergence of worldviews that Indigenous lawyers and law Learners attempt to reconcile within themselves was aptly illustrated in the quiet moments that followed the first University of Ottawa convocation ceremony I ever attended as a member of the academic procession. My Learner Kelly Duquette, Métis from Atikokan, Ontario, gifted me a multilayered painting titled "*Debwewin.*"

⁸⁹ See e.g. "Working Together for Change: Strategies to Address Issues of Systemic Racism in the Legal Professions" (last visited 13 June 2020), online (pdf): *Law Society of Ontario* <[lawsocietyofontario.azureedge.net](http://lawsocietyofontario.azureedge.net/perma.cc/XN2G-ZNDZ)> [perma.cc/XN2G-ZNDZ].



Figure 1: Kelly Duquette's "Debwewin"⁹⁰

⁹⁰ Image used with permission from Kelly Duquette, "Debwewin" (last visited 8 September 2020), online: *Kelly Duquette* <kellyduquetteart.com> [perma.cc/4YM5-44K2].

Dr. Lynn Gehl describes *debwewin* as knowledge that has traditionally been denigrated as “women’s knowledge,”⁹¹ and defines *debwewin* as “a personal truth that is rooted in one’s heart.”⁹² *Debwewin* is not a word in my language but is one that often finds space in legal spheres as law and justice is conceptualized by many as the pursuit of truth.⁹³

A teaching from Garnet Angecomb, Anishinaabe originally from the Lac Seul First Nation,⁹⁴ accompanied the work gifted to me by Kelly: “The turtle represents truth. The turtle is the protector of the teachings of life. Truth is ingrained in all that we think, say and do. This is to speak about our lived experiences by being true to ourselves and others. With truth and by walking the path of the seven grandfather teachings, we will experience *menobimadiziwin* (the Good Life).”⁹⁵ On the bottom of the canvas Kelly included an inscription: “Thank you for always speaking our Truth.”

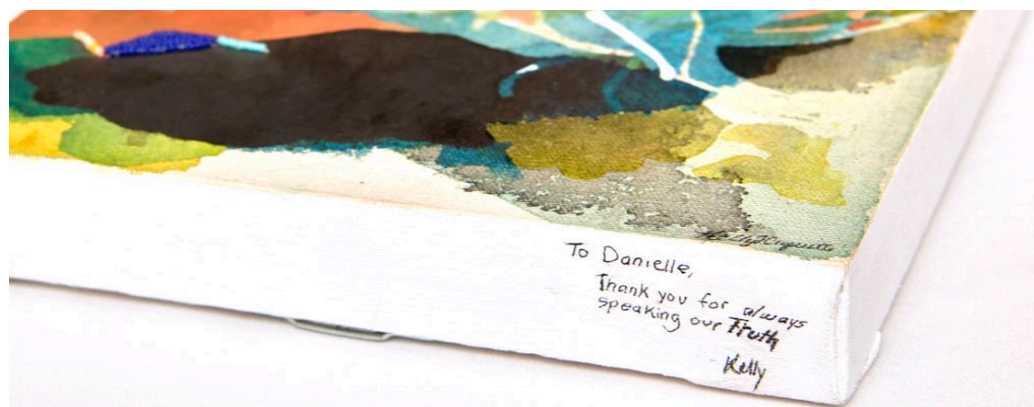


Figure 2:
Inscription

⁹¹ Muskrat Magazine, “What is Debwewin (Heart Knowledge)? Lynn Gehl’s Claiming Anishinaabe” (10 November 2017) at 00h:01m:00s online (video): *Youtube* <youtube.com> [perma.cc/KF29-5ZGW].

⁹² See Lynn Gehl, *Claiming Anishinaabe: Decolonizing the Human Spirit* (Regina: University of Regina Press, 2017) at 54.

⁹³ See Ontario, Debwewin Jury Review Implementation Committee, *Debwewin Jury Review Implementation Committee: Final Report*, (Alvin Fiddler & Irwin Glasberg). See also “Debwewin Summer Program” (last visited 19 August 2020) online: *University of Windsor* <uwindsor.ca> [perma.cc/A5AH-RPPK].

⁹⁴ “Garnet Angecomb” (last visited 4 September 2020), online: *Aboriginal Healing Foundation* <ahf.ca> [perma.cc/6MJE-AKB7].

⁹⁵ Garnet Angecomb & Kelly Duquette, “Seven Sacred Teachings: Love (Eagle): Saagi’iwewin” (last visited 14 June 2020), online: *Senator Yvonne Boyer* <senatorboyer.ca> [perma.cc/2HBS-NEAB].

The reality is that negotiating law school and my own participation in the legal profession has been, and continues to be, a significant attack on my heart knowledge, my *debwewin*. Determining how to walk in these two worlds, working to safeguard *debwewin* while successfully navigating the multi-layered structures of oppression and power operating within the legal academy with a view to ultimately successfully completing my PhD is something that I have been working to reconcile in my own heart and mind. I think often of the teachings shared by Dr. Gehl that “if you don’t have your heart, then half of your truth is missing”, and “you are potentially producing dangerous knowledge if you don’t have a heart-felt connection to what you are doing and what you are producing.”⁹⁶

If things were different and I was braver, or it wasn’t a global pandemic, or my children were older and not being homeschooled in moments borrowed from the endless videoconferences required by my full-time job, I would insist on the validity of Indigenous ways of knowing and push to have a piece of my beadwork steeped in law accepted by the Faculty for what it truly is – an extra-intellectual expression of Indigenous Legal Knowledge and worthy to fulfill the requirements of a PhD in Law. Instead, I am capitulating to the pressure of the academy.⁹⁷ For the purposes of this doctoral research that will consider Métis Beadwork Practice as an opportunity for Indigenous Legal Knowledge mobilization and as a tool for healing within, and decolonizing of, legal education, I am making an informed and pragmatic decision to present a

⁹⁶ *Supra* note 91.

⁹⁷ For the sake of clarity, I speak here of the academy in the most general sense. My advisor and committee members have been hugely supportive and were disappointed my decision to move forward without a beadwork component. We will return to this.

thesis that largely conforms to what Western academic spaces require of doctoral candidates in law.

I had originally proposed dividing my research into two distinct but related works with a view to creating a “pedagogical bridge” that might facilitate engagement with Indigenous ways of knowing.⁹⁸

Cognizant that in the legal academy the written word is prioritized over all other forms of knowledge production and dissemination,⁹⁹ the first part was to take the form of a “traditional” Western doctoral dissertation.

Arguing that this colonial framework and insistence on privileging the written word as a tool for measuring the value and scope of one’s contributions to the pursuit of knowledge devalues the contributions of Indigenous scholars, in particular Indigenous women, I proposed that a second part would follow the first. The intent of the second part was to properly mobilize legal heart knowledge.

The second part was to take the form of a piece of beadwork, specifically an honour shawl made with woolen trade cloth sourced from my home territory.¹⁰⁰ A modern take on a traditional Métis garment, this wearable art was to showcase both Métis law and Métis lived experience of

⁹⁸ *Friedland & Napoleon, supra* note 48 at 734.

⁹⁹ This was particularly evident when I gave a “job talk” at a Canadian law school. Following my presentation on Métis Beadwork Practice as an Indigenous Legal Pedagogy for Mobilizing Indigenous Law, more than one person asked some form of the following question: “So do you *just* bead? Or can you write, too?”

¹⁰⁰ Voluntarily displaced from my home territory, the choice to ground the work on fabric I sourced from home was an important pedagogical choice.

Canadian law and policy. Photographs of the work were to be integrated into an online presentation that would have allowed readers to virtually interact with teachings and law that accompanied the handwork. Mobilizing Indigenous Legal Knowledge through the use of beadwork as an Indigenous Legal Pedagogy in this second part of my thesis would have served to put theory studied and created in the first portion of the thesis into practice.

The handwork was to be created with the support of my community. In pre-Covid-19 times, this would have meant that I would have beaded the piece in physical proximity to my kin and community in beading circle. Given “stay home” orders and public health guidelines encouraging social distancing, I proposed that the creation of the handwork would be done while I live in a state of self-isolation in my home with my children. While slightly artificial, I planned to engage with my community online and over the telephone in virtual beading circles.

Per my habitual practices relating to artistic expression, my children were to be engaged in the beadwork process and given agency over how they are represented in the final work through input into pattern elements and bead choices.

These proposed collaborative processes were important, if slightly disconnected and artificial, as the knowledge I was seeking to mobilize is collectively held.¹⁰¹ The work should not have been created in isolation. Further, these collaborative processes were to serve as touchstones to ensure the research would be accessible to different audiences: “...you are not just gaining information from people, you’re sharing your information as well, you’re analyzing and you’re

¹⁰¹ *Wilson, supra* note 14 at 121.

building it as well. It's not just something that is out there, it's something that you are building for you."¹⁰²

The interactive online component was to showcase written pieces interpreting the work and mobilizing law in several forms: poetry, narrative, and academic-style pieces. The research supporting the handwork was to be grounded in written documents, publicly available video/online teachings and presentations, and teachings received at in-person conferences I attended prior to the emergence of Covid-19 including the Indigenous Bar Association National Conference *Nid-àdisòkàniminàna, Ni tibahigewiniminànan: Our stories, Our Laws* held in Ottawa, Ontario between October 30-November 2, 2019 and *Otipemisiwak: A National Conference on Métis Self-Government* held in Gatineau, Quebec on March 9-10, 2020.¹⁰³

I argued that handwork is already recognized as a valid legal research and knowledge mobilization tool at the University of Ottawa's Faculty of Law in the Common Law Section where I teach an upper year seminar in beadwork and the law in addition to supervising for-credit Directed Research Projects for undergraduate law Learners. Other courses at the Faculty, including those taught by Drs. Tracey Lindberg and Angela Cameron and Professors Aimée Craft and Vanessa Gruben have also seen beadwork submitted and evaluated for credit.

¹⁰² *Ibid* at 122.

¹⁰³ "Otipemisiwak: A National Conference on Métis Self-Government" (last visited 26 August 2020), online: *Métis Nation of Ontario* <metisnation.org> [perma.cc/HY5Y-QBBK].

I further argued that beadwork has formed part or the whole of a few masters-level theses in Indigenous Studies or Fine Arts at other universities,¹⁰⁴ and was proud to share that my doctoral work would be the first time that beadwork will form part of graduate-level research at the University of Ottawa and the first time a handwork component will form part of graduate-level legal research in Canada.

This second part of my doctoral work would have represented over 400 hours of handwork alone, in addition to the years of work invested to support the beadwork: thousands upon thousands of pages of reading, legal research and building relationships with ideas and Métis law, pattern development, and artistic expression. In fact, researching and sewing in parallel to the development of my thesis proposal, I went so far as to begin writing the pieces to accompany the handwork which I also completed.

It was a question from my seven-year-old daughter one beautiful summer afternoon that resulted in a significant change in plans. I was sitting in my backyard vaguely supervising playtime and reading a 400-page doctoral thesis by Dr. D’Arcy Vermette, a Métis legal scholar who graduated in 2012, the year my first child was born.¹⁰⁵ The piece was brilliant, and it challenged Canadian conceptualizations of one very specific aspect of Métis-Canadian legal relations that was one of many layers of law to be considered in beads on my beaded shawl. I was reading the

¹⁰⁴ See Hallie Brodie, “kiskinohawmatok: A Beadwork Thesis and Treaty Context at the U of A” (14 March 2019), online (blog): *The Quad* <blog.ualberta.ca> [perma.cc/L6QH-XF4A].

¹⁰⁵ D’Arcy G Vermette, “Beyond Doctrines of Dominance: Conceptualizing a Path to Legal Recognition and Affirmation of the Manitoba Métis Treaty” (Doctors of Law, University of Ottawa, 2012) [perma.cc/9NZK-8USD].

dissertation to inform my drafting of but one small piece of the writing that would be required to support a fulsome understanding of the law my handwork embodied.

Then two things happened. First, the author apologized to his children.¹⁰⁶ And then one of my daughters asked me to play. She asked why when I said I couldn't, and I responded that I needed to write two theses, because the one I really wanted to sew wouldn't be good enough on its own.

She responded that this didn't seem fair. It struck me, not for the first time but for the last that it really wasn't. It occurred to me for the first time that until progress is made towards indigenization and decolonization beyond inclusion policies, perhaps the academy has not yet earned the privilege of receiving my beadwork and hearing my *debwewin*. Further, considering the power imbalances and judgement of one's work product inherent in a doctoral program, the more I tried to explain the less certain I became that I wanted to submit my beadwork for evaluation within colonial frameworks that have been built on Eurocentric intellectual traditions and with a view to assimilate Indigenous peoples.¹⁰⁷

So, I jumped rope instead of reading the rest of the brilliant words of Dr. D'Arcy Vermette and reconsidered the sacrifices I had already made and those I would have to make in order to effectively produce two theses in pursuit of a single academic credential.

Yes, producing two distinct but related theses would have gone far beyond walking in two worlds in an attempt to be a good relation and build something that will outlive me. I had hoped to

¹⁰⁶ *Ibid.* ("For my children. I am sorry I couldn't do more. You deserve better.")

¹⁰⁷ *Battiste, supra* note 1 at 23 and following.

honour principles of relational accountability by attempting to level the academic playing field for the seven generations who will follow. But, from the mouths of children hidden in a request to jump rope: at what cost?

The work I am producing here is in service of those who follow, including my own children, but that sunny afternoon I came to the realization that, if I am to truly honour the countless sacrifices my family has made in supporting my efforts to obtain a PhD, I simply cannot ask them to shoulder any more than absolutely necessary. A single thesis was already asking a lot of the Trio of Tiny Métis.

I am cognizant, and was gently reminded by my girl that afternoon, of the multiple purposes of this research project, one of which is to graduate. I also understand the challenges other Indigenous scholars who attempted to shift understandings of Indigenous knowledge production have faced, and the resultant delays those scholars experienced in attempting to bring their studies to completion.¹⁰⁸

I am picking my battles. Therefore, to satisfy program requirements and honour the commitments and sacrifices already made by my children, the thesis you are reading now will largely take the form of a traditional Western dissertation. Documentary research will ground discussions of the historic and ongoing colonization of Indigenous peoples through education, the subjugation of Indigenous knowledge systems, and issues of systemic racism within the legal academy and profession. We will then consider the drivers of, and efforts towards,

¹⁰⁸ *Wilson, supra* note 14 at 26–27.

decolonization of post-secondary and legal education. After briefly surveying the historic and contemporary relationships between law and beads, we will explore the evolution and role of Métis Beadwork Practice as a cultural and artistic practice from the emergence of the Métis Nation through today. A reflection of my own lived experience of legal education, grounded in Indigenous ontology, axiology, and epistemology, will inform reflection on possibilities for decolonizing the teaching, learning, and sharing of Indigenous Legal Knowledge through the development of Indigenous Legal Pedagogies. Finally, I will position Métis Beadwork Practice as an Indigenous Legal Pedagogy that can be used for learning, sharing, and mobilizing Indigenous Legal Knowledge.

In a fair world, in a decolonized legal academy, my beadwork would be considered on its own merits as legal research. In pushing forward the evaluation of handwork in the context of a doctoral program, my hope was that future generations of Métis legal scholars would be free and empowered to assert the validity of our ways of knowing and will have work such as this respected and acknowledged for what it is - the extra-intellectual¹⁰⁹ creation and mobilization of Indigenous Legal Knowledge – without first having to produce legal research in written form that conforms to the requirements of dominant research structures to demonstrate that they have sufficiently engaged with Western rubrics.¹¹⁰ I believe that my work, even presented as a written dissertation, still holds this transformative potential.

¹⁰⁹ *Ibid* at 111.

¹¹⁰ *Ibid* at 43.

Instead of producing a second thesis – handwork accompanied by written works to assist the reader in unpacking the Indigenous Legal Knowledge it embodies – I will instead close my dissertation with a forward-looking chapter written in fotonovella form¹¹¹ to my children and Learners. This is a compromise I have yet to make my peace with, but my primary duty of care is owed to my children who, like all other children around the world, are currently living through unprecedented and terrifying times. My secondary sphere of accountability is to my Learners, who are also experiencing acute support needs as we all attempt to move forward into a new reality of online learning, often while sheltering in place in unsafe spaces. One thesis will have to be enough.

¹¹¹ Lois Elizabeth Edge, “My Grandmother’s Moccasins: Indigenous Women, Ways of Knowing and Indigenous Aesthetic of Beadwork” (PhD, University of Alberta, 2011) at 6 [perma.cc/Y5V6-C7SG].

Heart-Check: Naming This Dissertation

Let us return to the words of Dr. Cora Weber-Pillwax who stated that “[t]he source of the research project is the heart/mind of the researcher, and “checking your heart” is a critical element in the research process. The researcher ensures that there are no negative or selfish motives for doing the research, because that could bring suffering upon everyone in the community. A “good heart” guarantees a good motive, and good motives benefit everyone involved.”¹¹² This process of checking my heart is one that I engage/d with throughout the writing process, frequently returning to the act to ensure that the words were grounded in healthy motives.

The heart-check was particularly important when I struggled to name racism and structural violence within the academy. As Dr. Shelia Cote-Meek reminds us, “[t]he very act of naming and describing the extent of ongoing colonial violence is a political act of resistance.”¹¹³ Further, she posits that this exercise of “[n]aming racism and ongoing colonial practices can assist us in understanding some of the roots of why many of our people carry hurt, anger, shame and guilt.”¹¹⁴

bell hooks, meanwhile, describes the exercise of naming, when conducted in parallel with critique grounded in a “constructive focus on resolution,” to be one of not only resistance to continued

¹¹² *Wilson, supra* note 14 at 60.

¹¹³ *Cote-Meek, supra* note 33 at 44.

¹¹⁴ *Ibid* at 36.

subjugation through the “dominator culture,” but also one of hope.¹¹⁵ Resistance and hope, when accompanied by love, largely form the basis of my outlook on life.

In sitting with this work, one in which I ultimately name the layered colonial violence and anti-Indigenous racism that permeates the legal academy and profession, my heart-checks were made to ensure the act of writing remained one of resistance, hope, and love, and did not fall into patterns of hurt, shame, or anger. As my time with the work came to a close I took the act of titling the dissertation very seriously as I wanted to ensure the title reflected my heart, and not my hurt.

I don’t take opportunities to express resistance, hope, and love lightly, or for granted.

As I discussed in the first pages of this piece, and as in the case with many Métis people of my generation, I do not properly speak “my language.” I hold what is often described as “native proficiency” language skills in both colonial languages of French and English,¹¹⁶ but my Michif skills could be described as elementary level, at best.

To be clear, I acknowledge the significant privilege afforded to me by the decisions of my mother to ensure that I was fluently bilingual in two of Canada’s official languages, and I am grateful for her fight to ensure I would have access to French language instruction in Manitoba. Further, I have no shame in using either of the languages in my life or work. That does not mean that I do not sometimes feel anger about the languages I speak, in particular when I reflect on the colonial

¹¹⁵ *hooks*, *supra* note 2 at 14.

¹¹⁶ *Monture-Angus*, *supra* note 18 at 22.

desire to hasten the erasure of Indigenous languages and encourage language assimilation that was a core value at the root of many of Canada's Indigenous education policies.¹¹⁷ As Lee Maracle stated in response to a question put to her by a member of the public about whether or not she spoke "her language:" "This [English] is my language, I earned it, my people died for it, they bled for it, they grieved for the loss of their children for it – it is mine. Did you earn it the same way I did?" ...This is true for all Indigenous people. Our stories come from our two threads of history."¹¹⁸

For many Indigenous scholars, the revitalization of Indigenous language systems is paramount in conversations about decolonizing education in Canada.¹¹⁹ I do not have any expertise in this area; however, I do know that a dissertation proposing the development of Indigenous Legal Pedagogies to improve the relationship between the legal academy and Indigenous legal traditions would be woefully incomplete if it failed to mention the critical role of language revitalization.

Further, the revitalization of Indigenous languages is not only critical to the health of our communities,¹²⁰ but also to efforts to revitalize our laws and legal orders. As Sylvia McAdam

¹¹⁷ *Battiste*, *supra* note 1 at 56; See also Patricia D McGuire, "Gii Aanikoobijigan Mindimooyehn: Decolonizing Views of Anishinaabewé" in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 19 at 26.

¹¹⁸ Lee Maracle, *My Conversations with Canadians*, 1st ed, Essasis No 4 (Toronto: BookThug, 2017) at 145.

¹¹⁹ See *Battiste*, *supra* note 1 at 32–33, 68, 72 and 141; See also Angelina Weenie, "Askiy Kiskinwahama-ke-wina: Reclaiming Land-Based Pedagogies in the Academy" in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 1 at 3.

¹²⁰ See *Battiste*, *supra* note 1 at 68.

reminds us, law and language are inextricably linked, and language is a critical element of Indigenous nationhood.¹²¹

Unfortunately, languages have never been my strong suit. I often struggle with spelling and verb tenses in my two maternal languages. While I enjoy writing immensely, the practice represents a challenge for me. When we add the multi-layered barriers associated with reclaiming a language such as Michif, including my long-term displacement from my home territory where the critical mass of language keepers is located,¹²² the challenges of learning often feel insurmountable. As a family, we are committed to learning with the resources we have available to us, but the matter of reclaiming our language is further complicated by the multiplicity in dialects and even core language structure of various languages classified under the umbrella of “Michif.” As Darren Préfontaine explains:

The Métis were undoubtedly the most multilingual people in the history of Canada. Besides being well versed in a wide range of First Nations and European languages, they also invented Michif-Cree, a mixed-language based on Cree (and Saulteaux) verb structures and French nouns/noun phrases; Michif-French, a dialect of Canadian French which uses Algonquian syntax; and Bunjee, a Cree/Scots-Gaelic Creole. However, the Métis are best known for speaking Michif-Cree, which has long been studied by linguists since it has woven two unrelated languages into a coherent whole with a standardized syntax, verb structure, and noun phrases.¹²³

Our Métis ancestors and family members claim/ed belonging in French-Métis, Cree-Métis, and Half-Breed communities – including some who called the American plains home, and who spoke

¹²¹ See Saysewahum (Sylvia McAdam), *Nationhood Interrupted: Revitalizing Nēhiyaw Legal Systems* (Saskatoon: Purich, 2015) at 25.

¹²² See generally “Michif Language” (last visited 8 August 2020), online: *Louis Riel Institute* <louisreilnstitute.ca> [perma.cc/P4C8-NL7V] (According to the Louis Riel Institute, Michif is considered an endangered language, with fewer than 1000 living fluent speakers).

¹²³ Darren R Préfontaine, “Métis Culture and Language” (last visited 9 August 2020), online: *Indigenous Saskatchewan Encyclopedia* <teaching.usask.ca> [perma.cc/NP6A-U6TP].

other Indigenous languages entirely. With that in mind, which form of Michif to learn as a family is frequently the subject of dinner table debates.

As a result of these complicated calculations, and despite our familial attempts to reclaim this intellectual and community space, when faced with the need to name this dissertation my initial thought had been that it felt inauthentic to attempt to name my thesis in a language other than French or English.¹²⁴ My nephew challenged me on this, suggesting that the opportunity to reclaim and make space for Indigenous languages in legal education, even if only a few words, is not one I should forfeit.¹²⁵

Through my research, I began to notice that some Indigenous scholars have seized the opportunity to include Indigenous languages in the titles of their theses, even when language did not otherwise form a significant part of their research or work as presented to the academy.¹²⁶ I reflected on the importance of my understanding of *debwewin* to my doctoral work, and began to question how I could rationalize dismissing the use of Indigenous languages in my thesis title on the basis of inauthenticity when my research methods, work, and writing are thoroughly grounded in elements of Indigenous worldview that can often not be articulated in English or French.

¹²⁴ Cote-Meek, *supra* note 33 at 79 and following.

¹²⁵ Personal conversation, June 2020.

¹²⁶ See e.g. Adam James Patrick Gaudry, *Kaa-tipeyimishoyaahk – ‘We Are Those Who Own Ourselves’: A Political History of Métis Self-Determination in the North-West, 1830-1870* (PhD Dissertation, University of Victoria, 2014) [perma.cc/JQ9N-8LML] (His thesis relies heavily on the Métis worldview, as articulated specifically through two concepts that he exclusively describes using words in Michif throughout his English-language thesis: *Kaa-tipeyimishoyaahk* and *wahkohtowin*).

I turned to both Norman Fleury’s Heritage Michif Dictionary¹²⁷ and Vince Ahenakew’s Michif-Cree Dictionary¹²⁸ and attempted to perform a direct translation of the phrase I often use to describe my research and work: Law with Heart. I quickly ran into problems, as I am cognizant of the fact that word-for-word translations often leave heart and mind knowledge lost in translation.

Law with Heart represents my hope for legal education conceptualized as a place with space for Indigenous worldview(s), an understanding of the interconnectedness of all things and the value of Indigenous knowledge, and Debwewin – understandings of truth grounded in both mind and heart knowledge.

(Law With Heart: A thesis in one, two, nine words)

Law
 Law, Community
 Law, Community, Love
 Learning Law, Community, Love
 Teaching & Learning Law, Community, Love
 Teaching & Learning Law, Community, Love, & Beadwork
 Living, Teaching, & Learning Law, Community, Love, & Beadwork
 Living, Teaching, & Learning Law, Community, Love, & Beadwork Practice
 Decolonizing Legal Education, Developing Indigenous Legal Pedagogy, & Healing Community

In Michif, ideas can shift the form of words and there are frequently multiple words for a single idea, even within a single dialect. The Michif Heritage Dictionary, for example, includes three different words for “love” – shakihi, lamoor, and shakihiwayhk – and “love affair” can be

¹²⁷ Norman Fleury, “Heritage Michif Dictionary” (last visited 8 August 2020) online: *Métis Museum* <www.metismuseum.ca> [perma.cc/F948-3GAU].

¹²⁸ Vince Ahenakew, *Néhiyawêwin Mashinahikan: Michif/Cree Dictionary*, (Saskatoon: Gabriel Dumont Institute, 2009).

translated in two very different ways – en amoor and shakihitowuk.¹²⁹ I know not enough of the nuance of the language to know which to appropriately apply when, but I can be certain that “Law With Heart” likely requires translation of the idea that goes beyond a literal “oyasowêwin ahci mitîhi”¹³⁰ or “lway avek keur.”¹³¹

Without ready access to a language keeper, I reached out to kin and colleagues to seek guidance on who might be well positioned to have a conversation about naming my thesis. A few individuals were suggested to me around about the time I sat down to read the published works of Edwin Denig.

Edwin Denig was my grandfather, several generations removed. Born in Pennsylvania in 1812, Edwin joined the American Fur Company as a trader based in Fort Union in 1833. His second wife, Betsy Assiniboine, “sister of First to Fly, a prominent Assiniboine chief”¹³² was my many greats grandmother. Researchers have suggested that Edwin’s marriage to Betsy, while he remained married to his first wife - a Sioux woman known in English as Whirlwind Blanket¹³³ – “had aided him in his trade relations” with the Assiniboine.¹³⁴

In parallel to his career as a fur trader that ultimately culminated in partnership in the American Fur Company,¹³⁵ Edwin conducted long-term and broad-scale research on Indigenous

¹²⁹ *Fleury*, *supra* note 127.

¹³⁰ *Ahenakew*, *supra* note 128.

¹³¹ *Fleury*, *supra* note 127.

¹³² Edwin Thompson Denig, *Five Indian Tribes of the Upper Missouri*, ed by John C Ewers (Norman: University of Oklahoma Press, 1961) at 20.

¹³³ “Denig, Edwin Thompson: Biographical Sketch or Administrative History” (last visited 7 July 2020), online: *Archives of Manitoba* <pam.minisisinc.com> [perma.cc/2KC9-ZEC5].

¹³⁴ *Denig*, *supra* note 132 at 20.

¹³⁵ *Supra* note 133.

communities.¹³⁶ Later scholars would comment on his “scholarly research methods”¹³⁷ and his “high degree of objectivity”¹³⁸ in his research. One scholar further commented, “Denig was an objective observer of the Indian tribes of his acquaintance. He knew Indians well enough to view them as human beings rather than as the noble redskins or as dastardly savages.”¹³⁹

While this reading was equal parts
disturbing and fascinating,
those readers who have previously pursued graduate studies
might suggest that this deep dive
into family history
is likely indicative
of a need for a reorientation of reading priorities,
as
(at first glance)
it appears largely unrelated to my research question.

Dear Reader,
I ask you to remember
that my research is grounded
in an Indigenous research method
that recognizes that all things are interrelated.¹⁴⁰

I am sure some readers will find my fixation on Betsy Assiniboine curious given that she was not my only ancestor who has been largely erased from history. For example, one of my grandmothers, mother of my ancestor Baptiste Desjardins, is identified in her son’s affidavit of Scrip as “an Indian – Cree” with a comment from Baptiste “I do not know my mother’s name.”¹⁴¹ Reading Scrip affidavits of one’s ancestors is an unpleasant and devastating experience on many levels, and I often think of Baptiste’s mother in quiet moments sitting with my own children.

¹³⁶ *Denig, supra* note 132 at 30.

¹³⁷ *Ibid* at 21.

¹³⁸ *Ibid*.

¹³⁹ *Ibid* at 34.

¹⁴⁰ *Wilson, supra* note 14 at 56.

¹⁴¹ Scrip affidavit for Baptiste Desjardins, Claim No. 876, Scrip No. 6617 and 6624.

I believe that I am able to feel a particular concern for Betsy because of the prominence of Edwin in the historical record and the breadth and depth of documentation on his life, work, and research. We can read, in published works available for purchase on Indigo.ca, his ruminations on love where he states “Love – damn the word! – is a madness in the brain; a contagious disease, like smallpox or measles. I would rather have a dose of Epsom salts than to recall the folly of first love – pure love. If it is not stopped, that lunacy makes one ridiculous, childish, ashamed of himself.”¹⁴²

Or his description of berry consumption amongst the Sioux:

A few service berries are found, and very rarely a patch of wild strawberries is seen, but neither in quantity sufficient to be ranked among their means of support. The Indians are very fond of fruit of any kind and seem to prefer that grown and preserved in their own country to the dried fruit from the United States introduced by traders. Few can have any idea, without an actual observation, of the immense quantities of cherries and berries eaten by them in season.¹⁴³

His observations on beadwork that can be found in not one but two published monographs:

All kinds of garmenting are very neatly wrought both on skin and cloth with silk, beads, porcupine quills, feathers, and moose hair. Some portions of dress thus ornamented as neatly executed and look very gay and brilliant. Even the different colours of flowers are in this way represented with a great degree of correctness.¹⁴⁴

All Indians are excessively fond of display in ornaments. Indeed, as may have been gathered from the preceding, the value of their dresses depends entirely upon the nature and extent of these decorations. Small round beads of all colours are used in adorning every portion of their dress...¹⁴⁵

¹⁴² Denig, *supra* note 132 at 21.

¹⁴³ *Ibid* at 12.

¹⁴⁴ *Ibid* at 129.

¹⁴⁵ Edwin Thompson Denig, *The Assiniboine: Forty-Sixth Annual Report of the Bureau of American Ethnology to the Secretary of the Smithsonian Institution 1928-1929*, ed by Jeffrey NB Hewitt & David R Miller (Norman: University of Oklahoma Press, 2000) at 196.

Edwin himself remains silent on his wives and children in his work, and those who edited, researched, or introduced his work posthumously to the larger public referred to them only infrequently. When the women in Edwin's life are mentioned at all, it is with a disturbing carelessness and an undertone of cultural superiority. For example, John C. Ewers, an ethnographer and museum director of the Smithsonian Institute, commented on them thusly: "[a]lthough Denig had two Indian wives, he encouraged them to live as much like white women as was possible in the Indian country. Records of Denig's purchase from the company (preserved in the archives of the Missouri Historical Society in St. Louis) tell of this importation of fine clothes for his wives and children."¹⁴⁶

So unimportant were Indigenous women to the Western academic male gaze that my several greats grandmother Sara, daughter of Denig, is named "Sarah" and identified as the daughter of his first wife, and later as "Sara" and the daughter of his second wife within the same volume by various editors of his work.¹⁴⁷

I became quite preoccupied with thoughts of this one particular ancestor, wondering what her life must have been like, the circumstances of her marriage, and the context of her household. I have so many questions – why, for example, was there such a significant age gap, eight years, between her first and second child? Could it be the same as the reasons for the four years between my daughters? Was it Edwin or Betsy who objected to the Ohio heat and humidity, a

¹⁴⁶ *Denig, supra* note 132 at 21.

¹⁴⁷ *Denig, supra* note 145 at 11 and 26.

complaint that ultimately resulted in the family's relocation to Red River?¹⁴⁸ Everyone knows I hate heat and humidity. Who decided that the women of the household would wear imported clothes and not the beaded clothing favoured by others in the community as described by Edwin? Was this an exercise of agency and a fashion choice made by the women (I love dresses, beads, and Fluevogs), or was it, as suggested by Ewers, an attempt to accelerate the assimilation of multiple generations of my grandmothers into western society?

While I have access to many sources of Edwin Denig's thoughts and understandings of the world, my grandmother is largely erased from the record. This is sadly not uncommon of the time and place. In her research, Dr. Sherry Farrell Racette, a Manitoban of Métis heritage and a member of the Timiskaming First Nation (Quebec),¹⁴⁹ remarks on the invisibility of women in the historical narrative, in particular in the records of the Hudson's Bay and American Fur Company,¹⁵⁰ which form a significant part of the written historical record of Red River.

Dr. Racette further notes significant gaps in the visual record, as photographers were fixated on "capturing the untainted Aboriginal."¹⁵¹ This is unfortunate on several levels, especially when one considers that photographs can serve to safeguard memories of material culture acting as a "conduit of memory."¹⁵²

¹⁴⁸ *Supra* note 133 (As someone who struggles with both heat and humidity, I felt a kinship to my ancestors upon learning of family history-altering fact).

¹⁴⁹ "Saskatchewan Artist: Sherry Farrell Racette" (last visited 8 September 2020), online: *Saskatchewan NAC* <sknac.ca> [perma.cc/DD6J-S2MW].

¹⁵⁰ Sherry Farrell Racette, *Sewing Ourselves Together: Clothing, Decorative Arts and the Expression of Metis and Half Breed Identity* (PhD Dissertation, University of Manitoba, 2004) online: <mspace.lib.umanitoba.ca> [perma.cc/38KE-JL9R] at 16.

¹⁵¹ *Ibid.*

¹⁵² *Edge, supra* note 111 at 225.

Betsy, however, is not absent from the visual record. It was an indescribable experience, the first time I was confronted with her photo, accompanied by a dehumanizing, nameless caption, while minding my own business, reading a book.



Figure 3: Ha-kess-ka-weyah¹⁵³

Her photograph, as seen in books and articles, is often simply identified as “wife of Edwin Denig” or by an English translation of her Assiniboine name Ha-kess-ka-weyah – Deer Little Woman. She is dressed in distinctively western clothing.

But
Check out her earrings.
There you have it.
I come by it honestly.

¹⁵³ Denig, *supra* note 132 at 115.

I am fully aware that this dissertation is not one concerned with genealogical research, however relationships to ideas can develop in unexpected ways. As a prolific consumer of words, music, and art, I often have very little control over how and when these relationships form.¹⁵⁴ I am quite sure that my fixation on the lived experience of Betsy Assiniboine was born from what Dr. Shawn Wilson describes as a process of filtering that listeners engage in when they hear a story, wherein they “adapt the information to make it relevant and specific to their life.”¹⁵⁵ It is therefore unsurprising that, as I proceeded with research on developing Indigenous legal pedagogies to resist the subjugation of Indigenous women and Indigenous women’s knowledge within the academy, beading clusters of berries to mobilize Indigenous laws relating to conservation and harvest and struggling with notions of objectivity in research, reading the works of Denig and experiencing the erasure of Ha-kess-ka-weyah might resonate deeply.

Assiniboine, sometimes also known as Nakota, is a language that is often found written phonetically as it historically existed only as an oral tongue.¹⁵⁶ It is part of the Siouan language family, and today it is not only an endangered language but one with fewer than 150 fluent speakers, none of whom are under 40-years-old.¹⁵⁷

¹⁵⁴ This phenomenon is described by other Indigenous scholars who espouse Indigenous research paradigms. See *Gehl, supra* note 92 at 62.

¹⁵⁵ *Wilson, supra* note 14 at 32.

¹⁵⁶ See e.g. Charlene Bearhead, Wilson Bearhead & Chloe Bluebird Mustooch, *The Offering of Tobacco*, (Winnipeg/Treaty 1 Territory Homeland of the Métis Nation: Highwater Press, 2020).

¹⁵⁷ “Assiniboine” (last visited 16 August 2020), online: *Endangered Languages* <endangeredlanguages.com> [perma.cc/VFL5-3B4E].

Some quick online research resulted in a finding that the few language keepers caring for the language are largely clustered on Treaty 4 Territory.¹⁵⁸ As it turned out, my nephew – he who insisted on incorporating Indigenous language(s) into my thesis – was travelling in Treaty 6 on his way to Treaty 4 as I sat on Algonquin Territory ruminating on the erasure of my grandmother from her own life story and the possible, perhaps likely, subjugation of her knowledge within her own home. During one of our daily check-ins when I remarked that perhaps instead of a title in Michif I should consider seeking out a language keeper who might be able to assist me in honouring the subjugated knowledge of Mugoshin.¹⁵⁹ He agreed.

*I made best efforts to connect with a Nakota language keeper. My nephew offered, and I accepted, to seek an introduction to a language keeper on my behalf when he arrived in Treaty 4, following tobacco-offering protocols I could not myself honour given my confinement in self-isolation in Ontario during the Covid-19 pandemic. Despite our best efforts, Covid-19 and kilometres proved too many hurdles to properly connecting with a language keeper. In the meantime, some accidental research happened during bedtime stories. In a note at the end of *The Gifts of His People*, a Siha Tooskin book for young people, my son and I learned that:*

“The Nakota dialect used in this series is the Nakota language as taught to Wilson by his grandmother, Annie Bearhead, and used in Wabamun Lake First Nation. Wilson and Charlene have chosen to spell the Nakota words in this series phonetically as Nakota was never a written language. Any form of written Nakota language that currently exists has been developed in conjunction with linguists who use a Eurocentric construct.”¹⁶⁰

¹⁵⁸ Ian AL Getty, “Assiniboine” (last modified 4 March 2015), online: *The Canadian Encyclopedia* <thecanadianencyclopedia.ca> [perma.cc/F6P5-A5EA].

¹⁵⁹ “My Grandmother” in Nakota. See Charlene Bearhead, Wilson Bearhead & Chloe Bluebird Mustooch, *The Nature of Life* (Winnipeg- Treaty 1 Territory and homeland of the Métis Nation, 2020).

¹⁶⁰ Charlene Bearhead, Wilson Bearhead & Chloe Bluebird Mustooch, *The Gifts of His People* (Winnipeg- Treaty 1 Territory and homeland of the Métis Nation, 2020) at 23.

One of these (amateur) linguists who employed a Eurocentric construct? Edwin Denig. And one of the Assiniboine words he recorded? We-pah-zoo-kah – service berries.¹⁶¹ This fact I learned after I had beaded the honour shawl we will discuss at the end of this dissertation. Fear not, we will come back to this.

Words Edwin failed to translate? Law with Heart. To be fair to his memory, I am pretty sure this conceptualization of law would have exceeded even his wildest dreams, especially given how vehemently opposed to the idea of love he appears to have been.

Having gone around the we-pah-zoo-kah bush through months of pandemic self-isolation, I eventually arrived at the final page of the dissertation and returned to this process of titling the final work. It was a less than ideal day to be considering my work on the whole as, on the other side of the world, Dr. Linda Tuhawai Smith's contract at Waikato University was not renewed. This decision was apparently unrelated to a letter she and her colleagues, a group dubbed by journalists as "Racism Row," wrote to the central administration a few days before denouncing "casual and structural racism" faced by Māori scholars in the academy.¹⁶² Indigenous scholars around the world reeled at the news, and the hashtag #BecauseOfLindaTuhawaiSmith¹⁶³ began trending on Twitter as the global community shone a light on the impact of her scholarship on the lives and work of Indigenous researchers around the globe.

¹⁶¹ Denig, *supra* note 145 at 189.

¹⁶² Te Aniwa Hurihanganui, "Academics Demand Racism Within University of Waikato be Dealt With", *RNZ* (3 September 2020), online: <rnz.co.nz> [perma.cc/SB98-K87S]; Sharnae Hope, "Waikato University Conducts Independent Review After Racism Allegations", *Stuff* (4 September 2020), online: <stuff.co.nz> [perma.cc/CQ3W-TT6E]; Sharnae Hope, "Racism Row Professor Distances Job Loss From Racism Claims", *Stuff* (4 September 2020), online: <stuff.co.nz> [perma.cc/X7LH-FYHB].

¹⁶³ Dr C Bond, "The academy is a violent place and some of our mob in their excellence have forgotten how to be- relationally. #BecauseOfLindaTuhawaiSmith we are all learning how to do better as Indigenous scholars." (9 September 2020 at 22:16), online: *Twitter* <twitter.com/drcbond/status/13038799284_46767104>.

The hesitation and fear I had suppressed enough to draft this thesis suddenly resurfaced. This wave of social media from New Zealand reminded me of the very real possible consequences of speaking the truth of the lived experience of Indigenous people within the academy. Even if, as Dr. Smith later suggested, the failure of the University to renew her contract was unrelated to the act of naming racism in the academy,¹⁶⁴ it is important to note that Indigenous scholars around the world reacted in such a way that demonstrated an almost universal belief that it very well could have been. That is the reality for Indigenous scholars: we live with not only racism, but omnipresent feelings of precarity. We will return to this conversation later.

And yet, if you are reading this, I found the courage to speak truth. Love supersedes fear. I suppose I must have pulled from the well of strength generated by those scholars and ancestors and aunties who came before and dug deep in service of those who would follow. I believe the work you are reading ultimately represents a good first effort at repatriating a loving legal voice from the sound-proof box where colonialism stores the utterances of Indigenous women, serves to intellectually interrupt the status quo within the academy, and makes a strong case for the use of beadwork practice as a holistic approach to learning, teaching, and mobilizing law.

The title could have been “Métis Beadwork Practice: Teaching, Learning and Mobilizing Law Through Indigenous Legal Pedagogy,” or something about community and decolonial indigenization of the academy through beadwork. I could have integrated multiple languages and styles with the title “L’arrière-petite-fille de Ha-kess-ka-weyah met de l’avant Law, with Heart; Or, Developing Indigenous Legal Pedagogies to Mobilize and Engage Indigenous Legal

¹⁶⁴ Sharna Hope, “Racism Row Professor Distances Job Loss From Racism Claims”, *supra* note 162.

Knowledge,” but I wasn’t entirely satisfied with the grammatical finagling needed to do in order for the poetic sense to remain in the multi-lingual context.¹⁶⁵ Also, talk about a mouth full.

With love to my nephew and his wish that I integrate Michif and/or Assiniboine/Nakota into the title, I have decided that the work already has enough layers to contend with. The prospect of putting it out in the world is difficult enough as it is without the fear of doing an injustice to the language(s) in absence of a true connection with a language keeper. Repatriating the language will need to wait for another context – I have decided to keep the title simple.

Law with Heart.

Sorry, kiddo.

That’s it. That’s the title.¹⁶⁶

¹⁶⁵ This grammatical choice exists on the intellectual borderlands, and I did not want to live with a less than perfect balance of arrière-and-avant. See “Banque de dépannage linguistique” (last visited 4 September 2020), online: *Office Québécois de la langue française* <bdl.oqlf.qc.ca> [perma.cc/6EJC-67US].

¹⁶⁶ As you will have noticed on the title page, at the eleventh-hour colons and commas and keywords were added to ensure this piece of writing is more easily searchable and properly indexed. Even in the long title, I lead with Law With Heart.

Grounded in (o)debwewin: Layering Extra-Intellectual Knowledge

Truth is relational, reciprocal, and connected to memory, history, and story—which is not to say that truth is subjective. On the contrary, the multiplicity of Indigenous understandings of truth provide a comprehensive objectivity outside of Western conceptions of truth. In Anishnawbemowin, the word for truth is debwewin. Simpson (2011) explains that Elder Jim Dumont taught students and community members at Trent University that if you place the letter “o” in front of debwewin, “the first component of the word is ‘ode’ which means heart. The component ‘we’ means sound of. So (o)debwewin is ‘the sound of the heart’. My own community emphasizes that Anishnabe philosophy asks us to listen to our hearts and to listen to teachings, as truth can be found in both. I have been taught that truth is found in more than one direction, which I partially take to mean that there are different kinds of truth, all of which need to be respected. Truth, in all its forms, matters.¹⁶⁷

While the dissertation will be presented as a piece of “traditional” academic work, I remain cognizant of Dr. Shawn Wilson’s teaching that:

Because of our epistemology, our methods need to be extra-intellectual... that is, our data, our knowledge and relationships are based upon empirical data that are observable by the five senses, just like mainstream or linear research is, but it also includes others forms of non-empirical data. We are in a research ceremony. We gain knowledge and power from the universe around us in various ways.¹⁶⁸

I also remember that Dr. Darcy Lindberg, a “mixed-rooted” Plains Cree scholar currently based at the University of Alberta,¹⁶⁹ citing Dr. Hadley Friedland and Dr. John Burrows, reminds us that Cree law is sometimes described as “written on our hearts” and passed down through generations via stories, songs, and customs,¹⁷⁰ and that throughout his book Dr. Shawn Wilson

¹⁶⁷ Michelle Coupal, “Reconciliation Rainbows and the Promise of Education: Teaching Truth and Redress in Neocolonial Canada”, in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada*, (Toronto: Canadian Scholars, 2020) at 211.

¹⁶⁸ *Wilson*, *supra* note 14 at 111.

¹⁶⁹ “Darcy Lindberg” (last visited 4 September 2020), online: *University of Alberta* <[apps.ualberta.ca](https://apps.ualberta.ca/perma.cc/9KC5-7QH9)> [perma.cc/9KC5-7QH9].

¹⁷⁰ Darcy Lindberg, “Miyo Nêhiyâwiwin (Beautiful Creeness): Ceremonial Aesthetics and Nêhiyaw Legal Pedagogy” 16/17:1 51 *Indigenous LJ* at 53.

periodically inserts letters written to his children to re-centre both himself and the reader when the ideas he is engaging in become too abstract.¹⁷¹

In the absence of the novel inclusion of an interactive online art installation of legal beadwork in this doctoral work, I will weave extra-intellectual knowledge¹⁷² including music, photography, and other forms of artistic expression throughout the dissertation. This will allow for the work to remain grounded in my personal understanding of *debwewin* and to promote intergenerational knowledge transfer to my own children who each learn and understand in different ways.

Multiple Voices: Poetry and Other Stories

*...a poem, a song, a sculpture, a painting, a book, a piece of music, a fact or a deed, an occurrence, never have just one reason to explain them. An event, a fact, a deed of love or hatred, a poem, a book, are always found wrapped in thick webs, tapestries, frameworks, and touched by manifold whys, of which some are more proximate to the occurrence or creation – more visible as a why.*¹⁷³

The inclusion of extra-intellectual materials¹⁷⁴ such as music and poetry in academic writing is in fact a common strategy utilized by Indigenous scholars to centre subjugated knowledges and amplify Indigenous voices and ways of knowing. For example, Dr. Keri Cheechoo, Iskwew from the community of Long Lake #58 First Nation¹⁷⁵ who recently completed her doctorate in

¹⁷¹ *Wilson, supra* note 14 at 37.

¹⁷² *Ibid* at 111.

¹⁷³ *hooks, supra* note 2 at 110.

¹⁷⁴ *Wilson, supra* note 14 at 111.

¹⁷⁵ “Keri Cheechoo” (last visited 4 September 2020), online: *uOttawa* <education.uottawa.ca> [perma.cc/VQ9X-UC7R].

education at the University of Ottawa, employs the art-based methodology of “poetic inquiry” as an act of resistance,¹⁷⁶ punctuating her western academic writing with poetry.¹⁷⁷

“Why poetry?
It allows for a romance of the negative
that doesn’t foreclose
the possibility
of a non-cruel kind of optimism.”¹⁷⁸

Professor Monture-Angus’s poetry was published in academic journals as stand-alone work,¹⁷⁹ though I doubt most who read it fully understood the practice of producing art in parallel with western academic writing as a resistance practice.¹⁸⁰ Professor Monture-Angus explained:

When I struggle, I cannot for the life of me write a sentence or have a complete thought. I write jagged lines and call it a poem. On these days, I resist with my words. I speak power to take back our power, the power of Indigenous women. Other days I write dreams and hopes and prayers. They are the words of life and living. Words are my strength. They are my women’s power.¹⁸¹

Dr. Celeste Pedri-Spade, Anishinabekwe from northwestern Ontario (Lac Des Mille Lacs First Nation),¹⁸² also uses poetry within her academic writing as part of a knowledge mobilization

¹⁷⁶ “Keri Cheechoo” (2019), online: *Writer’s Festival* <writersfestival.org> [perma.cc/69VQ-Q8F5].

¹⁷⁷ See e.g. Keri Cheechoo, “Reframing Reconciliation: Turning Our Back or Turning Back?” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) at 247.

¹⁷⁸ *Belcourt*, *supra* note 3 at 95.

¹⁷⁹ Patricia Monture, “News Flash” (2008) 26:3–4 *Canadian Woman Studies* at 20; Patricia Monture, “White Man Tell Me” (2008) 26:3–4 *Canadian Woman Studies* at 104; Patricia Monture, “Kohkum Would Be Mad At Me” (2008) 26:3–4 *Canadian Woman Studies* at 199.

¹⁸⁰ Patricia Monture, “On Writing #1” (2008) 26:3–4 *Canadian Woman Studies* at 187.

¹⁸¹ Patricia A Monture, “Women’s Words: Power, Identity and Indigenous Sovereignty” in Patricia A Monture & Patricia D McGuire, eds, *First Voices: An Aboriginal Women’s Reader* (Toronto: Inanna Publications and Education Inc, 2009) at 116.

¹⁸² “Celeste Pedri” (last visited 4 September 2020), online: *Laurentian University* <laurentian.ca> [perma.cc/7FYR-QZPZ].

practice called *layering*.¹⁸³ Dr. Leanne Betasamosake Simpson, Michi Saagiig Nishnaabeg scholar, writer, artist, and member of Alderville First Nation,¹⁸⁴ describes layering in storytelling as “...an Indigenous mechanism for packaging and revealing knowledge in different contexts throughout a person’s life. This to me is how ceremonial knowledge works: one can experience it on literal, conceptual, metaphorical, emotional, physical, spiritual, and intellectual levels through time and space but only if one deeply engages with the work with an open heart.”¹⁸⁵

“I keep the ink close,
my pen a sling
though what words I hurl
my aim is misled.
I cry to God, *This is a sacrilege!*
He says, *Or perhaps a poem.*”¹⁸⁶

Layered meanings in stories have been used to pass knowledge of traditional and sacred times when the knowledge of Indigenous women was under attack in colonial legal systems.¹⁸⁷ Safeguarding a different kind of Indigenous knowledge, Dr. Pedri-Spade’s use of layering presents personal narrative, poetic works and western academic writing in an effort to “make visible the very challenging and messy business of negotiating what it means to ‘research’ my ‘inner’ story as it relates to the ‘outer’ social and cultural realities” she contends with.¹⁸⁸

¹⁸³ Celeste Pedri-Spade, “Centering the Lived Struggle of Indigenous Women in the Academy: A Performance Autoethnography” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 91 at 95.

¹⁸⁴ “Leanne Betasamosake Simpson” (last visited 4 September 2020), online: *Leanne Simpson* <leannesimpson.ca> [perma.cc/WV8Y-8CJ].

¹⁸⁵ Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance*, (Minneapolis: University of Minnesota Press, 2017) at 203.

¹⁸⁶ Gregory Scofield, *Louis: The Heretic Poems* (Gibsons: Nightwood Editions, 2011) at 56.

¹⁸⁷ Shalene Jobin, “Double Consciousness and Nêhiyawk (Cree) Perspectives: Reclaiming Indigenous Women’s Knowledge” in Nathalie Kermoal & Isabel Altamirano-Jiménez, eds, *Living on the Land: Indigenous Women’s Understanding of Place* (Edmonton: Athabasca University Press, 2016) 39 at 54–55.

¹⁸⁸ *Pedri-Spade, supra* note 183 at 95.

Others, like Alice Olsen Williams, mobilize subjugated knowledge through artistic practice such as quilting.¹⁸⁹ Williams layers meaning in her handwork that is accompanied by poetry to help Learners unpack the teachings in her art. Dr. Leanne Betasamosake Simpson notes that layering is a tool that allows artists to “weave multiple coded meanings...into their artistic practice and the art they produce.”¹⁹⁰ This conceptualization of layering in artistic spheres is critical to understanding Métis beadwork practice as a pedagogical tool for mobilizing Indigenous legal knowledge, and will ground the presentation of my own work later in this dissertation.

From Anthems to Jeremy Dutcher, and Other Love Songs

*...song is medicine for the spirit, heart, body, and mind.*¹⁹¹

*In thinking through the relations between law and sound it is important to attend to both the physical/material as well as the cultural aspects of a soundscape – that is, it is both a world and a culture constructed to make sense of that world.*¹⁹²

A researcher working in the Missouri River Region half a century after my ancestor penned his work on communities in the region¹⁹³ once commented” “The people of the Dakota Nation, and other tribes also, think of the various plant and animal species as having each their own songs. With these people music—song—is an expression of the soul and not a mere artistic exercise.”¹⁹⁴

¹⁸⁹ Patricia A Monture, “Women and Risk: Aboriginal Women, Colonialism and Correctional Practice” in Patricia A Monture & Patricia D McGuire, eds, *First Voices: An Aboriginal Women’s Reader* (Toronto: Inanna Publications and Education Inc, 2009) 414; See also Alice Williams, “The Spirit of My Quilts” (1989) 10:2 *Canadian Women Studies* 49.

¹⁹⁰ Simpson, *supra* note 185 at 202.

¹⁹¹ Gehl, *supra* note 92 at 119.

¹⁹² Ruth Buchanan & Jeffrey G Hewitt, “Encountering Settler Colonialism Through Legal Objects: A Painted Drum and Handwritten Treaty from Manitoulin Island” (2017) 68:3 *N Ir Leg Q* 291 at 294.

¹⁹³ Denig, *supra* note 132.

¹⁹⁴ United States of America, *Uses of Plants by the Indians of the Missouri River Region*, Annual Report 33, (Washington: Smithsonian Institution, Bureau of American Ethnology, 1919) at 143–54.

In the context of this quote, “these people” were Indigenous communities that engaged with the Missouri River watershed. Though my direct ancestors had relocated to Red River decades before, “these people” may have included my grandmother’s kin. So fierce was their connection to music that even a researcher who, from the tone of his research, clearly engaged in the subjugation of Indigenous knowledge, was able to recognize that songs played an important role in how communities engaged with all their relations. Like Raven, I look for the shiny bits.¹⁹⁵ During what was ultimately the dehumanizing experience of reading this report, this idea brought me great joy.

Some say the Métis Nation itself was born in a moment of musical expression as the Nation rallied around an “anthem, “La Chanson des Bois-Brulés” which described the Métis perspective of the Victory at Frog Plain.¹⁹⁶ Grounded in music, my Nation continues to hold to a strong bardic tradition. The Métis are hardly unique in this regard. Sto:lo writer Lee Maracle writes of her experience of music:

We had berry-picking songs, medicine gathering songs, paddle songs, clam-digging songs, grieving songs, and clan-naming songs, personal songs, love songs, war songs; in short, we have songs for every bit of work and life we engaged. We had healing songs, story songs, songs of gratitude, gambling/recreation songs, and personal songs of power. We had songs for clowning about and we had dances that went with them. Even our speaking was accompanied by elegant gestures that made our speaking artful. We held that art is “our way of life” and that “everything begins with a song.” We sang in our living rooms, legal, Western-based songs when they outlawed our original music. We sang in the hop fields and berry fields, songs of love, of hope, blues tunes of hardship, and every song was accompanied by dance and movements: we could not relinquish the belief that the body was made to move; in fact, “stasis”, the absence of movement, for us signals the beginning of death.¹⁹⁷

¹⁹⁵ This teaching has come to me in several ways at several different times over the course of my legal education. Following the most difficult classroom exchanges, the most challenging readings that dispute the humanness or the right to be of Indigenous peoples, there is always an Auntie or a cousin who reminds me that I don’t have to accept all the bits and pieces as they are presented to me, especially when they are garbage. It is okay, they have all said, to take what I need from the experiences and leave the rest behind. *Be like Raven: look for the shiny bits.*

¹⁹⁶ *Teillet, supra* note 15 at 66–67.

¹⁹⁷ *Maracle, supra* note 118 at 152–53.

Music, like poetry, has long been used as a tool of resistance to ensure that Indigenous knowledge and culture, deemed by the Canadian state to be illegally held, be transferred from generation to generation. Songs can, and do, embody, carry, and serve to transmit Indigenous knowledge¹⁹⁸ and laws.¹⁹⁹

It is hardly surprising given the importance of music in the lives of Indigenous peoples generally and my own Nation specifically, that more than poetry and other artforms I personally find moments of solace, community, context, and resistance in music. To be clear: while I feel the dancing in my bones²⁰⁰ like many citizens of my Nation, the paragraphs that follow speak of music generally and not of traditional songs that carry law, ceremonial teachings, or community memory.

Music figures so prominently in my professional life that I frequently receive notes from graduates to tell me they heard a song on the radio and all they could think of was “that one time in beading circle.”²⁰¹ I use music as a tool to build community, engaging Learners, colleagues, and alumni in collaborative playlist projects in sustain us during difficult moments.²⁰² I frequently use music as a teaching tool, introducing those around me to the fiddle masters of the Métis Nation, but also to works of other Indigenous artists who insist on their right to be understood as living,

¹⁹⁸ *Gehl*, *supra* note 92 at 48; *Battiste*, *supra* note 1 at 179.

¹⁹⁹ *Maracle*, *supra* note 118 at 152–53; *Lindberg*, *supra* note 170 at 59–60.

²⁰⁰ Wilfred Burton, Anne Patton & Sherry Farrell Racette, *Dancing in My Bones*, translated by Norman Fleury (Gabriel Dumont Institute, 2009).

²⁰¹ Personal correspondence, June 2020.

²⁰² Danielle Lussier, “Now with contributions from @ucommonlaw, @commonlawfr, and @DrCiviluOttawa students, alumni, staff, & faculty, I am thrilled to share our ever-expanding #LawWithHeartHibernatesForHealth playlist to help keep spirits up during the final weeks of term” (6 April 2020 at 19:49), online: *Twitter* <twitter.com/daniellelussier/status/1247310566428942340>.

breathing beings who are not frozen in time. If they had ears, the walls of our law school would have heard everything from the beats of electric pow-wow²⁰³ to incredible modern Christmas carols that incorporate throat singing.²⁰⁴

Public performances by Indigenous musicians count among some of the most important growth moments in my life as a lawyer and educator, allowing me to develop new relationships to ideas and build bridges between cognition and emotion – a critical act for Indigenous researchers.

I also use music to help navigate difficult physical spaces within the legal academy. For a want of adequate soundproofing between offices, there is a specific playlist that I use when a Learner requires privacy to make a disclosure. My wall neighbour has likely heard his fill of Taylor Swift, but the tunes are catchy, and mask sounds of crying well. When I walk through the law school, I frequently carry an iPad playing music out loud – this is a strategy I developed in response to not infrequent jarring experiences where my silent moccasins accidentally resulted in overhearing conversations about me, my role, and the place of Indigenous people in the Faculty. By travelling through the space with a soundtrack, people know I am coming. This mitigates the everyday violence of being.

²⁰³Del Cowie, “A Tribe Called Red” (2 September 2015), online: *The Canadian Encyclopedia* <thecanadianencyclopedia.ca> [perma.cc/ZB25-J8Z7].

²⁰⁴ Emma Tranter, “Throat-Singing Sisters PIQSIQ Reimagine Christmas Carols in New Album”, *Nunatsiaq News* (19 December 2019), online: <nunatsiaq.com> [perma.cc/T4VC-CWLZ].

Practical Challenges, and Choices

To exclude music from my dissertation would be inauthentic to who I am as an educator and researcher, but I am cognisant of the challenges posed by the inclusion of extra-intellectual knowledge in this work. To a non-indigenous reader accustomed to western academic writing, seeking to understand layered writing that incorporates both mind and heart knowledges presented in a non-linear can be overwhelming. In *Teaching Each Other: Nehinuw Concepts and Indigenous Pedagogies*, Dr. Linda Goulet and Swampy-Cree-Métis Professor Keith Goulet²⁰⁵ encourage readers approach their work that incorporates several writing styles with an open spirit, thinking “of this as moving among different cultures, negotiating differences in styles of communication as one does when negotiating the move from the Indigenous world to the world of the dominant culture and back again.”²⁰⁶

As discussed in previous sections, it is important that my thesis remain grounded in my personal understanding of *debwewin*, and critical that my thesis ultimately support intergenerational knowledge transfer to my own children who each learn and understand in different ways. As such, the practice of layering will find a place in my dissertation. Extra-intellectual knowledge including music, photography, and other forms of artistic expression will necessarily be woven throughout the work, but where the ideas expressed are grounded in violence, racism, and pain, this extra-intellectual knowledge is more properly described as *punctuating* the work. Like the

²⁰⁵ “Goulet, Keith (1946-)” (last visited 5 September 2020), online: *The Encyclopedia of Saskatchewan* <esask.uregina.ca> [perma.cc/24HG-4G4Z].

²⁰⁶ Linda M Goulet & Keith N Goulet, *Teaching Each Other: Nehinuw Concepts and Indigenous Pedagogies* (Vancouver: UBC Press, 2014) at 6.

Goulets, I implore readers to lean in to the act of building a relationship with my work²⁰⁷ and consider the work as a whole where ideas move in between different worlds and ways of knowing.

Where the extra-intellectual knowledge takes the form of written words, I will borrow the strategy espoused by Dr. Shawn Wilson throughout his book and utilize different fonts.²⁰⁸ Dr. Wilson's use of multiple fonts connoted shifts in target audiences and understandings of relationships, with one typeface employed to write academic theory and develop methodology, and another used to unpack his theoretical work and address his children as future readers. The writing styles used under each of the fonts was dramatically different, again speaking to the needs of the anticipated audience. When writing to his children, an ease, familiarity, and different rhythm – one of love – was palpable in the writing.

Choosing the fonts to employ in my dissertation to convey shifts in voice was unexpectedly challenging. My *cousinsisterfriendauntie*²⁰⁹ Dr. Tracey Lindberg once said that my thesis would require several fonts and suggested that I work with a graphic designer to make a “Danielle font” that I should use when writing about love.²¹⁰ With no budget to support such a partnership, and unwilling to ask an artist to provide free labour – even for this writing grounded in love and law

²⁰⁷ *Wilson, supra* note 14 at 114.

²⁰⁸ *Ibid* at 37.

²⁰⁹ Tracey Lindberg, “ThankyouSisterCousinFriendNiece” (16 June at 18:19), online: *Twitter* <twitter.com/TraceyLindberg/status/1273017309435539456>.

²¹⁰ Personal conversation, November 2019.

– I turned to the internet. A quick search led me down a deep rabbit hole of Canada’s Casual Commitment to Reconciliation: Typeface Edition.

First, I stumbled upon a CBC article discussing a “Canada150” font that seemed a promising prospect, despite my general weariness of most things relating to the 2017 event(s). Designed by an ex-patriot Canadian artist who now makes his home in Japan, the purportedly universal font supports English, French, and Indigenous languages.²¹¹ The aesthetic wasn’t anything I would personally write home about, but it was legible, and I did not abhor the idea of using a font that could support characters I might one day need if I ever properly reclaimed Michif.

Red flags went up when the author of the article noted that the font was available for use by “any individual or group that first goes through the federal government’s application process.”²¹² Further research revealed that the efforts to develop this inclusive, “unified”, font was done by the unpaid²¹³ artist alone, without consultation with any Indigenous communities or language keepers to determine needs or wants.²¹⁴ The inclusion of Indigenous alphabets was proposed by the artist of his own initiative, and he proceeded with the work in absence of official approvals on the advice of a federal bureaucrat.²¹⁵ It seems that Canada, as embodied by her representative

²¹¹ “New Canada 150 Typeface Supports English, French, Indigenous Languages”, *CBC News* (19 December 2015), online: <cbc.ca> [perma.cc/29MM-UBPS].

²¹² *Ibid*; See also “Canada1500” (last visited 26 July 2020), online: *Typodermic Fonts* <typodermicfonts.com> [perma.cc/ZPQ2-7T3K] (for an updated version of the font that has since entered the public domain, per designer Raymond Larabie).

²¹³ Katie Daubs, “Designers Fume Over Free Font for Canada’s 150th Birthday”, *The Star* (12 January 2016), online: <thestar.com> [perma.cc/5XLB-P5Y9].

²¹⁴ Heather White, “Can One Font Represent All of Canada?” (28 December 2016), online: <canadianart.ca> [perma.cc/B8VA-P4JJ].

²¹⁵ *Ibid*.

in this file, appeared to wish to maintain plausible deniability of the initiative on the basis that they did not want to be held responsible for errors or consultation.²¹⁶

Of course, when it was released to the public, the narrative was massaged. A representative of the Federal Government said the Canada150 font's Indigenous characters: "stands as a symbol of our commitment to inclusivity."²¹⁷ Six hours of reading down a virtual rabbit hole and a healthy dose of structural colonial violence later: this was clearly not the font for my project.

Discouraged, I made attempts to crowd-source font suggestions from my online community. This consultation ended abruptly when one lovely soul suggested *Comic Sans*.²¹⁸

Thoroughly discouraged by this "simple" task, of determining the visual aesthetic that would accompany readers through this journey, I took a time out. I simply couldn't get past this idea that a one man show worked, for free, to attempt to bring some visibility to Indigenous languages on the basis that he felt like it was the right thing to do.²¹⁹ The story of the font was but another illustration of how reconciliation appears to be moving forward in Canada: institutions are all for the aesthetics, as long as it doesn't cost them anything. And, as long as the work is done on the backs of underpaid or unpaid people who believe we can do better and refuse to accept the status quo.

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

²¹⁸ Danielle Lussier, "If no one would judge you, what font(s) would you use to write about love? Violence? Indifference? What font screams neutral objectivity?" (7 July 2020 at 18:31), online: *Twitter* <twitter.com/daniellelussier/status/1280630641667735552>.

²¹⁹ *White, supra* note 214.

And so, I did what any person, unable to sleep at three in the morning for frustration with colonialism, would do: I googled the font designer. As it turns out, Raymond Larabie's portfolio is stunning, and includes typefaces called "Negotiate," "Mitigate," "antihistory," "sui generis," and dozens of others. My curiosity was piqued by the possibilities of *sui generis*, a term with Latin roots meaning "unique"²²⁰ that is, of course, how the Supreme Court of Canada characterized the nature of Aboriginal rights in *Guerin v. R.*²²¹ and countless decisions that followed.²²² Anti-historical, meanwhile, is defined as "opposed to or disagreeing with history: in opposition to the accepted historical record."²²³ I fell in love with the work of this artist.

You may guess where this story is going next. It seemed a good a time as any to follow Dr. Tracey Lindberg's advice. If not in the middle of a global pandemic, on a Friday night from self-isolation on Algonquin Territory, when? I emailed the artist.

Raymond Larabie is a lovely, engaged soul who responded within a day to my stream of consciousness correspondence about doctoral studies and Indigenous research methods, how I tripped over his work in the middle of my research path, and my need for a loving font. Like an old friend, he gave generously of his time. Walking me through his work, he reflected on structural racism and colonialism, and gave me a peek behind the curtain of the art of typeface design. It turns out fonts are sometimes named using a Scrabble dictionary, chosen with a view

²²⁰ "Sui Generis" (last visited 1 August 2020), online: <merriam-webster.com> [perma.cc/K43F-3ENJ].

²²¹ *Guerin v The Queen*, [1984] 2 SCR 335, 13 DLR (4th) 321.

²²² For more information of the court's treatment of Sui generis Aboriginal rights in cases following *Guerin v The Queen*, see generally John Borrows & Leonard Rotman, "The Sui Generis Nature of Aboriginal Rights: Does it Make a Difference?" (1997) 36:1 Alta L Rev 9.

²²³ "Anti-historical" (last visited 8 August 2020), online: <merriam-webster.com> [perma.cc/7J7W-D2XZ].

to showcasing certain characters.²²⁴ I was smitten with the process, and briefly considered a career change.

Perhaps sensing that I was turning in circles, Raymond closed his first letter with an exercise in recentring: “Rather than thinking about font names for now, let's talk about voice. Imagine this is a book on tape. There's a person named "Negotiate" doing the bulk of the book with its soothing tones. There's Antihistory which has an edgy voice, maybe dealing with harder topics. Now you want to hire a third voice actor for your book on tape. What kind of voice should this person have? Let's figure that out and I'll see what I can come up with.”²²⁵

On Mon, Aug 24, 2020 at 3:17 AM Danielle Lussier-Meek wrote:

Hi Raymond,

This is a beautiful reflection, thank you for replying so quickly. There is a significant vulnerability writing one's life story in a website inquiry form!

I agree – we are struggling to find a place in the middle where we all have a common understanding of the past and present, and where we are able to have frank conversations about how to move forward and build healthy, sustainable, reciprocal relationships between communities and Nations. As you say, the trouble is that when something is systemic, it is more difficult for some to see. Since the Truth and Reconciliation Commission released their final report in 2015, there has been a lot of focus on relationships to and with Indigenous peoples in Canada, sometimes accompanied by significant resistance to changes in the status quo. It is a hopeful but also extremely challenging time.

This, really, grounds the work I am trying to do – build pedagogical bridges for teaching and learning law that value Indigenous law and ways of knowing. The bridge is the beadwork – the more ways you can build relationships to something – ideas, people – the stronger the relationship will be. In the case of understanding systemic racism in education or decolonizing law, we need to build as many bridges as we can as it is a long, hard road for many. The beadwork practice also represents an opportunity for community healing while learning – getting on the same page and walking together in the same direction.

²²⁴ Personal correspondence with Raymond Larabie, 23 August 2020.

²²⁵ *Ibid.*

Law with Heart, the third narrator, is most certainly a woman. The knowledge of Indigenous women has long been subjugated, and our voices largely erased when Eurocentric models of knowledge production are espoused. She speaks from a place of dignity and respect for all involved, but the truths she speaks carry power (that is the decolonial love). It is beautiful and gentle and she will meet you where you are in your journey to walk beside you, but at the same time she is tired of waiting – if that make sense. There is a concept I come back to a lot in my work – it is called debwewin. There is no proper English or French translation for the term, but debwewin is a conceptualization of “truth,” a truth that is necessarily understood through both heart-knowledge and mind-knowledge. One’s personal truth exists where the two meet, because you cannot separate the heart from the mind.

The goal of the third part of the thesis, the third voice we are hoping to capture, is to create an ethical space within law schools where debwewin can be expressed, heard, and thoughtfully reflected upon to eventually be understood. Meeting in the middle, between Indigenous legal orders and Canadian Law. As a Métis pedagogy, walking between two worlds. Writing the thesis in a combination of both western paradigms and Indigenist research agendas... Law with Heart serves as a bridge in all these spaces in between.

And our narrator is absolutely from Red River.

Did this get too meta??

Oh, and also: my grandmothers are both in their eighties and I would like them to be able to read my work. So, Law with Heart speaks clearly... she is not Mistral or Lucida Blackletter. 😊

Thank you again for writing. I am filled with gratitude for your thoughtful contemplation and reply.

I look forward to hearing from you soon –

Danielle²²⁶

Raymond offered me two options in his reply. The first: Remisses.

“I’ve thought about it for a few days and I think Remissis works. The name means relaxed and the special feature is *near horizontals*. For the last 40 years, typefaces have been designed to avoid very low horizontals...they caused havoc with screens and printers so they’d get flattened to zero degrees or exaggerated. But nowadays, screen and print resolution is high enough that it can usually handle it. The *semi-casual* term is something I

²²⁶ Personal correspondence with Raymond Larabie, 24 August 2020.

made up. It's not a wacky, cartoon font but it has a slightly chill nature to it. The letterforms are simple like something an old-fashioned sign painter might do."²²⁷

Raymond was offering me a relaxed font with near horizontals to build my bridges between ideas.

Fitting.

The second font was offered with a simple explanation. "It's got a bit of a school-teacher feeling but not overly so. It has a similar casual-but-not-too-casual feeling that could imply warmth."²²⁸

The second option was called "Cardigan."

A few weeks earlier, Taylor Swift had dropped a surprise record on the world. *Folklore* represented a departure from Swift's habitual auto-ethnographically driven work²²⁹ and had become something of the soundtrack of the long pandemic summer for many. When I gifted a copy to a friend, I told them that I felt a particular connection to this piece of art, featuring songs showcasing stories of the former owners of Swift's home and others unpacking difficult relationships,²³⁰ because it felt like Swift's self-isolation experience immortalized in lyrical form. Taylor Swift, sitting around her house in an old cardigan she found while cleaning under her bed, compulsively researching the people who used to live in her house and trying to generate art out of it while managing her terror at the state of the world? That spoke to me. Also, the cardigan makes appearances in more than one song.

²²⁷ Personal correspondence with Raymond Larabie, 26 August 2020.

²²⁸ *Ibid.*

²²⁹ Sam Sodomsky, "5 Takeaways From Taylor Swift's New Album, *Folklore*", *Pitchfork* (24 July 2020), online: <pitchfork.com> [perma.cc/HWQ2-CQ24].

²³⁰ Emily Yahr, "The Story Behind 'The Last Great American Dynasty,' The Most Telling Song on Taylor Swift's Surprise Album", *The Washington Post* (24 July 2020), online: <washingtonpost.com> [perma.cc/S94H-BS3P].

Despite Raymond's encouragement to look beyond the name of the font and to focus on the composition of the art, there was no question "Cardigan," for layered reasons of technical composition, aesthetic, and temporal context, would be the font for the third voice.

Therefore, Raymond's "Negotiate"²³¹ typeface will be used for the lion's share of this work, reflecting both the positioning of the work, occupying spaces in two worlds, and the unfortunate need to negotiate a space for Indigenous ways of knowing within the academy.

"Antihistory"²³² will be used when writing about personal experiences grounded in violence and racism, individual and institutional, and when writing of subjugated Indigenous (women's) knowledge.

Portions of the dissertation discussing Métis Beadwork Practice as an Indigenous Legal Pedagogy will be presented in "Cardigan."²³³ Cardigan, our third narrator, will also speak to my children at the close of the work.

As a final note on style and visual presentation, I note that extra-intellectual knowledge is right. Justified.

Dear Reader:

remember that what follows
is an act of resistance
hope
&
love

²³¹ "Negotiate" (last visited 23 July 2020), online: *Typodermic Fonts* <typodermicfonts.com> [perma.cc/NW72-FCEL].

²³² "Antihistory" (last visited 23 July 2020), online: *Typodermic Fonts* <typodermicfonts.com> [perma.cc/T7KW-2KJF].

²³³ "Cardigan" (last visited 23 July 2020), online: *Typodermic Fonts* <typodermicfonts.com> [perma.cc/JCY2-YV27].

CONTEXT: LEGAL EDUCATION AND THE STATE OF THE PROFESSION

*The key in designing meaningful education in Canada must begin with confronting the hidden standards of racism, colonialism, and cultural and linguistic imperialism in the modern curriculum and see the theoretical incoherence with a modern theory of society.*²³⁴

In this section, I will discuss Forced Assimilative Educational Frameworks employed within Canada as a tool of the colonial project, the modern lived experience of Indigenous Learners in post-secondary education in Canada, and the continued subjugation of Indigenous knowledge and knowledge systems through and within western academic frameworks and knowledge systems. This discussion will serve to inform the development of Métis Beadwork Practice mobilized as an Indigenous Legal Pedagogy grounded in therapeutic intent and practice.

Indigenous Education as a Colonial Project

*There is no question that learning is violent.*²³⁵

As Dr. Sheila Cote-Meek, an Anishinaabe scholar from the Teme-Augama Anishnabai,²³⁶ explains that through colonialism, the “racialized hierarchy that emerges situates Indigenous peoples as the very bottom of the hierarchy.”²³⁷ It is an incontrovertible fact that Canadian law has long supported the structures that underpinned implementation of assimilative policies within Indigenous education in Canada. The *Indian Act of 1876*,²³⁸ which incorporated the *Gradual*

²³⁴ *Battiste*, *supra* note 1 at 29.

²³⁵ *McPherson*, *supra* note 86.

²³⁶ “Announcement of the Appointment of the Inaugural Vice-President, Equity, People and Culture”, *yFile York University* (12 June 2019), online: <yfile.news.yorku.ca> [perma.cc/9HJU-QTY9].

²³⁷ *Cote-Meek*, *supra* note 33 at 20.

²³⁸ *Indian Act*, RSC 1985, c I-5.

*Civilization Act (1857)*²³⁹ and the *Gradual Enfranchisement Act (1869)*,²⁴⁰ for example, served to legalize and legitimize the work of the Residential School system.

Canada's residential school system for Aboriginal children was an education system in name only for much of its existence. These residential schools were created for the purpose of separating Aboriginal children from their families, in order to minimize and weaken family ties and cultural linkages, and to indoctrinate children into a new culture—the culture of the legally dominant Euro-Christian Canadian society, led by Canada's first prime minister, Sir John A. Macdonald.²⁴¹

Dr. Marie Battiste employs the terminology of “Forced Assimilative Education” to describe Western education frameworks that, empowered by Federal and Provincial legislation and policy, sought to assimilate Indigenous children and youth into the dominant culture through the subjugation of Indigenous culture, language, and knowledge.²⁴² I agree with this characterization of Indigenous education policy in Canada and will adopt this terminology throughout this work.

To be quite clear: I do not pretend that all Indigenous Learners have had the same lived experience of education, any more than one could pretend that Indigenous peoples can be considered some monolithic whole.²⁴³ I do contend, however, and many Indigenous scholars I will discuss herein seem to agree, that certain elements of the ways in which many Indigenous people experience education, and the ways in which institutions treat Indigenous knowledge and

²³⁹ *Gradual Civilization Act*, RSC 1857 (20 Vict) (3rd sess), No 58.

²⁴⁰ *Gradual Enfranchisement Act*, RSC 1869 (32-33 Vict), c 6.

²⁴¹ Truth and Reconciliation Commission, “Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada” (2015) at v, online (pdf): *Truth and Reconciliation Commission* <trc.ca> [perma.cc/V22-VTPJ].

²⁴² Battiste, *supra* note 1 at 23 and following.

²⁴³ Lindberg, *supra* note 72 at 305.

Learners, seem to repeat across time and geographic divides and are driven by Eurocentric understandings of knowledge and learning.

My intention in this section is to provide an overview of *some* of the long-term and intergenerational implications that flow from the use of education as a tool of colonization and assimilation of Indigenous peoples. While this exercise cannot possibly contemplate all barriers and violence faced by Indigenous Learners and scholars, it is important that I take a moment to canvas some of the challenges I hope to address in the development of Indigenous Legal Pedagogy, and some of the drivers behind my focus on therapeutic approaches to teaching and learning law. I cannot consider remedies to barriers without first outlining the history of Indigenous education policy in Canada.

Broad Strokes: An Impressionist Rendering of the History of Indigenous Education Policy in Canada

Residential schools were described by survivor Doris Young as “a war on Aboriginal children,”²⁴⁴ one waged with a view to “eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada.”²⁴⁵

Eighty-six years after Canada’s first industrial school opened in Battleford, Saskatchewan in 1883, the Federal Government doubled-down on this policy of assimilative education in the 1969

²⁴⁴ *Supra* note 241 at 145.

²⁴⁵ Canada, Truth and Reconciliation Commission, *The Final Report of the Truth and Reconciliation Commission of Canada*, vol 1 (Montreal: McGill-Queen’s University Press, 2015) at 3.

Statement of the Government of Canada on Indian Policy.²⁴⁶ Commonly referred to as the “White Paper,” this statement not only confirmed Canada’s intention to extinguish collective Aboriginal rights in favour of individual rights with the “integration of First Nations into mainstream society,”²⁴⁷ but also to download responsibility for First Nations education to the provinces,²⁴⁸ amongst other major legislative and policy changes including the termination of all pre-existing Treaty agreements.²⁴⁹

The White Paper would ultimately represent the “last official policy document which expressly provided that education would be advanced as a primary tool of the cultural assimilation of Aboriginal peoples.”²⁵⁰ While the White Paper was officially withdrawn by the Federal Government in 1970,²⁵¹ its issuance prompted significant backlash from Indigenous communities across Canada. Responses from various communities, Nations, and groups were swift, including the “Red Paper on Native Development”²⁵² written by Harold Cardinal on behalf of the Indian Chiefs of Alberta later in 1969,²⁵³ and the *Citizens Plus* statement, also from the Indian Chiefs of Alberta, issued in June 1970.²⁵⁴

²⁴⁶ *Statement of the Government of Canada on Indian Policy, 1969*, 28-1 (25 June 1969) (Lucien Lamoureux).

²⁴⁷ *Cote-Meek*, *supra* note 33 at 55.

²⁴⁸ *Battiste*, *supra* note 1 at 60–61.

²⁴⁹ *Supra* note 246 at 9.

²⁵⁰ Patricia Monture-Angus, “Now That the Door is Open: Aboriginal Peoples and the Law School Experience” in Patricia Monture-Angus, ed, *Thunder In My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood Publishing, 1995) 77 at 93.

²⁵¹ Naithan Lagace & Niigaanwewidam James Sinclair, “The White Paper, 1969” (last modified 10 June 2020), online: *The Canadian Encyclopedia* <thecanadianencyclopedia.ca> [perma.cc/8B5Y-Y7YD].

²⁵² Indian Chiefs of Alberta, “Foundational Document: Citizens Plus” (2011) 1:2 *Aboriginal Policy Studies* 188.

²⁵³ Jeffrey G Hewitt, “Decolonizing and Indigenizing: Some Considerations for Law Schools” (2016) 33:1 *Windsor YB Access Just* 65 at 73.

²⁵⁴ *Indian Chiefs of Alberta*, *supra* note 252.

In December of 1972, the National Indian Brotherhood (NIB) issued their own policy paper in response to the White Paper entitled “Indian Control of Indian Education.”²⁵⁵ The vision articulated in the “Indian Control of Indian Education” policy paper was one wherein “education of Indians was conceptualized as a way of revitalizing Indian cultures and economies, rather than assuming assimilation and lost identities were the only alternatives” for Indigenous peoples.²⁵⁶

The 1970s and 1980s saw the emergence of several Indigenous education initiatives grounded in the idea of “Indian Control of Indian Education” including “Indian Cultural Survival Schools,”²⁵⁷ the establishment of the Saskatchewan Indian Federated College in 1976,²⁵⁸ and the creation of new programs within existing universities²⁵⁹ – some developed in consultation with Indigenous communities.²⁶⁰

The Report of the Royal Commission on Aboriginal Peoples²⁶¹ issued in 1996 called for the decolonization of education in Canada and identified education as “a core element of jurisdiction in Aboriginal self-government.”²⁶² Some argued that though the Federal government had officially abandoned its policy of Forced Assimilative Education with the withdrawal of the White

²⁵⁵ National Indian Brotherhood/Assembly of First Nations, “Indian Control of Indian Education” (1972), online (pdf): <oneca.com> [perma.cc/FSG8-2GJJ].

²⁵⁶ *Battiste*, *supra* note 1 at 61.

²⁵⁷ *Cote-Meek*, *supra* note 33 at 56.

²⁵⁸ The Saskatchewan Indian Federated College was ultimately accredited by the Association of Universities and Colleges of Canada in 1994, and was renamed First Nations University of Canada in 2003. See Steven Crum, “A History of the First Nations College Movement of Canada, 1969-2000” (2015) 26:3 *Tribal College J of American Indian Higher Education* 38.

²⁵⁹ For example, the emergence of Native Studies departments, the first of which launched at Trent University. Discussed in *Crum*, *supra* note 258.

²⁶⁰ For example, the creation of the Indigenous Social Work program at Laurentian University, discussed in *Cote-Meek*, *supra* note 33 at 56.

²⁶¹ Canada, *Royal Commission on Aboriginal Peoples* (Ottawa: Canada Communication Group, 1996).

²⁶² *Cote-Meek*, *supra* note 33 at 56–57.

paper several decades prior, there remained some question as to whether the foundational tenants had truly been eliminated in practice.²⁶³ Further research and reports on the need for reform in the area of Indigenous education followed through the late 1990s²⁶⁴ and in the lead-up to the 2008 Statement of Apology to Former Students of Indian Residential Schools (“the Apology”) made by then Prime Minister Stephen Harper on behalf of the Government of Canada.²⁶⁵

The Truth and Reconciliation Commission of Canada was established in June 2008 as part of the implementation of the Indian Residential Schools Settlement Agreement.²⁶⁶ The Calls to Action of the Truth and Reconciliation Commission of Canada will be discussed at length later in this dissertation. For the purposes of the high-level overview here, it will suffice to say that the Commissioners were detailed and specific in enumerating the systemic failings of Canada’s education systems vis-à-vis Indigenous peoples in the Final Report released in June 2015.²⁶⁷ The Commissioners also provided detailed and specific guidance to governments and institutions of learning at all levels on how to decolonize, indigenize, and improve education for all within Canada, including Indigenous Learners.

²⁶³ Monture-Angus, *supra* note 250 at 93.

²⁶⁴ See e.g. National Indian Brotherhood/Assembly of First Nations, *Tradition and Education: Towards a Vision for the Future, A Declaration of First Nations Jurisdiction Over Education* (Ottawa: Assembly of First Nations, 1998) at 57; Cote-Meek, *supra* note 33; Hewitt, *supra* note 253 at 73.

²⁶⁵ Government of Canada, *Statement of Apology- to Former Students of Indian Residential Schools*, (2008).

²⁶⁶ “Schedule ‘N’: Mandate for the Truth and Reconciliation Commission” (last visited 25 August 2020), online (pdf): <residentialschoolsettlement.ca> [perma.cc/YA2P-Y3HJ].

²⁶⁷ Canada, Truth and Reconciliation Commission, *The Final Report of the Truth and Reconciliation Commission of Canada* (Montreal: McGill-Queen’s University Press, 2015).

Lived Indigenous Experience of Modern Post-Secondary Education...

“The very act of naming and describing the extent of ongoing colonial violence is a political act of resistance.”²⁶⁸

Writing in 2014 on the eve of the release of the Final Report of the Truth and Reconciliation Commission of Canada, Dr. Sheila Cote-Meek shared that she was “disheartened” at the lack of progress towards change within the academy over the past thirty years.²⁶⁹ Her research, which I will discuss below, found that colonial and racist experiences continue to permeate the lived experience of Indigenous Learners in post-secondary education, with little change to the narrative since writings on the topic began to emerge within the academy in the 1960s.²⁷⁰ She expressed further discouragement at the failure of the academy to properly name or address racism and the “profound effect” this erasure has on Indigenous Learners.²⁷¹

If we are being frank, from the perspective of an Indigenous person operating within the academy I fully understand the hesitation to both name and allege racism as a traumatic experience. In fact, I have spent the better part of three years of my life trying to find a way to avoid including discussion of racism, trauma, and ethno-stress in this dissertation. This is for a few reasons; some I will share in the sections that follow. There is a myriad of other reasons I actively sought ways to skirt this issue beyond those I will discuss below. But: they are not for you today.

An important reason I hesitated is grounded in my own significant white-skin privilege. Physically, I take after my father. Most have no sense of my indigeneity based on my looks alone. My lived

²⁶⁸ *Cote-Meek, supra* note 33 at 44.

²⁶⁹ *Ibid* at 165.

²⁷⁰ *Ibid* at 165 and following.

²⁷¹ *Ibid* at 166.

experience as a white-coded Métis woman is akin to the experience described by Chelsea Vowel, a Métis lawyer from manitow-sâkahikan (Lac Ste. Anne), Alberta²⁷²: “I am a white-coded Métis woman — people see me as white unless I’m in a context where I am specifically identified as Indigenous. My babies are not visibly Indigenous either, so...people react to me as a white woman, not a woman of colour.”²⁷³

“Courage (Koorazh):
Métis people were taught to take risks
for the betterment of themselves and others.
In the Métis way,
having courage against injustice and giving your honest opinion
was highly valued.
Standing up for yourself,
your values,
and your beliefs
was encouraged.”²⁷⁴

To speak of lived experiences of racism almost feels comical, as my experience of racism is on a different level entirely from my kin who fear walking down the street while brown. However, there really is nothing funny about it. My experiences are different, but they are pervasive and carry with them violence and trauma. Too few are in a position to be safely able to speak of the racism Indigenous Learners face. While I will not be sharing any of the stories of others – my sisters and Learners – that I have witnessed or that have been shared with me over the years, I also carry these stories with me. They inform my work and require that I be brave. I will speak truth about my own experiences of racism, gentle as they are compared to those of others, to

²⁷² Vowel, *supra* note 20.

²⁷³ Chelsea Vowel, “As a Métis Woman, I Always Think About the Possibility of My Children Being Taken Away” (23 November 2017), online: *Chatelaine* <chatelaine.com> [perma.cc/7GC5-NLL2].

²⁷⁴ Leah Dorion, *The Giving Tree: A Retelling of a Traditional Métis Story*, translated by Norman Fleury (Saskatoon: Gabriel Dumont Institute, 2009).

honour the more difficult paths of others around me and to assist in amplifying their voices if or when they feel ready or able to speak publicly.

Another significant reason that I hesitate to speak on this is out of a desire to remain forward-looking; hopeful, loving. Yes, universities are hostile spaces for many Indigenous Learners and scholars.²⁷⁵ I do not attempt to deny this, and yet I struggle with writing about the violence of the academy because I do not want the focus of my work to be pain. It is challenging for me to spend my limited cognitive, emotional, and physical energy on unpacking the (negative) actions of others; I have a desire to build beautiful, up and out.

"No matter how you feel,
no matter what you are going through,
you've got to have your hands on what is good.
You've got to be touching the good in life."
- The Beadworkers Stories²⁷⁶

The problem is, of course, obvious: the need for Law with Heart was born from this trauma and pain. The need to decolonize, indigenize, and conceptualize new ways for sharing, teaching, and learning law is grounded in the existence of the academy as a colonial construct,²⁷⁷ the long history of education mobilized as a tool of assimilation,²⁷⁸ and the modern experience of ongoing colonialism, racism, and trauma in post-secondary education.²⁷⁹

²⁷⁵ Adam Gaudry & Danielle Lorenz, "Indigenization as Inclusion, Reconciliation, and Decolonization: Navigating the Different Visions for Indigenizing the Canadian Academy" (2018) 14:3 *AlterNative* 218 at 220.

²⁷⁶ Beth Piatote, *The Beadworkers: Stories* (Berkeley: Counterpoint Press, 2019) at 97.

²⁷⁷ *Cote-Meek*, *supra* note 33 at 63; *Edge*, *supra* note 111 at 23.

²⁷⁸ See e.g. *Battiste*, *supra* note 1 at 23.

²⁷⁹ See e.g. *Cote-Meek*, *supra* note 33.

To write about Métis Beadwork Practice as an Indigenous Legal Pedagogy without first grounding the effort in the very real issues I am hoping to remedy and the needs I am hoping to address would risk devaluing the project entirely. It would allow the reader to abdicate their responsibilities relating to naming and addressing ongoing colonialism, racism, and trauma within the academy, distracted by the “pretty beads.”²⁸⁰ I respect my relationship to beadwork too much to risk its fetishization in the context of this doctoral project, even if the prospect of expending energy on discussions of violence is not one that I relish.

In the section that follows, I will therefore name racism, trauma, and ethno-stress experienced by Learners, academics, and non-academic staff in post-secondary education.

“It is written in rage
and love,
without which
there is no hope.”

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²⁸⁰ The story behind this quote has not yet been earned.

²⁸¹ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed*, translated by Robert R Barr (London: Bloomsbury Academic, 1992) at 4.

Racism, Trauma, and Ethno-stress

*Racism remains the theory,
while intolerance, prejudice, and discrimination
remain its integral practice.*²⁸²

*Indigenous women use the concept “racism” to encompass white dominance,
privilege, discrimination and Indigenous subordination.*²⁸³

Given the long history of law and policy decisions underlying Forced Assimilative Education frameworks in Canada, it should surprise no one that Indigenous Learners experience systemic racism, both targeted and structural, in post-secondary education today. As Dr. Marie Battiste states in her 2013 work *Decolonizing Education: Nourishing the Learning Spirit*: “Racism is more than race hatred or prejudice; it is about power to oppress and subordinate.”²⁸⁴ She goes on to remind readers that “like colonialism, racism is violent, ongoing, and traumatic, and reaches everyone in some form, although it is still denied, uncomfortable to talk about and often creates anger and guilt.”²⁸⁵

Western academic research, conducted within western frameworks and having received ethical approvals through western institutions however, consistently confirms that colonialism is alive and well at universities in Canada.

I specifically note that this research conforms to western academic frameworks not in an effort to demean or subjugate Indigenous research methods or ways of knowing, but simply to preemptively quash any arguments that the findings of such research are the result of less rigorous

²⁸² *Battiste, supra* note 1 at 132.

²⁸³ *Moreton-Robinson, supra* note 73 at 173.

²⁸⁴ *Battiste, supra* note 1 at 138.

²⁸⁵ *Ibid.*

scholarship. I recognize that feeling the need to justify the findings in this way are the result of my own insecurities as an Indigenous graduate Learner, grounded in experiences of violence and precarity within the academy. It is a terrible Catch-22 and it leaves me feeling nauseated. The nausea is a gift, serving as a good reminder of why I am doing the work to develop Indigenous Legal Pedagogies that centre and valorize Indigenous ways of knowing in the first place.

One such jarring example of entrenched colonial attitudes that continue to operate in post-secondary institutions was recently discussed by Mary Ellen Donnan, Avril Aitken, and Jean L. Manore of Bishop's University in Quebec in their contribution to 2020's *Decolonizing and Indigenizing Education in Canada*.²⁸⁶ Donnan, Aitken, and Manore, discussing the results to their spring 2016 research on "views and aspirations at Bishop's concerning Indigenization and decolonization,"²⁸⁷ share findings that were largely unsurprising to me as an Indigenous reader. My lack of shock should not be read as an acceptance of the status quo, but rather as one of gratitude to the authors for putting writing into the public sphere that confirms what Indigenous Learners, researchers, and scholars have long known to be true.

Donnan, Aitken, and Manore's research findings demonstrated that "between 25 and 30 percent of those surveyed still endorse aspects of the assimilationist model of Indigenous education, with an expectation that Indigenous people themselves are responsible for making any changes or improvements in opportunity via their individualized choices within the existing systems. About

²⁸⁶ Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020).

²⁸⁷ Mary Ellen Donnan, Avril Aitken & Jean L Manore, "'If Not Here, Where?': Making Decolonization a Priority at an Undergraduate University" in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 193 at 196.

30 percent of participants in the surveys fundamentally disagreed with the Truth and Reconciliation Commission’s views on education.”²⁸⁸

The researchers further noted that without institutional support for even such basic inclusion-level initiatives²⁸⁹ such as “increasing the numbers of the Indigenous faculty, staff, and administrators on campus”, those who aspire to bringing about change and advancing indigenization efforts are not likely to push efforts forward quickly.²⁹⁰ The researchers, however, were not without hope, proposing work-arounds and community building efforts that could be undertaken even without wide-scale institutional buy-in.²⁹¹

“It is a labour of love
if you want to advance Indigenous education.
How do we transform the world around us
so that we maintain a rightful place
for Indigenous peoples in the arena of education?”²⁹²

Those who know me will tell you that I frequently encourage people facing challenges or living in states of crisis to “look for the helpers.” Looking for the helpers is a stand-in for encouraging people to espouse a hopeful outlook in dark times and comes from Fred Rogers of *Mister Rogers’ Neighbourhood*.²⁹³ Given my affinity for love and hope, “look for the helpers” is a soundbite that sums up my worldview in a way even my three-year-old can understand.

²⁸⁸ *Ibid* at 198.

²⁸⁹ *Gaudry & Lorenz, supra* note 275 at 218–19.

²⁹⁰ *Donnan, Aitken & Manore, supra* note 287 at 205.

²⁹¹ *Ibid*.

²⁹² Taima Moeke-Pickering, “The Future for Indigenous Education: How Social Media is Changing Our Relationships in the Academy” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 267 at 268.

²⁹³ Ian Bogost, “The Fetishization of Mr. Roger’s ‘Look for the Helpers’: Turning the Reassuring Line for Children into a Meme for Adults Should Make Everyone Uncomfortable”, *The Atlantic* (29 October 2018), online: <theatlantic.com> [perm.cc/2Z6F-8PKJ].

As Ian Bogost suggests, however, “look for helpers” was never meant to be used to support adults through devastating experiences, but rather was conceived to assist the very young in navigating challenging news cycles.²⁹⁴ Looking for the helpers isn’t always enough. While I commend Donnan, Aitken, and Manore in their attempts to close out the summary of their research findings on a hopeful note, the aforementioned findings are worth repeating so that there is no confusion: 25-30 percent of respondents to a 2016 university-wide inquiry at Bishop’s University that engaged Faculty, administration, and managers²⁹⁵ on questions of Indigenization and decolonization *continued to endorse aspects of assimilationist models of Indigenous education.*²⁹⁶ Nearly a third of respondents *disagreed with the findings of the Truth and Reconciliation Commission of Canada.*²⁹⁷ The academic settlers disagree with statements of truth at a rate of nearly one in three.

There can be no reconciliation without truth,²⁹⁸ but ongoing colonialism and anti-Indigenous racism leaves many in Canada unable to accept even basic findings of an independent truth-seeking body such as the Truth and Reconciliation Commission of Canada. We have to look no further than Canada’s own Parliament to find examples of those in positions of authority and power publicly denying or suppressing the truth of Indigenous lived experience in Canada.²⁹⁹

²⁹⁴ *Ibid.*

²⁹⁵ Donnan, Aitken & Manore, *supra* note 287 at 197.

²⁹⁶ *Ibid* at 198.

²⁹⁷ *Ibid.*

²⁹⁸ *Supra* note 267 at 7.

²⁹⁹ Veldon Coburn, “Reconciliation Can’t Happen Without Truth: So Why do Some Suppress It?”, *Maclean’s* (23 January 2018), online: <macleans.ca> [perma.cc/D8L3-YMSA].

Having long existed in and around post-secondary institutions, specifically as a Learner who has engaged in legal education grounded in both Common Law and Civilian legal and societal systems, I can anticipate the echos that will follow the receipt of these research findings at Bishop's University. Pre-empting the anticipated pushback and distinguishing that I am certain some will attempt to engage in to mitigate reputational damage to post-secondary education more generally, namely that it is an undergraduate university in a smaller urban centre, I humbly offer the findings of research conducted in other institutions across Canada that also confirm the ongoing and pervasive nature of colonial attitudes within post-secondary education. Further, discussion of the research that follows also demonstrates that Indigenous Learners continue to face systemic racism and the consequences of resultant trauma both at institutional levels and at targeted individual levels inside and outside the classroom.

Dr. Sheila Cote-Meek's 2014 study focused on post-secondary education, specifically where colonial history and Aboriginal peoples are discussed and covered as part of a course.³⁰⁰ What emerged from her research was a troubling picture of Learners experiencing racism daily,³⁰¹ and a finding that "...the actual classroom is a space where racism continues to be perpetuated."³⁰²

Some of these experiences can be categorized as "everyday racism," a term that "refers to the small slights and acts designed to make racialized and Indigenous faculty feel unwelcomed, unrepresented, and often invisible."³⁰³

³⁰⁰ *Cote-Meek, supra* note 33 at 11.

³⁰¹ *Ibid* at 36.

³⁰² *Ibid* at 63.

³⁰³ Frances Henry et al., *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (Vancouver: UBC Press, 2017) at 116.

Everyday racism manifests:

...in behaviours, anecdotes; sexualized, ethnicized, and racialized jokes; inappropriate glares and gestures; and forms of speech. Often it is not consciously experienced by its perpetrators or by onlookers, but it is immediately and painfully felt by its victims... Everyday racism in the academy heightens one's sense of vulnerability and affects one's self-esteem. It can have a significant impact on racialized and Indigenous people's self-confidence. It also influences their physical and mental health.³⁰⁴

Learners, carrying hurt, anger, shame, guilt,³⁰⁵ and suffering embarrassment and psychological distress,³⁰⁶ were required by circumstance to employ a variety of resistance strategies to cope with the fallout from ongoing colonialism and racism in the classroom and academy.³⁰⁷ These strategies ranged from choosing not to self-identify as Indigenous³⁰⁸ through to making attempts to educate and “raise critical consciousness” amongst their peers.³⁰⁹ Some chose to seek traditional supports, such as access to knowledge keepers and sacred medicines;³¹⁰ other sought out opportunities to debrief after challenging classes or gather in community.³¹¹

Beyond racism and colonial encounters in the classroom, Dr. Cote-Meek found that Learners were also experiencing significant trauma, defined as “the aftermath of the violence and injury done to Aboriginal peoples”³¹² during their post-secondary education.³¹³ She goes on to name the “psychological intergenerational impact of colonization” as “a wounding of a person's soul or spirit[.]”³¹⁴ This language characterizing traumatic experiences carried by Learners as “soul

³⁰⁴ *Ibid.*

³⁰⁵ *Cote-Meek, supra* note 33 at 36.

³⁰⁶ *Ibid* at 115.

³⁰⁷ *Ibid* at 129.

³⁰⁸ *Ibid* at 129.

³⁰⁹ *Ibid* at 130.

³¹⁰ *Ibid* at 129–33.

³¹¹ *Ibid* at 137.

³¹² *Ibid* at 38.

³¹³ *Ibid* at 113.

³¹⁴ *Ibid* at 29.

wounds”³¹⁵ mirrors the vocabulary espoused by Dr. Angelina Weenie when describing the trauma experienced by Indigenous peoples existing in a racist society. In response to this “woundedness,” Dr. Cote-Meek suggests that new strategies are required to “counter the racism and colonial practices we are subjected to.”³¹⁶

Experiences of trauma were found to manifest in ways that were often difficult to recognize with Learners sometimes having extreme reactions to unrelated material in the classroom or suddenly being absent from the classroom all together.³¹⁷ Further, Dr. Cote-Meek noted that the ways in which professors and institutions (fail to) address issues of racism, colonial violence, or trauma in the classroom has a detrimental effect on Learners. Specifically, the “... conceptualizations of violence and trauma as private individual matters provide us with a way to avoid addressing ongoing violence and trauma,”³¹⁸ and even though classrooms may be recognized as sites of violence, educators will choose to refer Learners to resources outside the classroom, for example counselling,³¹⁹ instead of “finding ways to decrease the levels of ongoing overt and covert violence that is taking place in the classroom.”³²⁰

Beyond racism and trauma - intergenerational, colonial, and other – Dr. Cote-Meek further suggests that while it is difficult to pinpoint, Indigenous Learners are “without a doubt” susceptible to the overarching phenomenon of “ethnostress.”³²¹ As Dr. Keri Cheechoo explains,

³¹⁵ *Ibid* at 32.

³¹⁶ *Weenie, supra* note 119 at 11.

³¹⁷ *Cote-Meek, supra* note 33 at 34.

³¹⁸ *Ibid* at 39.

³¹⁹ *Ibid* at 40.

³²⁰ *Ibid*.

³²¹ *Ibid* at 28.

ethno-stress “embodies the accrual of the effects of oppression and violence that have been conferred by colonial culture.”³²² In other words, ethno-stress can have the effect of compounding other oppressive experiences, resulting in serious social and health issues for Learners.³²³ Dr. Cheechoo describes her own struggles with ethno-stress as resulting in “a severe bifurcation of self,”³²⁴ and Dr. Cote-Meek underlines issues of hopelessness and psychological distress effecting Learners experiencing this racism and colonialism-driven phenomenon.³²⁵

Dr. Marie Battiste’s research, which I will revisit in later discussions surrounding the forward-looking process of decolonizing the academy, also underlines the multi-layered oppressions experienced by Indigenous Learners: “Education is a process by which a culture expresses its reality and values, processes its culture, and integrates it’s culture into it...For Indigenous students, this education has been partial, fragmented, alienating, and disrupting to the inner wholeness that their education trajectory has been.”³²⁶ She posits that one reason for the continued struggle to address colonialism and racism in education is that decolonization approaches often focus on how Indigenous learners might be integrated into existing contexts in order to more easily learn Canadian curriculum,³²⁷ as opposed to focusing on addressing cognitive,³²⁸ cultural, and linguistic imperialism³²⁹ in education.

³²² Cheechoo, *supra* note 177 at 251.

³²³ Cote-Meek, *supra* note 33 at 27.

³²⁴ Cheechoo, *supra* note 177 at 251.

³²⁵ Cote-Meek, *supra* note 33 at 27–28.

³²⁶ Battiste, *supra* note 1 at 162–63.

³²⁷ *Ibid* at 32.

³²⁸ *Ibid* at 33.

³²⁹ *Ibid* at 29.

...and of Legal Education

*Law school is merely a reflection of what is happening generally in education systems from primary to university.*³³⁰

As we will discuss at length later in this dissertation, the Truth and Reconciliation Commission issued several Calls To Action specifically targeting the decolonization of the legal Profession and faculties of law. The particular role of law schools in educating future actors in the legal system required special consideration in part because of the often-fraught relationship between Canadian legal systems and Indigenous peoples.³³¹

Most of the research into the lived experience of Indigenous Learners in legal education specifically predates the Calls To Action. However, as Dr. Cote-Meek expressed in her research, not a lot appears to have changed in the Indigenous experience of post-secondary education in the past three decades,³³² and that older research remains highly relevant to our conversation today.

In October 2016, I was 34-weeks pregnant with my third child and halfway through my final semester of coursework in my doctoral program. Having started my program off-cycle, I was completing my final course, a mandatory methods and theory course, alongside new students who had started their graduate studies a few weeks before.

³³⁰ Patricia Monture-Angus, “Reflecting on Flint Woman” in Patricia Monture-Angus, ed, *Thunder In My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood Publishing, 1995) 26 at 32.

³³¹ Truth and Reconciliation Commission, “What We Have Learned: Principles of Truth and Reconciliation” (2015) at 109, online (pdf): *Truth and Reconciliation Commission* <trc.ca> [perma.cc/457G-RBE5].

³³² *Cote-Meek, supra* note 33 at 165.

The course was taught by my long-time mentor and professor who had supervised my masters research ten years prior. It was an early evening class, 4pm-7pm if my memory is true, and it was a whole rigmarole to be physically present in class every week. I could not afford childcare and parented full-time in addition to my full-time studies and part-time paid employment. My two older children were 3- and 4-years, respectively, with the elder newly enrolled in junior kindergarten at my neighbourhood school where, it would turn out, the teacher's idea of a "special activity" on June 21st would be a visit from a police officer, with each child having a "turn" sitting in the back of a police van. The take-away, according to my then five-year-old was "be a good boy so you don't end up in here again!"³³³

On the night of the casual anti-Indigenous violence that found me weeping in Dr. Tracey Lindberg's office, I had reached that phase of pregnancy where I would have happily turned in for the night at 6:30 in the evening.

The class that evening, per usual, took a standard format of lecture followed by a student-led debrief and discussion. The focus of the week was the positionality of researchers and reflections on ethics, and we spent a considerable amount of time discussing the laws of Vichy and "la question juive en France."

Before I continue, I should provide a little context about the make-up of the class. As a Francophone Learner, I completed my graduate coursework in French. The class comprised perhaps 14 students, a combination of masters-level and doctoral students trained in either

³³³ June 21st is, coincidentally, National Indigenous Peoples' Day in Canada.

Common Law or civilian legal traditions. A sparse few, like myself, had completed training in both of Canada's colonial legal systems. During the debrief portions of the class, each student generally linked the themes of the week to their thesis work, discussing how the course content would relate to their own research. During the first few roundtables early in the term, as each student described their research and what brought them to their field of study, it emerged that a startling number of (non-Indigenous) students had chosen to explore legal issues relating to Indigenous peoples. I remember feeling surprised at how suddenly interesting we were. I tried to keep an open heart and embrace this new *de-rigueur* status of my community until, on a health break during the second week of class, I overheard two of my peers chuckling at the sinks outside my bathroom stall over how *les autochtones* were certainly lucky that the Social Science and Humanities Research Council was feeling generous in supporting *leur cause* because they would have otherwise not undertaken research in the area.

So, overall, the class was going totally fine. Nothing to see here.

The night of our study of the Vichy regime, the discussion around the ethical responsibilities of legal professionals and the weight many carried following inaction in the face of legislation relating to "la solution finale" à "la question juive"³³⁴ was robust. Students engaging in research relating to Indigenous peoples discussed the ethical implications of working in Indigenous communities. They had the right vocabulary and said the right things – potty mouths were reserved for the nature breaks, I suppose.

³³⁴ Translated: "The Final Solution to the Jewish Question."

That is another fun phenomenon in law school – personalities in the classroom do not always match peer-to-peer hallway relations. To be clear: I am not saying that the violence comes from the majority. But: racism is common. The fact that those who feel empowered to dehumanize others are in the minority does little to comfort those experiencing anti-Indigenous violence.³³⁵

Dr. Tracey Lindberg once wrote:

If you think that it is easy to come here the day, week, or month after you hear these statements, you are mistaken. If you think that these statements do not affect how a person gets a legal education, you are mistaken. If you think that these are not legal issues, you are mistaken. These statements reflect the reality and understanding of what is, I am sure, a very small percentage of the College of Law. But we study with that minority, we walk home after school with that minority, and we sit next to that minority in class.³³⁶

The evening we considered the ethical responsibilities of, and implications for, the lawyer-authors that propped up the Vichy Regime, all was reasonably fine until somewhere near the halfway point. A few students in a row used their time to orally work through what might be done to ensure their research might engage more respectfully with Indigenous communities as partners in-lieu-of research subjects. The discussion went on for some time. Eventually, a white male peer turned to me, exasperated, and said “Que je suis tanné d’entendre parler de ‘la question autochtone’... il me semble qu’on bénéficierait d’une ‘solution finale.’”³³⁷

His comment was accompanied by hand gestures simulating quotation marks, and I can assure you that his meaning, couched as a “joke,” was clear. There was a smile with an undertone of a

³³⁵ Lindberg, *supra* note 72 at 325.

³³⁶ *Ibid* at 325–26.

³³⁷ Roughly translated: “How I am tired of hearing about ‘the Aboriginal Question’... it seems to me we would all benefit from a ‘Final Solution.’”

wink and an elbow nudge. It was neither the first nor the last time a white person would forget I am Indigenous and speak openly to me, as a presumed co-conspirator in the colonial project, about their honest views of my community. White-coded indigeneity is a different kind of burden.

At the break I landed, as most Indigenous Learners in distress did at the time, in Dr. Lindberg's office. She had cookies and the good Kleenex with lotion, and she gifted me a journal to write all the trauma I probably shouldn't carry in my heart while carrying a wee one to term.

My own personal experiences engaging with the Faculty of Law at the University of Ottawa since 2003 underscore that while progress has been made in certain areas, in particular in the area of Indigenous inclusion through hiring of Indigenous Faculty members and in-house support for Indigenous Learners and the development of scholarship programs for undergraduate Learners,³³⁸ there remains much work to be done. Racism and colonialism persist within the legal academy. While some other faculties of law have adopted Indigenous Course Requirements (ICRs) in response to the Calls To Action,³³⁹ the teaching of Common Law and Civilian legal traditions continues to be privileged over the teaching of Indigenous laws and legal orders in Canadian law schools. While new certificate-based programming is in development at the University of Saskatchewan,³⁴⁰ as of the date of writing only the University of Victoria's Faculty

³³⁸ "uOttawa Faculty of Law Receives \$1 Million to Support Indigenous Learners" (22 November 2019), online: *Media uOttawa* <media.uottawa.ca> [perma.cc/7NGE-2V9N].

³³⁹ For example, the University of Windsor integrated a course on Indigenous Legal Traditions into their first-year curriculum: "Windsor Law Introduces Indigenous Legal Traditions Course For First-Year Students" (last visited 18 August 2020), online: *University of Windsor* <uwindsor.ca> [perma.cc/8GRJ-T32P]. Other law schools, such as Osgoode Hall, have opted to develop a "basket approach" that allows students to choose from amongst several course offerings to satisfy an "Indigenous and Aboriginal law" degree requirement: "Osgoode Hall Law School Adopts New Indigenous and Aboriginal Law Requirement" (6 April 2018), online: *York University News* <news.yourku.ca> [perma.cc/NNL5-MKNH].

³⁴⁰ "Indigenous Law Centre Announces New Legal Curriculum" (3 June 2020), online (blog): *Indigenous Law Centre* <indigenoulaw.usask.ca> [perma.cc/J7A4-38N7].

of Law has established a distinct degree program with an emphasis on Indigenous laws and legal orders.³⁴¹

For these reasons, I believe it is important to discuss Dr. Tracey Lindberg's research conducted in collaboration with eight other Indigenous women Learners at the University of Saskatchewan's Faculty of Law, published in 1997. Though some might argue that the study is dated, especially given that it predates the Calls to Action by nearly two decades, it contributes critical scholarship on the question of the lived Indigenous experience of legal education in Canada.³⁴² As Dr. Lindberg explains to readers, the article contains pain, "reflective of the anger and silent screaming that some of us have had to bear and suppress" alongside stories of "support, strength, and wisdom."³⁴³

From the outset, the research collaborators acknowledged their position as "outsiders" within the legal academy.³⁴⁴ The majority expressed that they were "glad to be law students and happy to have the opportunity to learn in an alternative educational system."³⁴⁵ This is a critical statement of positionality. Outsiders, learning in an alternative education system: this is how many Indigenous Learners experience legal education.

In the research presented by Dr. Lindberg, some of the pain she warns of in the opening pages of the article manifests in what I have come to understand as the intellectual rupture required for

³⁴¹ "Joint Degree Program in Canadian Common Law and Indigenous Legal Orders (JD/JID)" (last visited 18 August 2020), online: *University of Victoria Law* <uvic.ca> [perma.cc/3KV8-FMT6].

³⁴² *Lindberg*, *supra* note 72 at 303.

³⁴³ *Ibid* at 304.

³⁴⁴ *Ibid*.

³⁴⁵ *Ibid*.

Indigenous peoples to survive in the law school environment. It is often said that law students are asked to learn a new language³⁴⁶ – legalese. Repeated *ad nauseam* during orientation and welcome events without much context, this idiom has important implications for how legal education is conceptualized within the academy. It is, I believe, most readily explained by turning to Pierre Bourdieu’s discussions surrounding the role of “official language” and its use in reinforcing the authority of the language itself and the systems of dominance it rests on.³⁴⁷

Bourdieu often speaks of official language as governed or produced by the state,³⁴⁸ but the authority of the profession, supported by the legal academy, also rests on such regulated discourse and the expectation is that law students will learn a new way of thinking and speaking in order to facilitate ease of movement within the professional culture.³⁴⁹ As Dr. Hilary Sommerlad explains:

At the academic stage, the student’s training in the profession’s knowledge base is predicated on enculturation into its “official language,” which begins the process of identity formation. Examples include the use of the passive voice and modal markers to signify detachment (alien to most working-class students), and gender-exclusive language represented as gender-neutral language. For Pierre Bourdieu, this “official language” reinforces “the authority which is the source of its dominance. It does this by ensuring among all members of the ‘linguistic community’...the minimum of communication which is the precondition for economic production and even for symbolic domination.³⁵⁰

³⁴⁶ Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy: A Critical Edition* (New York: New York University Press, 2017) at 20.

³⁴⁷ Pierre Bourdieu, *Language and Symbolic Power* (Cambridge: Harvard University Press, 1991) at 44–45.

³⁴⁸ Nathalie Kermaol, “Métis Women’s Environmental Knowledge and Recognition of Métis Rights” in Nathalie Kermaol & Isabel Altamirano-Jiménez, eds, *Living on the Land: Indigenous Women’s Understanding of Place* (Edmonton: Athabasca University Press, 2016) 107 at 112.

³⁴⁹ See generally Hilary Sommerlad, “‘Becoming’ a Lawyer: Gender and the Processes of Professional Identity Formation’ in the Legal Academy” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) at 159.

³⁵⁰ *Ibid* at 163.

Learning the language of legal education is but the first element in a complex professionalization process that engages structures of patriarchal³⁵¹ hierarchy³⁵² in addition to the “regular” forces including colonialism, Eurocentrism, and racism, that shape post-secondary education (and life in Canadian society) more generally.

Duncan Kennedy posits that “legal education contributes to the reproduction of illegitimate hierarchy within the bar and in society.”³⁵³ He describes legal education as an experience requiring “double surrender,” wherein students are expected to acclimatise to a “passivizing classroom experience” and to adopt a “passive attitude toward the content of the legal system.”³⁵⁴ To succeed in the legal profession, Kennedy further suggests, requires submission to a process of assimilation during one’s legal education³⁵⁵ – though in this case one very different from the forced assimilative model of education mobilized through the vehicles of Canadian Indigenous education policy and residential schools. In Kennedy’s work, the process of assimilation distinguishes students on the basis of socio-economic class and insists that “everyone learns to act more or less according to the behavioral criteria of the rung of the profession they hope to enter.”³⁵⁶

In all of my years in and around legal education, I have known very few students who have not struggled, at least a little, with the weight of the 1L³⁵⁷ burden and immersion in

³⁵¹ *Lindberg, supra* note 72 at 302.

³⁵² *Sommerlad, supra* note 349 at 160.

³⁵³ *Kennedy, supra* note 346 at 15.

³⁵⁴ *Ibid* at 22.

³⁵⁵ *Ibid* at 54.

³⁵⁶ *Ibid*.

³⁵⁷ The first year of study in Common Law.

professionalization processes. Dr. Hilary Sommerlad reminds us that this process carries extra weight for those from the “wrong” background.³⁵⁸ She specifically notes that the professionalization process can engender “identity dissonance” that requires women, people of colour, and those from working-class backgrounds to engage in “self-surveillance” and “make certain adjustments and learn the language” in order to engage as legal actors within the profession.³⁵⁹ From the perspective of an Indigenous Learner, Professor Monture-Angus described making these “adjustments” as a process of peeling “away at the layers of her consciousness” to survive within the law school environment.³⁶⁰

For Indigenous peoples, learning to speak the linear, black and white “official language” of legal education represents a collision of even more complex systems of dominance than those described by Dr. Sommerlad. As I indicated earlier, I conceptualize what is required of Indigenous law Learners during the professionalization process to be that of intellectual rupture. The language of legal education is, as one of the participants in the University of Saskatchewan study framed it, “a radical change in [our] thinking from holistic to that of linear thinking.”³⁶¹ This regulated and linear approach to learning and problem solving is in direct opposition to Indigenous ways of knowing and worldviews, including fundamental understandings of interrelatedness of all things.³⁶² When we add the layers of socio-economic divides, poverty, poor

³⁵⁸ *Supra* note 349 at 165.

³⁵⁹ *Ibid* at 166.

³⁶⁰ *Supra* note 250 at 120.

³⁶¹ *Lindberg, supra* note 72 at 306.

³⁶² See e.g. Evelyn Steinhauer et al., “Thinking With Kihkipiw: Exploring an Indigenous Theory of Assessment and Evaluation for Teacher Education” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 73 at 75; *Wilson, supra* note 14 at 56; *Ray, supra* note 35 at 34; Lynn F Lavallée, “Practical Application of an Indigenous Research Framework and Two Qualitative Indigenous Research Methods: Sharing Circles and Anishinaabe Symbol-Based Reflection” (2009) 8:1 *Intl J of Qualitative Methods* 21 at 22–23.

housing,³⁶³ and all of the other violence born of colonialism,³⁶⁴ it is not difficult to understand how professionalization processes discriminate against Indigenous peoples.

To get a sense of what Indigenous Learners face in learning to speak the languages of western education systems, Dr. Marie Battiste encourages an exercise in empathy: “Imagine how uncertain a person whose success is only achieved by a complete makeover of themselves, by their need to learn English and the polished rules and habits that go with that identity.”³⁶⁵

Dr. Tracey Lindberg argues, and I agree, that “true success in law school includes ensuring that parity, fairness, and respect are maintained at all times.”³⁶⁶ In my experience, succeeding in legal education requires intellectual rupture, especially when “success” is measured by Western standards – specifically in terms of bringing the academic credentials to completion. The entire process can be incredibly destabilizing.

She further explains that Indigenous women sometimes find themselves “alienated from the learning processes” in legal education,³⁶⁷ with some characterizing the experience of legal education as one of “indoctrination.”³⁶⁸ Some law Learners further described difficulties in staying connected to community in the law school environment and a tendency towards developing relationships with other Indigenous students.³⁶⁹ This approach mirrors the need for

³⁶³ *Supra* note 331 at 106.

³⁶⁴ *Ibid* for a discussion of some of the intergenerational impacts of the residential school era.

³⁶⁵ *Supra* note 1 at 23.

³⁶⁶ *Supra* note 72 at 331.

³⁶⁷ *Ibid* at 307.

³⁶⁸ *Ibid* at 305–06.

³⁶⁹ *Ibid* at 308–10.

community connection and spaces to gather in community as a strategy to resist racism identified amongst undergraduate Learners by Dr. Cote-Meek in her 2014 study.³⁷⁰

Dr. Tracey Lindberg, borrowing the words of Professor Monture-Angus, describes this practice of turning to Indigenous peers for support as “taking comfort into the room with you.”³⁷¹ Dr. Lindberg identified a few reasons why the research collaborators found such a closing of ranks necessary, including a generalized lack of awareness and understanding of Indigenous experience amongst non-Indigenous peers³⁷² and the widespread subjugation of Indigenous knowledge in the law school environment.³⁷³

The educational landscape depicted by the participants in the University of Saskatchewan research largely mirrors the experiences described by Professor Monture-Angus in *Thunder In My Soul: A Mohawk Woman Speaks*.³⁷⁴ In this collection of academic writing, which includes the series of articles commonly referred to as the *Flint Woman* series, Professor Monture-Angus characterized her experiences as both a law Learner and a professor of Law as grounded in “the violence that grows out of racism.”³⁷⁵ Racism within the legal academy is pervasive, and followed Professor Monture-Angus from her time as a law Learner through to the moment when she ultimately chose to leave her position as a professor of Law.³⁷⁶

³⁷⁰ See e.g. *Supra* note 33 at 129.

³⁷¹ *Supra* note 72 at 308.

³⁷² *Ibid* at 310–11.

³⁷³ *Ibid* at 311.

³⁷⁴ *Supra* note 70.

³⁷⁵ *Cote-Meek, supra* note 33 at 29.

³⁷⁶ The theme of the violence of racism echos through all of Professor Monture’s writing. For an introduction to the discussion, please see Patricia Monture-Angus, “Ka-nin-geh-e-sa-nonh-yah-gah” in Patricia Monture-Angus, ed, *Thunder In My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood Publishing, 1995) 1 at 1.

Métis lawyer and historian Jean Teillet describes those Indigenous lawyers who labour within the Canadian legal system on behalf of all Indigenous peoples as “legal warriors.”³⁷⁷ There is no doubt that Professor Monture-Angus was a legal warrior even prior to her entry into the Profession as a member of the bar. In 1988, in an act that would change how all Indigenous licencing candidates in Ontario experience the transition from law school to the practice of law, Professor Monture-Angus filed suit in Ontario's Supreme Court challenging the legislative requirement that all candidates must take an oath of allegiance to the Queen in order to be sworn in as members of the Profession.³⁷⁸ She argued that as a member of the Mohawk Nation, a nation whose “sovereignty has been consistently recognized through treaties and historical custom, both pre-dating Confederation and continuing uninterrupted thereafter,” she should not be required to take an oath to the Queen in order to practice law in Ontario.³⁷⁹ Further, she argued that the oath was symbolic of the racism that Indigenous peoples face in legal education and Canadian society.³⁸⁰ The case garnered international media attention³⁸¹ and the matter was eventually settled outside of court.³⁸² The Law Society ultimately amended its rules, and Patricia Monture was called to the bar in 1994.³⁸³ The oath of allegiance to the Queen, while still administered during call to the bar ceremonies in Ontario, is now optional for all licencing candidates.³⁸⁴

³⁷⁷ *Supra* note 15 at xvi.

³⁷⁸ Cynthia Gray, “A Question of Sovereignty (Patricia Monture vs The Queen)” (1989) 10:2/3 *Canadian Woman Studies* 146.

³⁷⁹ *Ibid.*

³⁸⁰ *Ibid.*

³⁸¹ *Monture-Angus, supra* note 70 at 51.

³⁸² *Ibid.*

³⁸³ *Ibid.*

³⁸⁴ Law Society of Ontario, by-law 4, *Licensing* (27 February 2020), at 26–27.

As a new professor, Monture-Angus faced a common experience of scholars from communities who have previously been excluded from the academy - that of shouldering disproportionate academic “housekeeping” burdens.³⁸⁵ Professor Monture-Angus noted that her expertise was acknowledged as filling a void, and she was called upon to shoulder a disproportionate administrative burden compared to her colleagues.³⁸⁶ Further, these experiences, serving committees and working groups were often seeped in racism and gendered violence at the hand of colleagues who dismissed her lived experience or made attempts to silence her.³⁸⁷ Acknowledging that challenges associated with the excess housekeeping burdens are particularly acute for the first members of under-represented communities who access academic spaces, Professor Monture-Angus raised concerns about the sustainability of the situation for scholars from equity-seeking groups.³⁸⁸ In her view, to develop an appropriate remedy to this untenable situation would require collective action within the academy.³⁸⁹ As evidenced by her writings, this collective response was not forthcoming.³⁹⁰

In the classroom, Professor Monture-Angus faced accusations from students that her teaching was politically motivated when she included Indigenous perspectives in her course content.³⁹¹ Students were hostile and racist in the written work they submitted for evaluation in her

³⁸⁵ Camille Nelson, “The Conflicting and Contradictory Dance: The Essential Management of Identity of WOC in the Legal Academy” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 117 at 120.

³⁸⁶ Patricia Monture-Angus, “Flint Woman: Surviving the Contradictions in Academia” in Patricia Monture-Angus, ed, *Thunder In My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood Publishing, 1995) 53 at 64.

³⁸⁷ *Monture-Angus, supra* note 376 at 1.

³⁸⁸ *Supra* note 386 at 56.

³⁸⁹ *Ibid* at 56.

³⁹⁰ *Ibid* at 53.

³⁹¹ *Ibid* at 61–62.

courses.³⁹² Her participation in the academy was framed as biased and non-objective for the simple inclusion of Indigenous perspectives.³⁹³ I am particularly sensitive to this last point; as far as micro-aggressions go, this one serves to undermine Indigenous knowledge systems and subjugate Indigenous women's knowledge in a particularly violent way.

Having initially joined the legal academy motivated by a desire to improve legal education that had left her disillusioned as a law Learner,³⁹⁴ Professor Monture-Angus noted that the higher she rose within the Faculty, the more oppression she faced.³⁹⁵ She ultimately acknowledged that she would not be accepted as an equal by her colleagues, all credentials being equal.³⁹⁶ Citing similar feelings of alienation articulated by participants in the University of Saskatchewan study penned by Dr. Tracey Lindberg,³⁹⁷ she chose to leave the legal academy and accepted an appointment in a Native Studies department.³⁹⁸ Mohawk, Professor Monture-Angus discovered, was too alien a way of being within the legal academy,³⁹⁹ and so she left it, "intellectually and spiritually battered."⁴⁰⁰

"A Nation is not conquered
until the hearts of its women
are in the ground.
Then it is finished,
no matter
how brave its warriors
or how strong
their weapons."

– A saying from the Cheyenne people⁴⁰¹

³⁹² *Ibid* at 62.

³⁹³ *Ibid*.

³⁹⁴ *Ibid* at 58.

³⁹⁵ *Ibid* at 69.

³⁹⁶ *Ibid*.

³⁹⁷ *Supra* note 72 at 307.

³⁹⁸ *Monture-Angus, supra* note 386 at 54.

³⁹⁹ *Ibid*.

⁴⁰⁰ *Ibid* at 70.

⁴⁰¹ Katherena Vermette, *River Woman*, (Toronto: House of Anansi Press, 2018) at 31.

Battered, but not beaten, Professor Monture continued to write about her oppression and experiences in a spirit of hope, encouraging the legal academy to engage in self-reflection that might prompt “meaningful and systemic change.”⁴⁰² This act of resistance continues to inspire Indigenous scholars across disciplines.⁴⁰³ This resistance through writing was, in my opinion, a selfless act of love in service of future generations of Indigenous Learners and scholars in the legal academy.

Professor Monture-Angus passed in 2010. Indigenous scholars continue to benefit from her writing as an act of love, but barriers to full and equitable access and participation in the academy continue to abound. For example, Dr. Shawn Wilson, writing in 2008, describes basic administrative barriers and struggles to complete his doctoral program, linking them to suspected institutional racism within the academy.⁴⁰⁴ Dr. Wilson’s experience of, and concerns about, continued systemic institutional racism within the academy are not unique, nor should they be presumed to be limited to Learners.

Dr. Lynn Lavallée, Anishinaabek Qwe registered with the Métis Nation of Ontario,⁴⁰⁵ notes that modern manifestations of anti-Indigenous racism that remains deeply embedded within the academy can sometimes take the form of micro-aggressions against even the most senior

⁴⁰² *Supra* note 386 at 70.

⁴⁰³ The work of Patricia Monture remains frequently cited by Indigenous scholars labouring in all corners of the academy, including: *Gehl, supra* note 92 at 59; Emerance Baker, “Locating Ourselves in the Place of Creation: The Academy as Kisu’lt melkiki’tin” in Patricia A Monture & Patricia D McGuire, eds, *First Voices: An Aboriginal Women’s Reader* (Toronto: Inanna Publications and Education Inc, 2009) 497 at 503; *Ray, supra* note 35; *Cote-Meek, supra* note 33 at 64; *Edge, supra* note 111.

⁴⁰⁴ *Wilson, supra* note 14 at 31.

⁴⁰⁵ “Lynn Lavallée” (last visited 8 September 2020), online: *Ryerson University* <ryerson.ca> [perma.cc/BDX5-CYP5].

Indigenous scholars working to advance Indigenous knowledge.⁴⁰⁶ Micro-aggressions, racism, and other oppressive experiences result in susceptibility to, and experiences of, ethno-stress even for Indigenous faculty members.⁴⁰⁷

Non-academic staff⁴⁰⁸ also experience violence and anti-Indigenous racism within the academy, including those occupying positions that were purposely conceived to combat the same.⁴⁰⁹

Here we are, then.

The process of decolonizing legal education is a painful one, and in my experience the burden is primarily borne by the Indigenous (women) in the room.

No turning back now.

I will never forget an early morning conversation with my Auntie wherein she uttered the words I understood to be true but had not until that point acknowledged out loud. The process of decolonizing legal education and reconciling within the legal academy is death to Indigenous lawyers, academics, and staff, by a thousand cuts.

Paper cut stings from our paper-thin plans
 My time, my wine, my spirit, my trust
 Tryna find a part of me you didn't take up
 Gave you so much, but it wasn't enough
 But I'll be alright
 it's just a thousand cuts.
 ...⁴¹⁰

⁴⁰⁶ Lynn Lavallee, "Is Decolonization Possible in the Academy?" in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada*, (Toronto: Canadian Scholars, 2020) 117.

⁴⁰⁷ Cheechoo, *supra* note 177 at 251.

⁴⁰⁸ Lavallee, *supra* note 406 at 120.

⁴⁰⁹ Patti Doyle-Bedwell, "'With appropriate Qualifications': Aboriginal People and Employment Equity" in Patricia A Monture & Patricia D McGuire, eds, *First Voices: An Aboriginal Women's Reader* (Toronto: Inanna Publications and Education Inc, 2009) 212 at 212 and following.

⁴¹⁰ Taylor Swift, MP3: *Death By A Thousand Cuts* (New York: Republic Records, 2019).

We bleed for these institutions, institutions that are not built by us or for us, in the name of the future safety of our children and kin. The duty owed is to the seven generations that will follow us. “This responsibility includes making sure that they do not have to bear this weight. It includes ensuring that barriers that existed for us as Aboriginal women are knocked down so that our children do not have to break them down.”⁴¹¹

In my specific lived experience, it is more properly characterized as death by a thousand dots, and the story begins eons before what I can only inadequately characterize as The Bad Day.

I wish there was another way to do this.

I hesitate to write publicly about The Bad Day. There are a few reasons for this.

“REFUSAL
If I refrain from writing,
no one can misunderstand me (Kierkegaard inverted).
The more practical option is to burn all the maps of the province of Alberta
in nôhkom’s front yard
and inhale the smoke.”
412

The first, though not the primary, is fear. Nearly twenty years ago, one of the strongest Indigenous academics I have ever known gave me advice that I still carry with me today. They cautioned me against throwing myself into the sea of publish or perish on the basis that Indigenous women have very a very narrow margin within which to maneuver. Our words and writings follow us in a way that others cannot begin to understand. We do not have the luxury of

⁴¹¹ *Lindberg, supra* note 72 at 326.

⁴¹² *Belcourt, supra* note 3 at 106.

ever changing our minds or evolving our ideas lest we be accused of acting to destabilize a “settled” intellectual landscape. We bear significant responsibility towards our communities when sharing our writing in public spheres as many will attempt to hold up our personal thoughts and research as the word or understanding of our communities on the whole. This hugely problematic assumption of an “authentic”⁴¹³ Indigenous voice is of course grounded in an understanding of “us” as a homogenous mass and not a multiplicity of individuals, Nations, Peoples, and communities. But that is another issue entirely, one that calls into question our humanity. We are often, you see, perceived as less than human.⁴¹⁴

While grounded in love and caring, this decades-old advice to be hyper-vigilant and restrictive as to what and when and where ideas are shared has sometimes limited me in my active participation in public academic spheres. I do struggle to balance this knowledge, which I now know from experience to be acutely accurate, with a desire to prompt reflection and forward momentum on issues of critical importance to my communities.

Confronted with the prospect of sharing the story of The Bad Day, I feel something beyond fear. There will be no “walking it back.” Once shared, there will be significant consequences, and I fear that the way of the world is that the lion’s share of the consequences will rain down upon my own head.

⁴¹³ *Cote-Meek, supra* note 33 at 77.

⁴¹⁴ *Ibid* at 54; *Wilson, supra* note 14 at 46–68; *Maracle, supra* note 118 at 137.

(how to argue)

remember your love's best self
 remember your best self
 only let
 the two of them talk
 think of love
 and all the dreams you share

don't walk away

take a break
 if you need to
 choose your words
 carefully
 do not punish
 do not blame

...⁴¹⁵

Progressing through the emotional spectrum, we arrive at shame.

"Shame dehumanizes."⁴¹⁶

The funny thing about lived experiences of violence is that the shame we feel when experiencing it can be more vibrant and real than the other pain we also legitimately carry. I feel deeply ashamed when I think about The Bad Day. I feel ashamed at the paralysis I felt and my inability to speak when the reality of what was about to transpire hit me. I feel shame at failing my community - I can hardly claim to be an effective advocate for my Learners when I allow myself

⁴¹⁵ *Vermette, supra* note 401 at 72.

⁴¹⁶ *hooks, supra* note 2 at 103.

to be dehumanized. On the opposite side of the shame coin is my desire to honour the reality of what Indigenous peoples working within the legal academy face.

“The mind motivated by compassion
reaches out to know
as the heart reaches out to love.
Here, the act of knowing is an act of love...”⁴¹⁷

The final factor I find myself weighing is love. It works both for and against me in reflections of The Bad Day. For love of my kin and communities, this is a story that must be told publicly. At great personal cost and risk. For the love of others involved, I hesitate. It pains me when I think of how the public sharing of this story might ultimately result in an irreparable damage to some relationships.

“Cannot think of all the cost
And the things that will be lost
Oh, can we just get a pause?
To be certain, we'll be tall again
Whether weather be the frost
Or the violence of the dog days
I'm on waves, out being tossed
Is there a line that I could just go cross?”
418

I believe in the power relationships grounded in love and respect, and some days the pain of worry manifests beyond debwewin as a physical disruption. In the months and now years that have followed The Bad Day I have experienced near constant nausea when I am on campus,⁴¹⁹ significant weight fluctuations, countless sleepless nights, and several panic attacks.

⁴¹⁷ *Ibid* at 132.

⁴¹⁸ Taylor Swift, MP3: *Evermore* (New York: Republic Records, 2020).

⁴¹⁹ Nausea in response to violence, the omni-present companion of Indigenous scholars. See *Monture-Angus, supra* note 386 at 62.

Because of the nature of our community, my Learners and colleagues have witnessed many of these struggles. There was even one afternoon my office wallmate found me in the hall, shoeless and wrapped in a blanket, weeping. I cannot even remember what had transpired that particular day to prompt such a reaction. It could have been any number of things. But I digress.

“Where there is domination there is no place for love.”⁴²⁰

My primary duties of care and responsibilities are to my children and my Learners, and in the end, the love of the community trumps the love of those who will feel betrayed by a public sharing of this lived experience of mine. That knowledge does not make this process any less devastating, and I find myself pre-emptively grieving for the loss of important relationships in my life, as if anticipatory grief will lessen the blowback.

I cannot say that The Bad Day started out like any other day, though the story might read slightly more poetic if I glossed over the truth that the air felt heavy with an unidentifiable unease for several days in advance.

One of the many struggles we face at our law school relates to physical space. Our building, several decades old and brutalist in more ways than one, limits us. It limits us in our programming – oh what we could do but for want of space. It limits us in our ability to develop, mobilize, and implement Indigenous legal pedagogies. It quite literally limits us in our ability to welcome those with mobility challenges through the front door.

⁴²⁰ *Ibid* at 128.

On The Bad Day, the physical limitations of our law school determined from the outset that the day would not be ordinary. As Faculty, staff, and employees from the central administration prepared to sit together in community to strengthen and debate our Faculty's draft strategic plan, we all laced up our walking shoes for the trek across campus to the meeting space large enough to accommodate us all.

It was April and it was pouring rain. Perhaps it was snowing. Either way, it was wet and miserable in the way only Ottawa can be in the spring. You probably don't need all these details. I type to resist the urge to abandon this task completely and return to the more comfortable space of writing about others' experiences of trauma and ethno-stress.

The idea of hosting an all hands meeting outside the four walls of our law school was a positive one for me, mostly because of a few old adages relating to physical spaces. Location, location, location! Change your location, change your life! The power imbalances between those holding academic appointments and those occupying non-academic positions are great, all academic credentials being equal. The equalizing force of all participants being displaced and soggy was welcome in my mind. I, for one, had much to say about the draft that had circulated earlier that week. From a room high in a tower on the edge of our campus, perhaps my voice would be amplified.

The draft that had circulated was by no means a first draft. In fact, the draft as it existed at that moment in time was already a document that carried significant frustration and trauma. The month before there had been an attempt to seek approval from our joint program assemblies on

the draft already 15 months in development. Wholly inadequate consultation and collaboration with the Indigenous community within our law school resulted in a moment of significant frustration amongst Indigenous faculty in particular, some of whom ultimately decided they could no longer engage with the process.

While that meeting on a cold day in March ranked nowhere near The Bad Day, it too carried with it instability in the unexpected form of a PowerPoint slide. As part of the broad descriptive strokes that set the scene for the proposal, the narrative did not reflect the reality of the process. Specifically, the slide in question suggested to all that I, in my capacity as advisor, had been consulted throughout the drafting process as part of an advisory group. It was further suggested that the advisory group had in some way signed off on the draft being presented for approval.

At this point in the winding narrative, it will probably shock no one to learn that while the advisory group may have met, I had personally never participated a meeting. The fallout from this possibly inadvertent prevarication was significant, resulting in a complete loss of professional credibility amongst my colleagues and further deepening the divide between Faculty and non-academic staff. Beyond professional implications, the interpersonal impact was traumatic and resulted in a loss of respect and trust. This cut both ways, with many losing trust in and respect for, me. Cutting deeper still was the violation of my faith in our Faculty. Not for the first time, the young(ish), precariously employed (non-unionized, contract employee)⁴²¹ Indigenous woman was figuratively crucified in the name of advancing an institutional agenda.

⁴²¹ The phenomenon of Indigenous (women) being precariously employed within the academy is not unique to my institution. See e.g. Chantal Fiola & Shauna MacKinnon, “Urban and Inner-City Studies: Decolonizing Ourselves and

“Long story short,
it was a bad time.”⁴²²

This to say that by the time we gathered on the rainy, or snowy, April day we had been spinning in circles for quite some time. Perhaps this is where the sense of unease was grounded – in instability and past breaches of trust. Perhaps it was the change in the weather. Perhaps it was simply something in the air. In response to the perceptible shift in energy that preceded April 8th, I felt the need to exercise agency in a way I had been denied during the PowerPoint slide fiasco of March. I prepared for the meeting in the only two ways I knew how. First, I read, reflected, and wrote on every aspect of the draft. Second, I prepared a diaper-box full of beading kits in gallon size Ziploc bags for distribution during the meeting.

Really, how anyone could have expected anything different when faced with unease is beyond me. The Fauteux Hall Beadwork Revolution had kicked off in January of the same year and a nascent Indigenous Legal Pedagogy, under a different name, had firmly taken root. The fact that a community blossomed around a beading circle seemed to surprise everyone except the Indigenous people in the room. “Who knew?” was a repeated refrain.

“Love will always move us away
from domination in all its forms.
Love will always challenge and change us.
This is the heart of the matter.”⁴²³

Indigenous women. We knew.

the University of Winnipeg” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 155 at 166.

⁴²² Taylor Swift, MP3: *Long Story Short* (New York: Republic Records, 2020).

⁴²³ *hooks*, *supra* note 2 at 137.

Prior to the start of proceedings, in one of those friendly moments of loitering that sometimes precedes formal meetings, a person I had never met approached me. This was not uncommon, as a new member of staff with one of the worst memories for faces ever documented at Fauteux, I was frequently being introduced (and reintroduced) to people. This person, in this first interaction with me, very casually asked if the Indigenous Faculty were going to be “a problem” during the meeting. The casual violence in the question, apparently informed by what this individual had heard about previous attempts to discuss the draft strategic plan, was debilitating. As quickly as the conversation began it had resolved, leaving me slightly dazed and largely confused.

One of my Learners vehemently maintains that “nothing good happens after 11pm.”⁴²⁴ In hindsight, the moments that followed that interaction would have been a good time to take my leave. It was not 11pm, but nothing good happens after an interaction like that.

Beadwork, however, can - and in my world often must - happen after such a disquieting interaction. My desire to inspire a creative and meditative tone in the room was strong. My response was therefore to distribute my resistance beading kits across the room to accomplished and new beaders alike. When the time came to begin there were beaders at most, if not all, of the tables.⁴²⁵ It was a beautiful community.

⁴²⁴ Personal conversation, September 2019.

⁴²⁵ As it turns out, during the retreat someone approached several of the beaders over the course of the meeting and encouraged them to set the beadwork aside. They considered the quiet, meditative practice to be “disrespectful.”

Called to order, we took our unassigned seats at round tables appropriately dressed for a wedding back home. It was at precisely that moment that I noticed the poster board being taped to the walls. The alarm I began to feel was rooted in my academic rigour and my intensive preparation for the meeting. Having thoughtfully contemplated every aspect of the draft, I knew what it contained.

“Second, third, and hundredth chances
 Balancin' on breaking branches
 Those eyes add insult to injury
 I think I've seen this film before
 And I didn't like the ending
 ...”
 426

There were over 100 “initiatives” listed in the draft before us. Some proposed “initiatives” included review of the grading guidelines, ensuring the majority of 1L courses are taught by full-time professors, and increasing the number and variety of graduate-level courses. There was a proposal that the Faculty create a new staff position to allow us to hire a full-time counsellor to promote mental health and wellness initiatives, and several proposals relating to minority language education and our French Common Law Program.

Only one “initiative” related to a specific person. Specifically, the “initiative” read: “Ensure the continued presence of the Indigenous Learner Advocate.”

I could see it happening and could do nothing to stop it. Someone handed me a number of red dot stickers - it might have been fifteen - and we were instructed to take ten minutes to circulate

⁴²⁶ Taylor Swift, MP3: *Exile* (New York: Republic Records, 2020).

amongst the posters and appose our stickers on the “initiatives” we supported including in the final strategic plan. We were instructed to do this in silence. One can only assume the imposition of silence was to ensure that no lobbying or intimidation took place. The hindsight on this is, quite frankly, absurd and infantilizing.

Never one for absurd rules, an Indigenous colleague sidled up beside me and said, “I voted for the six I care about, and voted for you with the rest of my dots.”

My “continued presence” within the Faculty was put to a public plebiscite⁴²⁷ by red dot sticker.

The fallout from The Bad Day is difficult to overemphasize. I would like to assume that it is not necessary to gather the threads for my readers, but I have been surprised before. Let there be no confusion about the lived experience of having one’s “continued presence” in their workplace classified as an “initiative” on par with ensuring all pre-tenure Faculty were assigned a Faculty mentor, and put to a public, open vote using red dot stickers on Bristol board hung on the wall. At best, it was dehumanizing and violent. At worst, it demonstrated a lack of integrity, was unethical, attacked my dignity, and violated my human rights.

The inappropriateness of empowering our Faculty to vote on this laundry list of initiatives, including my continued presence, did not occur to a single individual involved in the steering committee, at the central-level office assisting the Faculty in this strategic planning process, or

⁴²⁷ This is the language used by a colleague in a personal conversation in April 2019. Ever since, it is how I have thought of the event. The academic language helps me maintain cognitive and emotional distance.

within Faculty leadership. It was an oversight – one that violated my community, disrupted my emotional integrity, and broke my heart.

There is a hole where my heart once was.
In its place, your history.⁴²⁸

When I raised concerns in the room with a member of the executive management team, breaking the please-vote-in-silence rule, I was casually dismissed with a shrug and a “don’t worry about it, you are taking it wrong.” In that no one noticed in advance or took any steps to remedy the situation in the moment, even when I suggested out loud that the voting was problematic and violent, demonstrated in a public and disturbing way that Indigenous women in the academy are at best devalued and tokenized, at worst considered disposable and less than human.⁴²⁹ Perhaps it is simpler than that, as suggested by the stranger at the beginning of the meeting: we are a problem to be pre-emptively managed.

I believe those who sought to make amends when they say that the implications had simply not been properly thought through and the fallout was accidental, and I believe in the authenticity of the remorse expressed by some of the actors involved.

I do. Really.

The experience continues to radiate pain and provoke anxiety for me, even after acts of reparation by some, and after many others around me have long forgotten what transpired.

Countless relationships were battered and beaten, some irreparably.

⁴²⁸ *Kardish, supra* note 4 at 559.

⁴²⁹ *Cote-Meek, supra* note 33 at 54; *Wilson, supra* note 14 at 46–68; *Maracle, supra* note 118 at 137.

I faced significant pressure from my extended communities to respond in ways that did not feel safe to me. Many encouraged me to file complaints through official channels, specifically by logging human rights complaints through the University's Human Rights office or before provincial administrative bodies. In some cases, the pressure was quite significant, and I was told in no uncertain terms that failure to do so represented a betrayal of the Indigenous community on campus. Some extended community members were intensely frustrated by what they perceived to be my inaction. It was suggested that if I failed to make an official complaint and live through a public complaint process, I would be marked as a "puppet" of my institutional masters, "siding" with my Faculty over my community. The lateral violence became intense, and the isolation I felt was real.

I ultimately chose not to file complaints through official channels. The reasons for these were many and span the gamut from purely pragmatic to intensely personal.

Within the Faculty, some carried on with their lives unaware that anything problematic had just transpired. Others expressed a range of emotions, including anger. The most common response, however, was a dismissive disbelief, a headshake with a shrug of the shoulders that such lapses in judgement were not something to be bothered about, they were simply the result of inadequate care. Wasn't that ridiculous, it wasn't about you, someone just didn't read the draft, don't take it personally.

The Indigenous community within the Faculty experienced a range of individual and collective emotions, some which I was protected from. Ultimately, in the way of our communities, we rallied and closed ranks, throwing energy into building - community, consensus, and a roadmap

for our Faculty to move forward in its relationship with Indigenous peoples, Nations, and communities in a good way, hopefully ensuring the violence of the dots would not be repeated. As it turns out, The Bad Day wasn't the last time my "continued presence" in the Faculty would be put to a public vote, but I will spare you the details. I've shown you enough of my heart for now.

I wish there had been another way.

The Continued Subjugation of Indigenous Knowledge – and the Multiply-Subjugated Knowledge of Indigenous Women - in Academia

Invisibility & Erasure, Marginalization of Indigenous Voice, Perspective, Knowledge...

Sometimes, the suppression of the knowledge of Indigenous women within the academy is subtle and targeted, as in the case of colleagues' reactions to my lived experience of *The Bad Day*. In insisting I not "take it personally" or in attempting to diminish my lived experience by writing it off as poor planning, my understanding of the experience as one of dehumanizing violence was effectively subjugated. The act erasure, of dismissing another's knowledge and knowledge systems, is a structurally-validated violence, one that those in subordinate positions have to carry with them every time they walk through the door – even long after others have been allowed to forget all about it. In the case of *The Bad Day*, that the experience was rendered invisible through the subjugation of Indigenous women's knowledge contributes to my own continued feelings of instability, trauma, and precarity of employment.

Other times, the subtle subjugation of our knowledge and knowledge systems occurs in a more broad and systemic way, via the development and application of academic theories and research and knowledge production frameworks. In order to properly describe the multiply marginalized position of Indigenous women and our knowledge(s) within the academy, it is necessary to venture into theoretical territories beyond colonialism, racism, and other *-isms* already canvassed.

In a spirit of full disclosure, I will admit that this foray into theoretical considerations at this point in my dissertation is by design. First, I am requiring my readers to experience an abrupt intellectual shift away from the personal writing style espoused in the extra-intellectual

knowledge sharing above with a quick dive into highly theoretical western constructs. This experience is meant to be jarring and intellectually uncomfortable. It is a weak simulation of the intellectual disruptions experienced by Indigenous Learners as they move between two worlds. I would suggest the reader pause and sit in a moment of empathy for those Learners who most certainly do not have a luxury of taking such moments of rest themselves. Second, this shift away from *debwewin* and heart-informed knowledge also has the added benefit of allowing me to catch my breath after the painful writing and sharing of The Bad Day. This second consideration is for me, not for you. If you are uncomfortable after reading about my experience of The Bad Day, good. You should be.

Now: let's get theoretical.

...Through Knowledge Production and Institutional Frameworks...

A key element of what Dr. Marie Battiste describes as Forced Assimilative Education was the imposition of a Eurocentric vision of knowledge in education. This Eurocentric vision of what constitutes things worth knowing is not only blind to the breadth and depth of established Indigenous knowledge systems, but also insists on their suppression and erasure⁴³⁰ with a view to civilizing Indigenous Learners. This approach is premised on the racist and false assumption of “settler superiority” which positions those of European descent above inferior beings: Indigenous peoples.⁴³¹ In the myth of settler superiority, “ongoing colonial, imperial and racist practices...become normalized” as the colonized subject is considered less civilized, inferior, and

⁴³⁰ *Battiste, supra* note 1 at 23.

⁴³¹ *Ibid* at 25–26, discussing the findings of the Royal Commission on Aboriginal Peoples.

uneducated.⁴³² In other words, racism feeds the colonial machine and through the continued subjugation of Indigenous knowledge this racism is normalized and validated.

My second child was born in 2013, the same year that Professor Dennis McPherson, Ojibwa and a band member of the Couchiching First Nation,⁴³³ described universities as “...institutions that regard Indigenous knowledge and heritage as inferior to Eurocentric knowledge and heritage.” This statement is indicative of the lived experience of many Indigenous scholars who continue to experience the subjugation of Indigenous knowledge within the academy to this day, and in a panoply of ways.

Some acts of subjugation are overt and grounded in longstanding practice. The gold standard of overt subjugation of Indigenous knowledges within the academy is the imposition of knowledge production frameworks “driven by colonialist and imperialist interests.”⁴³⁴ As Dr. Moreton-Robinson explains, “Whiteness is a form of strategic essentialism that can silence and dismiss non-Western constructions, which do not define the self in the same way. Such silencing is enabled by the power of white Western knowledge and its ability to be the definitive measure of what it means to be human, and what does and what does not constitute knowledge.”⁴³⁵

⁴³² *Cote-Meek, supra* note 33 at 20.

⁴³³ “Dennis McPherson” (last visited 8 September 2020), online: *Lakehead University* [perma.cc/JB64-FSPL].

⁴³⁴ Candace Kaleimamoowahinekapu Galla (Kanaka Hawai’i) & Amanda Holmes (Kanien’keha:ka), “Indigenous Thinkers: Decolonizing and Transforming the Academy Through Indigenous Relationality” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada*, (Toronto: Canadian Scholars, 2020) 51 at 53.

⁴³⁵ Aileen Moreton-Robinson, “Whiteness Matters: Implications of Talkin’ Up to the White Woman” (2006) 21:50 *Australian Feminist Studies* 244 at 248.

Professor Monture-Angus's experience of the academy, meanwhile, was one of not only racial oppression as an Indigenous scholar, but also gendered oppression as a woman.⁴³⁶ She maintained that that the dominant culture in academia oppresses all women, regardless of race, and that the culture within universities often serves to reinforce white male privilege.⁴³⁷

The White male gaze, constituting the natural baseline for the validity of knowledge within the academy, has the effect of suppressing the knowledge of those who fall outside the dominant group – whether intentionally or unconsciously.⁴³⁸ Indigenous Scholars Dr. Candace Kaleimamoowahinekapu Galla, Kanaka Hawai'i, and Amanda Holmes, Kanien'keha:ka, further suggest that “the hegemonic function of academic knowledge production makes individualism, competition, commodification, and ownership (and its practices of exclusion in the academic everyday) normal, reifying the colonialist project by forcing the ongoing marginalization of Indigenous knowledges, ways of knowing, and scholarship to the peripheries of what is considered valid.”⁴³⁹

I have previously canvassed several examples of the devaluing and denigration of Indigenous knowledge through the vehicle of academic knowledge production frameworks during our discussion about espousing an Indigenous research paradigm. Requiring “objectivity” in research for it to be considered properly academic is a topic I could return to again and again; the implications for many Indigenous researchers who cannot divorce their work from emotion and

⁴³⁶ See e.g. *Supra* note 386 at 56.

⁴³⁷ *Ibid* at 54 and following.

⁴³⁸ *Supra* note 434 at 54.

⁴³⁹ *Ibid*.

a worldview that understands all things as interrelated are severe.⁴⁴⁰ However, I will not insult the intelligence of my readers by repeating the discussion here.⁴⁴¹

Rather, I will take a moment to pause and gather a few of the threads from our previous discussions relating to the extensive academic “housekeeping” burdens imposed on the first scholars of equity-seeking groups and Indigenous academics. It would be foolish to think that that these conversations about western frameworks for validating and producing academic knowledge, the subjugation of Indigenous women’s knowledge, and the marginalized position of Indigenous scholars within the academy are unrelated.⁴⁴² For example, carrying disproportionate administrative loads in order to support institutional initiatives results in less time to devote to research and the production of academic knowledge.⁴⁴³ In a sphere where publish or perish is not only an idiom but also truism, this will disadvantage these scholars in tenure and promotion processes, leading to further precarity within the academy.⁴⁴⁴

In *Decolonizing and Indigenizing Education in Canada*, Dr. Cote-Meek challenges post-secondary institutions to engage in an exercise of introspection, specifically to:

...consider how they are re-producing conditions whereby ... Indigenous faculty are so overburdened by seemingly endless requests to sit on committees, provide advice on matters of curriculum and research, provide guest lectures, or be members of teams that are submitting grants under an Indigenous envelope of funding. The increasing expectations placed on...faculty result in a burden of representation.⁴⁴⁵

⁴⁴⁰ See e.g. *Wilson*, *supra* note 14 at 56.

⁴⁴¹ *Ibid* at 133.

⁴⁴² Rakhi Ruparelia, “Legal Feminism and the Post-Racism Fantasy” (2014) 26:1 *CJWL* 81 at 105.

⁴⁴³ *Nelson*, *supra* note 385 at 120.

⁴⁴⁴ *Ibid* at 119.

⁴⁴⁵ Sheila Cote-Meek, “From Colonized Classrooms to Transformative Change in the Academy: We Can and Must Do Better!” in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) at xix.

At institutional levels, there does appear to be an emerging awareness of the pressures placed on Indigenous graduate students and early career scholars and, as part and parcel of program and policy development occurring in response to the Calls to Action, some institutions are developing frameworks to encourage or support Indigenous scholars within the academy. Unfortunately, universities across Canada appear to be largely working independently, resulting in a patchwork of approaches. I do not propose a comprehensive review of all of the different approaches and programs in development, for that would constitute doctoral research in and of itself. Rather, I will highlight three recent initiatives by way of an illustration of possible remedies to what Professor Monture-Angus once described as a “tailspin” of quality of life experienced by Indigenous scholars operating in the academy.⁴⁴⁶

In 2018, Queen’s University launched a pre-doctoral fellowship program for Indigenous doctoral candidates. The stated intentions of this program were twofold: first, the university sought to increase access to Indigenous scholars for their student body, requiring that pre-doctoral fellows be in residence during their fellowships to teach an undergraduate course and “contribute to intellectual life at the university.” The second stated intention of the program was to “support a new generation of Indigenous scholars at a very formative moment in the completion of the doctorate,” allowing scholars to gain teaching experience and providing access to funds to support research and attendance at conferences in addition to fellowship and teaching stipends.⁴⁴⁷ Sadly, supporting Indigenous scholars appears to be the secondary consideration.

⁴⁴⁶ *Supra* note 386 at 56.

⁴⁴⁷ Rhiannon Johnson, “Queen’s University Launches New Pre-doctoral Fellowship for Indigenous Students” *CBC Indigenous* (9 February 2018), online: <cbc.ca> [perma.cc/K6AX-4MYA].

During a 2018 interview regarding the launch of the program, an institutional leader is quoted: "Queen's isn't looking to take the lead on Indigenization, it's looking to put the kind of supports in place that allows all the new generation to take the lead on this and to bring Indigenous ways of knowing into the academic environment much more than it has been to date."⁴⁴⁸

With the emergence of the Covid-19 public health emergency, the pre-doctoral fellowship program was suspended for the 2020-2021 academic year,⁴⁴⁹ despite the University's plans to maintain service delivery while shifting to an online delivery model for the fall 2020 term. With the entire institution moving to online learning, one wonders why the need for increasing undergraduate student's access to Indigenous ways of knowing would be less of a priority, and why, during this public health crisis, emerging Indigenous scholars are less deserving of opportunities for career development.

Other institutions are beginning with policy-oriented approaches to address the "tailspin."⁴⁵⁰ For example, the 2016 Provost's Task Force on Indigenous Studies and Indigenous Education at McGill University generated a final report that proposed pathways towards indigenization in all areas of campus life.⁴⁵¹ As it relates to the support of Indigenous scholars, the Task Force proposed "adapted and more flexible academic expectations, given the extensive service work done by Indigenous faculty that is not adequately recognized or supported (e.g., mentoring, supporting and recruiting students and junior faculty and consultation on various Indigenous

⁴⁴⁸ *Ibid.*

⁴⁴⁹ *Ibid.*

⁴⁵⁰ *Monture-Angus, supra* note 386 at 56.

⁴⁵¹ McGill University, "Provost's Task Force On Indigenous Studies and Indigenous Education: Final Report 2017" (2017), online (pdf): <mcgill.ca> [perma.cc/NF5F-U9FC].

committees and undertakings).⁴⁵² The Task Force suggested various ways this might be accomplished, including but not limited to: “through adjusted teaching loads and/or expectations regarding what counts as research and research dissemination; rethinking the traditional tripartite academic role of teaching, research and service to better reflect Indigenous approaches to scholarship; valuing community- or land-based activities (e.g., outreach activities, youth mentorship, recruitment) as part of a professor’s teaching, research and/or service record.”⁴⁵³ While the report of the Task Force was released in June 2017, there does not appear to be a public reporting mechanism to keep community members apprised of progress towards its implementation. Should the policies and supports proposed in the report be implemented, they would presumably result in an improvement in the lived experience of Indigenous scholars at McGill University.

The University of Ottawa has also chosen to develop approaches grounded in policy. In their inaugural *Indigenous Action Plan 2019-2024*⁴⁵⁴ released in June 2020, the institution has proposed prioritizing the recruitment of Indigenous scholars whose teaching responsibilities would not begin until their second year of employment.⁴⁵⁵ The stated objective of this policy proposal is to allow new scholars an opportunity to begin publishing prior to taking on classroom responsibilities.⁴⁵⁶ This could be read as an acknowledgement of the barriers relating to the production of academic knowledge and recognition of academic housekeeping burdens placed

⁴⁵² *Ibid.*

⁴⁵³ *Ibid.*

⁴⁵⁴ University of Ottawa, “Indigenous Action Plan: 2019-2024” (last visited 26 July 2020), online (pdf): *uOttawa* <uottawa.ca> [perma.cc/UF42-JYS6].

⁴⁵⁵ *Ibid.*

⁴⁵⁶ *Ibid.*

on Indigenous scholars. Should the policy be implemented and supported with a sustained financial commitment and institutional supports, this could represent a positive first step towards addressing discrimination against Indigenous scholars within the academy.

...and via Theoretical Approaches

While academic knowledge production frameworks subjugate Indigenous knowledge in the rather overt and reasonably easily observable ways described above, other times the subjugation of the knowledge of Indigenous women in the legal academy is abstruse. For example, Indigenous knowledge can be suppressed through the choice of research method or theoretical lens, as previously discussed in the methodology section of this dissertation. Sometimes it occurs via what I have started to understand as *subjugation by syllabi*, with Indigenous voices excluded, erased, or rendered invisible in law school courses. When professors choose to rely exclusively on the works of White scholars, Indigenous perspectives are effectively suppressed.⁴⁵⁷

Other times, knowledge is subjugated through academic theory and the choice of analytical lens applied in writing or teaching. In this section, I will discuss one such case in which Indigenous women's knowledge is misunderstood and unexpectedly suppressed. In the curious case of intersectionality – a legal theory that was developed with the express intent of better understanding the lived experience of women of colour – the voices of Indigenous women are dampened, and our knowledge is subjugated.

⁴⁵⁷ *Monture-Angus, supra* note 386 at 61.

The language of feminism might suggest that the lived experience of Indigenous peoples in legal education could be described as one of “intersectional discrimination.” The term “intersectionality” was coined by American legal scholar Kimberlé Crenshaw in 1989 to describe the multiply-marginalized position of Black women at the intersection of race and sex.⁴⁵⁸ Professor Crenshaw focused on the troubling treatment in academic scholarship and politics,⁴⁵⁹ within institutions,⁴⁶⁰ and by the Courts⁴⁶¹ of race and sex as somehow mutually exclusive identity groups. The result of this tendency, according to Professor Crenshaw, was a “single axis” analysis, which skewed one’s understanding of discrimination and oppression by effectively erasing half (or more) of the victim’s narrative.⁴⁶² A concrete example of the single-axis analysis was that the Court’s⁴⁶³ legal analysis could proceed on the basis of a complainant being categorized as Black or a woman, but never a Black woman.⁴⁶⁴

Of course, many writers who came before her set the stage for the development of Professor Crenshaw’s theory. Dr. Bonnie Thornton Dill, writing in 1983, argued for a re-imagining of the concept of “sisterhood” which had been heavily relied upon as a potential unifying force within second wave feminism.⁴⁶⁵ Dr. Dill argued that “sisterhood” as conceptualized within the movement would never meet the needs of women of colour, but that a new version of sisterhood

⁴⁵⁸ Kimberlé Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics” (1989) 1989:1 U Chicago Legal F 139 at 139.

⁴⁵⁹ See e.g. *Ibid* at 152–60; Kimberlé Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color” (1990) 43:6 Stan L Rev 1241 at 1251–1282.

⁴⁶⁰ See e.g. Crenshaw, *Mapping the Margins*, *supra* note 459 at 1245.

⁴⁶¹ *Supra* note 458 at 141–152.

⁴⁶² *Ibid* at 140.

⁴⁶³ *Ibid*. Crenshaw specifically focused on anti-discrimination doctrine as elaborated by American courts.

⁴⁶⁴ *Ibid* at 141–52.

⁴⁶⁵ Bonnie Thornton Dill, “Race, Class and Gender: Prospects for an All-Inclusive Sisterhood” (1983) 9:1 Feminist Studies 131 at 131.

based on the building of coalitions focused on specific issues might assist in repairing the movement that had fractured under the stress of the segmentation of women's issues from the broader issues of class disparities and racial differences.⁴⁶⁶ Sharing the same year of publication with Professor Crenshaw's work, Professor Angela Harris also took the leadership of the women's movement to task over the same issues of fragmentation,⁴⁶⁷ arguing against the essentialist nature of the movement and in favour of including the previously silenced voices of women positioned in a space of "multiple consciousnesses."⁴⁶⁸

Professor Crenshaw proposed a new paradigm wherein race and sex (and any other category of discrimination) would not compete for primacy in the eyes of the law, but rather would be understood as part of a more complex form of discrimination⁴⁶⁹ that had not previously been contemplated or understood by the Courts.⁴⁷⁰ This "compound discrimination" understands that the discrimination faced by Black men added to the discrimination faced by white women does not equate to the discrimination faced by Black women, as Black women should be understood as a category in their own right, facing specific and unique challenges and forms of discrimination.⁴⁷¹

⁴⁶⁶ *Ibid* at 132–48.

⁴⁶⁷ Specifically, Catharine MacKinnon and Robin West; See Angela Harris, "Race and Essentialism in Feminist Legal Theory" (1990) 42 *Stan L Rev* 581 at 589.

⁴⁶⁸ *Ibid* at 587 and 615. The idea of women of colour living an experience of "multiple consciousness" was not a new one; See also Deborah King, "Multiple Jeopardy, Multiple Consciousness: The Context of a Black Feminist Ideology" (1988) 14:1 *Signs* 42 at 42, 47 (wherein King described the "interactive oppressions" at play in the lives of black women in particular. For King the moniker of "multiple" referred not only to the existence of several identity categories, but also to the multiplicative relationship between them).

⁴⁶⁹ *Supra* note 458 at 149.

⁴⁷⁰ *Ibid* at 141–152.

⁴⁷¹ *Ibid* at 148–152.

These challenges were broadly subdivided into three categories in her initial works on intersectionality: political intersectionality, where women of colour often find themselves as “members” of multiple groups that are pursuing conflicting political agendas (i.e., the women’s movement and the anti-racism movement); representational intersectionality, where existing narratives serve to marginalize women of colour (i.e., the trope of the hyper-sexualized Black woman); and, structural intersectionality, where multi-layer subordination or domination is embedded at the structural level (for example, in education).⁴⁷²

Professor Crenshaw argued that anything less than an intersectional analysis of discrimination claims has the effect of marginalizing complainants, as the single-axis analysis model simply fails to recognize the importance of the intersectional experience⁴⁷³ by prioritizing the “singularly disadvantaged” under the law.⁴⁷⁴

In the years that followed Professor Crenshaw’s initial theorizing, some scholars have noted with some confusion that intersectionality, though born of legal scholarship, has mostly been adopted by other fields of study and movements.⁴⁷⁵ These include Critical Race Theory, Latina and Latino Critical (Legal) Theory (LATCRIT), and feminist and antiracist politics, to name but a few.⁴⁷⁶

In her 2014 piece in the *Canadian Journal of Women and the Law*, Professor Rakhi Ruparelia discusses the treatment of the intersection of feminist and anti-racist analyses in academic

⁴⁷² Crenshaw, *Mapping the Margins*, *supra* note 459 at 1251.

⁴⁷³ Crenshaw, *supra* note 458 at 150.

⁴⁷⁴ *Ibid* at 167.

⁴⁷⁵ See Sumi Cho, “Post-Intersectionality: The Curious Reception of Intersectionality in Legal Scholarship” (2013) 10:2 *Du Bois Rev* 385 at 385.

⁴⁷⁶ *Ibid* at 385–86.

writing. She noted that within legal scholarship there may have been some effort at mobilizing intersectional theory, but without a comprehensive understanding of how systems of oppression interact.⁴⁷⁷ She argued that this effectively allows systems of domination to continue operating unchecked.⁴⁷⁸

Professor Ruparelia suggests a few possible reasons why the uptake on intersectionality as a framework for legal analysis has been slow. These include the investment some scholars may have in their own white privilege (specifically white women seeking equality with their white male colleagues), and in the relative stability of existing systems of domination that may work partially in their favour.⁴⁷⁹ Professor Ruparelia further identifies a wilful ignorance of racism in order to allow for a focus on sexism as the primary form of oppression against women, and a possible belief that pure “feminist” work is more legitimate than work dealing with multiple oppressions (which is marginalized within the academic community) as reasons for a lack of intersectional analysis in legal studies.⁴⁸⁰ She also suggests that some might feel badly equipped to perform intersectional analysis, and that some might fear that race consciousness is in and of itself a form of racism.⁴⁸¹

Dr. Leslie McCall’s oft-cited 2005 piece *The Complexity of Intersectionality* also focuses on the challenges of common methodological approaches employed in intersectional research.⁴⁸² Dr.

⁴⁷⁷ Ruparelia, *supra* note 442 at 85 and following.

⁴⁷⁸ *Ibid.*

⁴⁷⁹ *Ibid* at 100–03.

⁴⁸⁰ *Ibid.*

⁴⁸¹ *Ibid* at 101–02.

⁴⁸² Leslie McCall, “The Complexity of Intersectionality” (2005) 30:3 *Signs* 1771.

McCall subdivides intersectional studies into three categories: intracategorical, anti-categorical, and intercategory complexity.⁴⁸³

McCall suggests that intersectional study as described by Crenshaw would adopt the “intracategorical” approach. She describes the approach as one where the researcher recognizes the limits of existing social categories, but rather than rejecting them outright will employ them to study cases that exist at intersections that have been neglected in previous research. Working across category boundaries is, per Dr. McCall, done in an effort to better understand the complex workings of intersectional relationships in society.⁴⁸⁴

The anti-categorical approach, on the other hand, rejects the use of categories on the premise that social life is too complex and that the use of categories has the effect of simplifying social fictions that produce inequalities. According to Dr. McCall, the anti-categorical approach is one that has taken root as a methodology, and as a result the use of any categories at all is now viewed with skepticism.⁴⁸⁵

The third approach described by McCall is that of intercategory complexity, which strategically relies on existing categories to chart both relationships of inequality among social groups *and* the evolving nature of inequality, with a goal of ultimately comparing the various groups.⁴⁸⁶ This is

⁴⁸³ *Ibid* at 1773.

⁴⁸⁴ *Ibid* at 1775 and following.

⁴⁸⁵ *Ibid*.

⁴⁸⁶ *Ibid* at 1784 and following.

the approach McCall herself advocates for and constitutes a significant departure from Professor Crenshaw's original conceptions of intersectionality. I will return to this shortly.

It would surprise few that upon reading Dr. McCall's piece, some would be hesitant to perform an intersectional analysis in their own work. The complexities upon complexities render the theory almost incomprehensible to one who might not have a solid foundation in Professor Crenshaw's original theory. In fact, Dr. McCall's own piece arguably aggravates this issue when she provides a brief and non-comprehensive overview of the development of intersectional legal theory; some argue that this could prompt some readers to base their understanding of the theory on Dr. McCall's analysis alone without returning to Professor Crenshaw's original work as the source of the theory, lifting the pressure of "academic rigour" from the shoulders of the reader.⁴⁸⁷

Dr. McCall's work has further been criticized as appropriative and violent. Professor Nikol Alexander-Floyd argues that Dr. McCall's broad redefinition of intersectionality paired with her efforts to extend principles of "intersectional methodology" to the social sciences at large without requiring researchers to substantively change their work methods constitutes a dangerous dual-pronged attack of intersectionality that has the effect of re-subjugating Black women's knowledge.⁴⁸⁸ Professor Alexander-Floyd notes that Dr. McCall's focus on complexity

⁴⁸⁷ Nikol Alexander-Floyd, "Disappearing Acts: Reclaiming Intersectionality in the Social Sciences in a Post-Black Feminist Era" (2012) 24:1 *Feminist Formations* 1 at 12.

⁴⁸⁸ *Ibid* at 9–10.

results in the erasure of Black women from the discussion, further subverting the original intention of the theory.⁴⁸⁹

Others agree that the misrepresentation of intersectionality as a purely academic or methodological tool serves to erase the political origins of the theory, and undermines the theory as a driver for social justice goals.⁴⁹⁰ The “reframing” and “broadening” by, and “annexing” of intersectional theory into disciplinary feminism, a process described by Professor Sirma Bilge as a “whitening” of the theory, ultimately devalues the work by women of colour.⁴⁹¹ Professor Bilge argues that in reframing and attempting to broaden the scope of the original theory, writers like Dr. McCall betray an underlying assumption that the experience of women of colour cannot serve to generate theory, but is only to be understood as a “descriptive category of experience”.⁴⁹²

As I have alluded to above when discussing some of the critiques made of Dr. McCall’s “broadened” intersectional theory, challenges to the theory exist beyond methodology and politics.

For example, there appears to be some difficulty with the application of intersectional theory by transnational feminists. Some note that intersectionality is difficult to apply in certain contexts that involve subjects situated at specific intersections. For instance, Shuddhabrata Sengupta discusses the challenge of shifting identities in spaces of conflict and a changing geopolitical landscape.⁴⁹³ In a brief period of time, a multiply-marginalized person might find that their

⁴⁸⁹ *Ibid* at 11.

⁴⁹⁰ See Sirma Bilge, “Intersectionality Undone: Saving Intersectionality from Feminist Intersectionality Studies” (2013) 10:2 *Du Bois Rev* 405 at 410 and following.

⁴⁹¹ *Ibid* at 412 and following.

⁴⁹² *Ibid*.

⁴⁹³ Shuddhabrata Sengupta, “I/Me/Mine: Intersectional Identities as Negotiated Minefields” (2006) 31:3 *Signs* 629.

identity shifts to that of the oppressor and back again to the position of subordinate as the conflict progresses.⁴⁹⁴ The application of intersectional approaches in these types of situations, Sengupta argues, can have the negative effect of precluding the understanding of the position of others and eliminating the possibility of solidarities between groups.⁴⁹⁵ Researchers working on transnational issues also argue that intersectionality is disproportionately focused on local and domestic situations, particularly in the United States, and that this hinders its transnational mobility.⁴⁹⁶

Some researchers note career considerations and the politics of the academy as limiting forces. Dr. McCall, for example notes, almost in passing, the inability of academic journals to afford the required space for publication of the resultant massive studies.⁴⁹⁷ In a world of publish or perish, there might not be motivation to pursue research that is considered unpublishable under current frameworks for academic knowledge production - and speaks to Professor Ruparelia's arguments regarding the investments some scholars have in their own positions within the academy.⁴⁹⁸

Some of these scholars who feel threatened by the emergence of intersectional theory take active steps towards limiting its reach within the academy. Dr. Barbara Tomlinson outlines several of the strategies employed by scholars in their efforts to minimize and marginalize the theory in her 2013 piece *To Tell the Truth and Not Get Trapped: Desire, Distance, and*

⁴⁹⁴ *Ibid* at 633.

⁴⁹⁵ *Ibid* at 637.

⁴⁹⁶ See Vrushali Patil, "From Patriarchy to Intersectionality: A Transnational Feminist Assessment of How Far We've Really Come" (2013) 38:4 *Signs* 847 at 852 and following.

⁴⁹⁷ *Supra* note 482 at 1787.

⁴⁹⁸ *Supra* note 442 at 100–05.

*Intersectionality at the Scene of Argument.*⁴⁹⁹ These strategies range from rejection of the theory outright while proposing a replacement that will better suit the needs of “feminism,” through to direct attacks on theorists of colour, questioning their ability to theorize and relegating the lived experience of people of colour to the status of a “category describing experience.”⁵⁰⁰

While intersectional analysis holds much promise for many, as an Indigenous woman Learner within the legal academy I maintain that intersectionality does not properly articulate my lived experience of legal education. I have struggled with how to write the distinguishing paragraphs that follow, as attempts have felt like a lack of cross-cultural solidarity. The best pedagogical approach I could come up with is including the following caveat before I continue: nothing in the paragraphs that follow should be read as a diminishment or subjugation of Black women’s knowledge and theory. That I don’t see my own experiences reflected in this theory says nothing of the value of the theoretical approach. There is no rule that says that writing must be all things to all people. In the same way that some of my own work speaks specifically to other Indigenous women, my difficulty with intersectionality could very well be because this theory, born to recentre the lived experience of Black women as it related to law, is simply not for me. Further, some Indigenous scholars *do* find intellectual traction with this theoretical framework. Nothing in the paragraphs that follow should be read as a criticism of their work or *debwewin*.

As it relates to this research specifically, the language of intersectionality, especially as articulated and appropriated in the works of Dr. McCall et al, does not in and of itself have the capacity to

⁴⁹⁹ Barbara Tomlinson, “To Tell the Truth and Not Get Trapped: Desire, Distance, and Intersectionality at the Scene of Argument” (2013) 38:4 *Signs* 993.

⁵⁰⁰ *Ibid* at 997 and following.

adequately underpin my work in the development of Indigenous Legal Pedagogies for use in the broader projects of decolonizing legal education and revitalizing Indigenous Legal Orders. Rather, I consider my own lived experience of legal education not as one of intersectional discrimination, but rather as one of a “colonialism collision”⁵⁰¹ requiring nothing less than the decolonization of legal education.

During a round-table dialogue on intersectionality and Indigeneity, Indigenous participants indicated that while the term “intersectionality” might be recent, the ideas of interconnectedness of all things has been known within Indigenous communities since time immemorial.⁵⁰² The idea of the exclusionary nature of “academic knowledge production” figured prominently in discussions during the roundtable⁵⁰³ and while some participants indicated that intersectional analysis could be helpful in their academic work, others indicated that a reliance on intersectional theory should not be required to legitimize existing Indigenous understandings and knowledge.⁵⁰⁴

Further, some participants also noted that the Indigenous experience of discrimination would more aptly be described as a collision, not an intersection.⁵⁰⁵ This indigenized articulation of intersectional lived experience, of the lived experience of multiple layers of discrimination,

⁵⁰¹ Sarah Hunt, Institute for Intersectionality Research and Policy, *Dialogue on Intersectionality and Indigeneity* (Coast Salish Territories–Vancouver: Wosk Centre for Dialogue, 2012) at 4.

⁵⁰² *Ibid* at 2.

⁵⁰³ *Ibid* at 6.

⁵⁰⁴ *Ibid* at 3.

⁵⁰⁵ *Ibid* at 4.

marginalization, and oppression, is a language of possibility⁵⁰⁶ for articulating the realities of my own experience learning law.

The colonialism collision and the nature of discrimination faced by Indigenous women in the legal academy was canvassed by Dr. Tracey Lindberg in the previously discussed *What Do You Call an Indian Woman with a Law Degree? Nine Aboriginal Women at the University of Saskatchewan College of Law Speak Out*.⁵⁰⁷ The underrepresentation of Indigenous women in law schools paired with the underlying systemic discrimination of Indigenous peoples more generally leaves Indigenous women in the academy in a precarious position.⁵⁰⁸

Remember that time I received counsel from an established Indigenous lawyer to be extraordinarily cautious about what I sought to have published in my early years of study, as Indigenous people in the academy do not benefit from the same ability to amend, evolve, or even retract their words at a later date? The specific example they gave was one of a prominent (white, male) legal scholar who, after many, many years had opted to completely reverse his opinion on a particular legal question. Indigenous women, they said, would never have that opportunity as our words are more susceptible to being used against us later in our careers.⁵⁰⁹ Put another way, "All stories reflect the storyteller and where they are in their lives. A problem with writing stories down is that it makes it very difficult to change them as we gain new insights."⁵¹⁰ Even years later,

⁵⁰⁶ *Smith, supra* note 27 at 204.

⁵⁰⁷ *Supra* note 72.

⁵⁰⁸ *Ibid.*

⁵⁰⁹ Personal conversation, July 2007.

⁵¹⁰ *Wilson, supra* note 14 at 22.

memories of this conversation give me pause and continues to influence which scholars I read and cite, and which theories I choose to employ.

I do not engage in this theoretical discussion because I find conversations about feminism comfortable, nor because I think it is the absolute best framework for analyzing my own work. In building a relationship with the idea of intersectionality through my own work, I am engaging in a few different practices.

First, but not foremost, I am demonstrating to the academy that I have conformed to mainstream requirements of doctoral research, having engaged in a critical review of work that has come before that might interact with my own work. While I will ultimately reject the use of intersectional analysis in my own work, the positioning of Métis Beadwork Practice as an Indigenous Legal Pedagogy does engage in an exercise that seeks centre and elevate the mobilization of Indigenous knowledge by Indigenous women.

The second objective of spending time with ideas regarding the place, position, and value of the work of people marginalized in law and the academy is to consider how existing literature might ground discussions of the value of “women’s work.” To discuss women’s work without turning my mind to feminist theory would, I am certain, prompt questions about the academic rigour of my work. I have an investment in building a “pedagogical bridge”⁵¹¹ to assist readers in situating my work in the spectrum of the mainstream.⁵¹² Building relationships with feminist legal theories allows me to reflect on the often-fraught relationship between Indigenous women and feminism

⁵¹¹ *Friedland & Napoleon, supra* note 48 at 734.

⁵¹² *Wilson, supra* note 14 at 132.

and how I am likely not the only Indigenous scholar troubled by some aspects of intersectional analysis.

One would think that intersectionality might find significant traction with Indigenous women who, like other women of colour, often feel alienated within feminist movements more generally.⁵¹³ However, as Professor Crenshaw and many others discussed in their works, feminist movements have never been particularly supportive of the needs of women of colour; this also applies to Indigenous women.⁵¹⁴

As Dr. Lindberg explains, the language of feminism does not understand Indigenous difference.⁵¹⁵

There are many barriers to developing a common vocabulary, including a divergence of visions and goals⁵¹⁶ and worldviews, specifically relating to conceptualizations of kinship and gender.⁵¹⁷

Her comments on the question of the artificiality of the gender divide illustrates this issue:

But as Aboriginal women we have a voice and a vision that is different from, and the same as, Aboriginal men's. This is not the "women's perspective". It is an Aboriginal perspective told from the feminine side of all of us. We are women. We are Aboriginal. But to draw a sharp line between these two characteristics makes sense only in theorists' minds.⁵¹⁸

⁵¹³ See *Lindberg, supra* note 72 at 342; Larissa Behrendt, "Aboriginal Women and the White Lies of the Feminist Movement: Implications for Aboriginal Women in Rights Discourse" (1993) 1:1 *Australian Feminist L J* 27 at 42.

⁵¹⁴ *Ibid.*

⁵¹⁵ See generally Tracey Lindberg, "Not My Sister: What Feminists Can Learn about Sisterhood from Indigenous Women" (2004) 16:2 *CJWL* 342.

⁵¹⁶ One participant in the University of Saskatchewan study, for example, noting she is not prepared to cede space to feminist groups to speak on her behalf - her primary concern rests with questions of Nationhood and making space for the voices of Aboriginal women in Aboriginal politics. *Lindberg, supra* note 72 at 316.

⁵¹⁷ See e.g. *Supra* note 515 at 343–44.

⁵¹⁸ *Supra* note 72 at 316.

Even the nuance of intersectionality cannot bridge the divide between feminism and Indigenous lived experience: as Eualeyai/Kamillaroi scholar Dr. Larissa Behrendt⁵¹⁹ explains, Indigenous women will not find a space within larger women's movements until the oppression of Aboriginal women is acknowledged by those who oppress and colonize.⁵²⁰

Attempts to open conversations about the subjugation of Indigenous women's knowledge and lived experience within feminist movements are a difficult proposition, one beautifully and painfully illustrated through the work of Dr. Moreton-Robinson. In her monograph *Talkin' Up To the White Woman: Indigenous Women and Feminism* published in 2000, Dr. Moreton-Robinson challenged white feminist movement(s) in Australia to think about the role they play in the ongoing oppression of Indigenous women through their failure to acknowledge their privileged position within colonial structures.⁵²¹ Dr. Moreton-Robinson questioned why "Whiteness as race, as privilege and as a social construction is not interrogated as a "difference" within feminist political practice and theory,"⁵²² and held that the participation of Indigenous women in feminist movements "will be partial due to discrepancies in power, incommensurabilities, different histories, experiences, epistemologies and material conditions."⁵²³

Speaking these truths apparently resulted in such tremendous pushback that Dr. Moreton-Robinson was compelled to write a companion piece in 2006. In *Whiteness Matters: Implications*

⁵¹⁹ "Distinguished Professor Larissa Behrendt" (last visited 8 September 2020), online: *University of Technology Sydney* <uts.edu.au> [perma.cc/QC85-5E4K].

⁵²⁰ *Supra* note 513 at 42.

⁵²¹ *Supra* note 73 at xx.

⁵²² *Ibid* at xviii.

⁵²³ *Ibid* at 185.

of *Talkin' up to the White Woman*,⁵²⁴ Dr. Moreton-Robinson discussed the tendency to classify writing as “aggressive” when the truths being spoken are “not palatable.”⁵²⁵ By classifying her work as angry, it is more easily dismissed. Further, she argued that the “white naming of Indigenous anger makes it visible and negative, while white anger remains hidden behind words that are presented as benign and neutral.”⁵²⁶

And this is the heart of the matter and the privilege of white feminism: to be considered “natural,”⁵²⁷ while Indigenous women will forever be stereotyped as “naturally violent”⁵²⁸ when viewed through colonial, Eurocentric lenses. While each individual may have a voice, the ability to amplify one’s voice is dependent on their position within dominant society.⁵²⁹

Ultimately, “...gender cannot be separated from other systems of domination within which people operate and different degrees of privilege and penalty are recorded.”⁵³⁰ Dr. Isabel Altamirano-Jiménez and Dr. Nathalie Kermoal further remind us that these systems of dominance, the same ones at play within feminist movements, have played a role in the erasure of Indigenous women’s knowledge.⁵³¹

⁵²⁴ *Supra* note 435.

⁵²⁵ *Ibid* at 251.

⁵²⁶ *Ibid* at 255.

⁵²⁷ *Moreton-Robinson*, *supra* note 73 at 33; See also *Moreton-Robinson*, *supra* note 435 at 255.

⁵²⁸ *Cote-Meek*, *supra* note 33 at 27.

⁵²⁹ *Moreton-Robinson*, *supra* note 73 at 133.

⁵³⁰ Isabel Altamirano-Jiménez & Nathalie Kermoal, “Introduction: Indigenous Women and Knowledge” in Nathalie Kermoal & Isabel Altamirano-Jiménez, eds, *Living on the Land: Indigenous Women’s Understanding of Place*, (Edmonton: Athabasca University Press, 2016) 3 at 4.

⁵³¹ *Ibid* at 4–5.

The multiply-marginalized position of Indigenous women in academia and the legal academy, as demonstrated in the foregoing scholarship, is not grounded in the space where race intersects with gender, but rather in the lived experience of colonialism. I believe this will remain true as long as dominant colonial frameworks remain intact. In the same way that Indigenous knowledges are held collectively,⁵³² ongoing Indigenous experiences of colonialism need to be considered and addressed collectively. Focusing study on the nature and relationships of the oppressions we face as Indigenous women alone will not address underlying systemic discrimination faced by all Indigenous peoples. While I hold concerns for my daughters and nieces, I also worry about my son and his uncles.

As an Indigenous woman, I believe I am unable to fully engage with intersectional legal theory because, as Professor Monture-Angus explains, oppression is the *result* of the lived experience of colonialism, and colonialism itself is the theory of power we must address.⁵³³ Put differently, the subjugation of Indigenous women's knowledge does not happen at the intersection of gender and race. It is grounded, very simply, in the colonial project that itself created artificial gender divides within Indigenous Nations and communities through the imposition of its patriarchal societal structures.⁵³⁴ Under Indigenous understandings of relationality, "relationships with other Indigenous women, men and children they are inclusive rather than exclusive,"⁵³⁵ and were not divided along gendered lines – this community imbalance is a result of colonialism. As Dr. Patricia

⁵³² *Wilson, supra* note 14 at 131–32.

⁵³³ *Monture-Angus, supra* note 38 at 15.

⁵³⁴ *McGuire, supra* note 117 at 23.

⁵³⁵ *Moreton-Robinson, supra* note 73 at 16.

McGuire, Anishinaabe Wiisaakodewikwe,⁵³⁶ reminds us, “this erosion of a gender equilibrium was and is enforced by Canadian laws.”⁵³⁷

My hope is that working to challenge colonialism and racism within the academy through the valorization of the work of Indigenous women and Indigenous Knowledge Systems might lessen the impact of the “colonialism collision” in the post-secondary context. By systemically challenging the status quo in legal education, my hope is that we might eventually increase the presence of Indigenous peoples operating as legal professionals within the Canadian legal system who can work to address systemic barriers to our pursuit of self-determination and injustices we face within Canadian society. I also hope that building Indigenous Legal Pedagogies to improve intercultural competency building opportunities for all law students might encourage healing in the relationships between Indigenous and non-Indigenous communities, and work towards dismantling colonial frameworks that continue to affect the daily lived experience of Indigenous women, girls, and persons. Seeking gender equality is a project for feminism. My daughters and nieces, sons and nephews first need, and deserve, to be recognised as human.⁵³⁸ Their personhood cannot be dismembered.⁵³⁹

⁵³⁶ “Patricia McGuire” (last visited 8 September 2020), online: *Carleton University* <carleton.ca> [perma.cc/2YPK-75QM].

⁵³⁷ *Supra* note 117 at 23.

⁵³⁸ *Cote-Meek, supra* note 33 at 54; *Wilson, supra* note 14 at 46–48; *Maracle, supra* note 118 at 137.

⁵³⁹ *Lindberg, supra* note 72 at 318.

The Legal Profession: Diversity, Inclusion, and the Profession in Ontario

In this section, we will explore issues relating to diversity and inclusion in the legal profession in Ontario. As was the case in our survey of Indigenous Education Policy in Canada in the previous chapter, the purpose of this section is not to conduct a comprehensive review of all barriers to the full access and participation of Indigenous lawyers and paralegals in the profession. Rather, my objective is to offer a high-level overview of some of the challenges Indigenous lawyers and lawyers from other equity-seeking groups face within the profession. This context will inform later discussions of the roles and responsibilities of the profession and the legal academy as they relate to the Calls To Action of the Truth and Reconciliation Commission of Canada.

I would invite readers to explore the many reports and studies cited in the coming section should they wish to dive deeper into specific elements of the discussion.

Fair warning:
A Molly Lamb Bobek winter streetscape
they are not.
They paint a far from lovely picture of the legal profession.

Professor Monture-Angus once described universities as “a bastion of White male privilege,”⁵⁴⁰ while Duncan Kennedy maintained that the legal academy replicates the legal profession, which is built on hierarchical structures⁵⁴¹ that favour the upper middle-class student.⁵⁴² Professors, predominantly white and male,⁵⁴³ set the tone for the classroom, and students are required to

⁵⁴⁰ *Supra* note 386 at 54.

⁵⁴¹ *Supra* note 346 at 9.

⁵⁴² *Ibid.*

⁵⁴³ *Ibid* at 19 and following.

assimilate into to the classroom culture in order to succeed in their legal educations and later careers.⁵⁴⁴

Once law students emerge from the legal academy, they face further hurdles to accessing the profession. In a report of the Professional Development & Competence Committee of the Law Society of Ontario tabled before Convocation on May 24, 2018, Committee reminded Benchers of the articling crisis in the province: “In the past decade, the number of licensing candidates has increased by 70 percent but the supply of articling positions has not kept pace. A permanent shortage of articling positions now exists.”⁵⁴⁵ This challenge in accessing the legal profession following graduation combined with the rising cost of tuition, universities facing financial pressures,⁵⁴⁶ and recent significant cuts to legal aid that engendered significant implications for access to justice more generally,⁵⁴⁷ have resulted in tremendous instability and uncertainty for law students.

This is particularly true for Indigenous and racialized Learners. Data gathered in relation to articling positions and the Law Practice Program (LPP), an alternative route to being called to the bar, appears to demonstrate that “articling favours White students.”⁵⁴⁸ Demographic data of participants in the first cohort of the *Programme de pratique du droit* (PPD), the French-language

⁵⁴⁴ *Ibid* at 78.

⁵⁴⁵ Law Society of Ontario, *Convocation: Professional Development & Competence Committee Report*, (Toronto: Law Society of Ontario, 2018) at 87.

⁵⁴⁶ See e.g. Ontario Confederation of University Faculty Associations, Press Release, “OCUFA Estimates Ford’s ‘Performance’ Funding Could Cut University Budgets by Over \$500 Million Dollars” (4 September 2019) online: *Ontario Confederation of University Faculty Association* <ocufa.on.ca/press-releases>.

⁵⁴⁷ See Anita Balakrishnan, “Legal Aid Ontario to Cut \$14.5M From Clinic System”, *Law Times* (12 June 2019), online: <lawtimesnews.com> [perma.cc/D8u8-855E].

⁵⁴⁸ Daniel Fish, “What’s Wrong with Articling”, *Precedent* (5 December 2016), online: <lawandstyle.ca> [perma.cc/3EZL-XXK9].

equivalent to the LPP housed at the University of Ottawa, also showed that a disproportionate number (64.7 percent) of candidates were racialized.⁵⁴⁹ Researchers suggested that the inability of PPD students to secure traditional articling placements “appears to have less to do with their relative success in law school and potentially more to do with other factors, including their personal characteristics.”⁵⁵⁰ I am not sure I can forgive the researchers the euphemism – footnotes in this introductory section of their research cite studies and reports relating to racism and discrimination within the profession.⁵⁵¹

Beyond the articling crisis, gender disparities in the upper echelons of private practice⁵⁵² continue to plague the profession. While not all young lawyers aspire to partnership in private practice, recent data confirming continued rates of attrition of women in the profession rising sharply after age forty is concerning for young women entering the profession.⁵⁵³

This, of course, it not a new phenomenon. The place of women within the profession has long been precarious. White women, who were among the first members of equity-seeking groups to gain access to the profession, were often the first “others” to engage with the processes of professional assimilation into the “gentleman’s profession.”⁵⁵⁴ These first women practitioners often found that professionalization processes and participation in the profession proved at odds

⁵⁴⁹ Michelle Flaherty & Alain Roussy, “The Law Practice Program: Tackling Racial Inequality in the Legal Profession” (2015) 93 Can Bar Rev 435 at 437.

⁵⁵⁰ *Ibid* at 437.

⁵⁵¹ *Ibid* at 437–38.

⁵⁵² See e.g. Anita Balakrishnan, “Ontario’s Law Firms Were Mostly Led by Men Again in 2018”, *Law Times* (16 May 2019), online: <lawtimesnews.com> [perma.cc/ETE2-JBC5].

⁵⁵³ *Ibid*.

⁵⁵⁴ Mary Jane Mossman, *First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* (London: Hart Publishing, 2006) at 121 and following.

with other contemporaneous equality-seeking movements, such as suffrage.⁵⁵⁵ In fact, some women argued against the accepted policies of the women’s movements to better support their own efforts for admission to the bar.⁵⁵⁶ Many of these women were “lone voyageurs”⁵⁵⁷ arguing for their rights to access the profession through court challenges and advocacy before lawmakers and law societies⁵⁵⁸ to eventually find themselves admitted as the only woman lawyer in their respective jurisdiction.⁵⁵⁹

They'd say I hustled
Put in the work
They wouldn't shake their heads
And question how much of this I deserve
What I was wearing, if I was rude
Could all be separated from my good ideas and power moves
I'm so sick of running
As fast as I can
Wondering if I'd get there quicker
If I was a man⁵⁶⁰

Once admitted to the profession, women lawyers generally abandoned their work within the women’s movement more broadly,⁵⁶¹ instead adopting a stance of professional solidarity which was viewed as incompatible with the quest for women’s equality under the law.⁵⁶² The controlling legislation of some law societies effectively required this shift: admitting women “on the same terms as men” ultimately required women to accept and assimilate into the professional culture without resistance.⁵⁶³ A limited number of women could join in the fun if

⁵⁵⁵ *Ibid.*

⁵⁵⁶ *Ibid* at 32, 41.

⁵⁵⁷ *Ibid* at 20.

⁵⁵⁸ *Ibid* at 17–19.

⁵⁵⁹ *Ibid* at 20.

⁵⁶⁰ Taylor Swift, MP3: *The Man* (New York City: Republic Records, 2020).

⁵⁶¹ *Mossman, supra* note 554 at 61.

⁵⁶² *Ibid* at 107.

⁵⁶³ *Ibid* at 88.

they accepted the “professional ethos” without challenging it⁵⁶⁴ and, to be sure: professional identities were to be gendered male.⁵⁶⁵

Nearly one hundred years after Clara Brett Martin, the first woman lawyer admitted to the profession in Ontario, was called to the bar,⁵⁶⁶ the Canadian Bar Association (“CBA”) released *Touchstones for Change: Equality, Diversity and Accountability* (the “Touchstones Report”).⁵⁶⁷ The Touchstones Report brought the work of a nation-wide Task Force, established with a view to engaging in professional self-reflection on questions of equality, to a close.⁵⁶⁸ Writing on behalf of the Task Force, the Honourable Bertha Wilson, chair, called upon the profession to make changes that would ensure true gender equality within the profession, with a holistic understanding of barriers to accessing the profession recognizing implications of family commitments on one’s career path through to a need for adequate funding of legal aid.⁵⁶⁹ On its release, the Touchstones Report was received with a spirit of great hope by some within the legal profession.⁵⁷⁰ Others were less enthusiastic about the contents of the report and refused to accept its findings.⁵⁷¹

⁵⁶⁴ *Ibid* at 68.

⁵⁶⁵ *Ibid* at 284.

⁵⁶⁶ *Ibid* at 68. Clara Brett Martin was called to the bar in 1897 and was Canada’s only 19th century woman lawyer.

⁵⁶⁷ Bertha Wilson, *Touchstones for Change: Equality, Diversity and Accountability* (Ottawa: Canadian Bar Association, 1993).

⁵⁶⁸ See Sheila McIntyre & Elizabeth Sheehy, “Introduction” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 3.

⁵⁶⁹ Nathalie Des Rosiers, “Égalité, diversité et imputabilité dans une société néo-libérale: la multiplicité des angles” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 25 at 26–27.

⁵⁷⁰ See generally Michèle L Caron, “Quand Law devient la loi” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 405.

⁵⁷¹ Rose Voyvodic, “Reimagining legal Ethics After Touchstones in the Legal Academy” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 345–46.

The CBA Task Force formed part of a larger research trend in the late 1980s and early 1990s. The study of women's participation in the profession was of significant academic interest as the profession grappled with noteworthy rates of attrition of women from the profession. The work of Professor Joan Brockman, for example, considered questions similar to those explored in *Touchstones*, with a focus on the state of the profession in Alberta and British Columbia. Like the *Touchstones* Report, her work was greeted with mixed reviews by those in the profession.⁵⁷² Some sought to subjugate the knowledge generated through Professor Brockman's research, challenging the legitimacy and validity of her work with accusations that it was politically motivated.⁵⁷³ One research participant, for example, annotated the front page of their research questionnaire, characterizing the research as the work of a "wild feminist at her raving best[.]"⁵⁷⁴

Despite these efforts to undermine Professor Brockman's research, her 1994 study "Leaving the Practice of Law: The Wherefores and the Whys"⁵⁷⁵ ultimately served as a baseline against which future researchers measured progress towards gender equality within the profession. Professor Brockman's research showed that the drivers of exits from the profession were wide-ranging, from conflicts with family and childcare⁵⁷⁶ to a perception of systemic discrimination against women in career advancement on all fronts⁵⁷⁷ and sexual harassment,⁵⁷⁸ to judicial attitudes towards women in the courtroom.⁵⁷⁹ The findings further indicated that while women

⁵⁷² See Joan Brockman, "'A Wild Feminist at Her Raving Best': Reflections on Studying Gender Bias in the Legal Profession" (2000) 28:12 *Resources for Feminist Research* 61.

⁵⁷³ *Ibid.*

⁵⁷⁴ *Ibid.*

⁵⁷⁵ Joan Brockman, "Leaving the Practice of Law: The Wherefores and the Whys" (1994) 32:1 *Alta L Rev* 116.

⁵⁷⁶ *Ibid* at 130, 135.

⁵⁷⁷ *Ibid* at 135.

⁵⁷⁸ *Ibid* at 137.

⁵⁷⁹ *Ibid* at 137.

represented approximately fifty percent of sole practitioners and were over-represented compared to their male colleagues in the public sector and in-house counsel positions, they remained underrepresented in private practice.⁵⁸⁰

Since the Touchstones Report and Professor Brockman's earliest publications over twenty-five years ago, there have been documented demographic shifts within the profession. Professor Brockman's own 2004 update notes an increase in pure numbers of women active in the profession but suggests that while women are closing the gap on rates of attrition from the profession, significant discrimination exists in the lived experience of lawyers of colour, those with disabilities, and 2SLGBTQ+-identifying lawyers.⁵⁸¹ She further notes that discrimination against "Aboriginal" lawyers is "profound and pervasive."⁵⁸² According to Professor Brockman, some of this discrimination speaks to the continuing difficulties of assimilating into professional legal culture by "others."⁵⁸³

More recent research shows that the trend of alarming rates of attrition of women from the profession continues, despite Professor Brockman's promising suggestion that women were closing the attrition gap in 2004. In their 2013 study, the findings of which were supported by a later report in 2015,⁵⁸⁴ Dr. Fiona Kay and her colleagues confirm Professor Brockman's 1994

⁵⁸⁰ *Ibid* at 122.

⁵⁸¹ Joan Brockman, "An Update on Gender Diversity in the Legal Profession in Alberta in the Legal Academy" in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 237 at 241.

⁵⁸² *Ibid*.

⁵⁸³ *Ibid* at 240.

⁵⁸⁴ Fiona M Kay, Stacey Alarie & Jones Adjei, *The Diversification of Career Paths in Law: Tracking Movement Out of Private Practice Among a Recent Two Decade Cohort of Law Graduates* (Toronto: Law Society of Upper Canada, 2015).

conclusions that caring commitments and a lack of career considerations, for example weak prospects of promotion, remain the most significant drivers influencing the decision of lawyers to “opt out” of the profession.⁵⁸⁵

Though it has gained popular usage, Dr. Kay and her colleagues raise a significant objection to the use of the term “opting out” to describe the phenomenon of high rates of attrition from the profession.⁵⁸⁶ They argue that the euphemistic term allows those operating in the profession to distance themselves from the phenomenon, shifting the conversation away from possible structural flaws in the legal workplace by placing responsibility squarely on the shoulders of those who exit.⁵⁸⁷ In other words, the shift in discourse implies that it is an inability to balance multiple roles effectively that drives some lawyers from the profession rather than shortcomings in the structure of professional practice.⁵⁸⁸ This view is supported by Dr. Anne-Marie Slaughter who argues that the reliance on euphemisms like “opting out” is an indicator of deeply distorted values: it sends a cultural message about how society defines success and failure and does so in such a way that makes it difficult to challenge the underlying assumptions.⁵⁸⁹

Finally, Dr. Kay remarks on how it is difficult for researchers to pinpoint areas to target for improvement because of the internal politics of the profession. The politics of professional

⁵⁸⁵ Fiona Kay, Stacey Alaric & Jones Adjei, “Leaving Private Practice: How Organizational Context, Time Pressures, and Structural Inflexibilities Shape Departures from Private Law Practice” (2013) 20 *Indiana J Global Leg Studies* 1224 at 1224–1230.

⁵⁸⁶ *Ibid* at 1232.

⁵⁸⁷ *Ibid*.

⁵⁸⁸ *Ibid*.

⁵⁸⁹ Anne-Marie Slaughter, *Unfinished Business: Women Men Work Family* (Toronto: Random House Canada, 2015) at 178–79.

culture were largely ignored in the Touchstones report,⁵⁹⁰ but they manifest across the profession, from the unwillingness to access flexible work or telework policies for fear that it might be a career limiting move⁵⁹¹, through to classifying an exit as “voluntary” when, in fact, it was involuntary on the part of the departing lawyer.⁵⁹²

Where the Touchstones Report identified a “glass ceiling” for women, it identified a “steel door” for minority women hoping to achieve full access to, and participation within, the legal profession.⁵⁹³ Many suggest that equality by numbers of women in the legal profession will never be enough⁵⁹⁴ to prompt the radical transformation necessary⁵⁹⁵ to secure a shift towards a true culture of equality⁵⁹⁶ within the legal profession.

Questions of cultural capital, cultural competence, and cultural assimilation noted by Professor Brockman as barriers to participation in the profession arises repeatedly in the literature. Professor Monture-Angus, for example, expresses the phenomenon through the language of multi-layered marginalization experienced by Indigenous women in legal education: first, operating in a context where Indigenous culture is not the dominant culture, and second operating in a context of “male privilege” where men are the dominant sex in the teaching

⁵⁹⁰ Mary Jane Mossman, “Legal Education as a Strategy for Change in the Legal Profession” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling for Change: Women, Law, and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 179.

⁵⁹¹ Kay, Alarie & Adjei, *supra* note 585 at 1232.

⁵⁹² *Ibid* at 1255–1256.

⁵⁹³ Mossman, *supra* note 554 at 4.

⁵⁹⁴ Monture-Angus, *supra* note 250 at 91.

⁵⁹⁵ Melinda Buckley, “The Second Decade: The Role of the Canadian Bar Association in Implementing the Touchstones Report” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 325 at 326.

⁵⁹⁶ Emily Carasco, “Reflection on Employment Equity (the Hiring Component) and Law Schools in Ontario” in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 97.

corps.⁵⁹⁷ Camille Nelson, meanwhile, frames the question as a discussion of the “management of identity” performed by women of colour who seek to occupy space in the legal academy.⁵⁹⁸

In *Reimagining legal ethics after Touchstones*,⁵⁹⁹ Professor Rose Voyvodic agrees, noting that “others” operating within the legal profession will lack the “cultural capital” to survive in a context where full participation requires an adherence to protocols that are not contained in codes of professional conduct: performance of the role *and* maintaining the appearance of “authoritative knower”.⁶⁰⁰ Striking the required balance represents a considerable challenge, one that was documented by Hadiya Roderique in her explosive⁶⁰¹ 2017 think piece *Black on Bay Street*.⁶⁰² Chronicling her experiences as a summer and articling student and later as an associate at a Bay Street firm in Toronto, Roderique explored the role cultural capital, or lack thereof, plays in the lives of Black women in the profession. From aesthetic considerations – whether or not she would straighten her hair, choosing black versus “daring” grey suits – through to decisions on how to manage casual racism and microaggressions experienced in boardrooms,⁶⁰³ Roderique documents in great detail the additional burdens carried by women of colour in the name of “fitting in” to private practice.⁶⁰⁴

⁵⁹⁷ *Monture-Angus*, *supra* note 386 at 53–54; See also *Kennedy*, *supra* note 346 at 78.

⁵⁹⁸ *Supra* note 385 at 117.

⁵⁹⁹ *Supra* note 571 at 348, 353.

⁶⁰⁰ *Ibid* at 347.

⁶⁰¹ Christine Dobby, “Why Are There Still So Few Black Lawyers On Bay Street?”, *The Globe and Mail* (17 July 2020), online: <theglobeandmail.com> [perma.cc/ZRU4-AJXV].

⁶⁰² Hadiya Roderique, “Black on Bay Street: Hadiya Roderique Had it All But Still Could Not Fit In”, *The Globe and Mail* (4 November 2017), online: <theglobeandmail.com> [perma.cc/8F87-H7W9].

⁶⁰³ *Ibid*.

⁶⁰⁴ *Ibid*.

Christine Dobby recently returned to Roderique's writing, conducting follow-up research into the diversity and inclusion of Black lawyers on Bay Street in 2020.⁶⁰⁵ The findings of her research were that little had changed since 2017, though firms appeared to be engaging in discussions about improving Black representation following the death of George Floyd in the spring of 2020.⁶⁰⁶ Some firms, for example, have committed to the BlackNorth Initiative pledge that "sets seven goals, including hiring at least 5 per cent of their student work force from the Black community and employing Black or visible-minority leaders in 3.5 per cent of senior roles by 2025."⁶⁰⁷ I try to forget Mary Eberts' assertion that the profession often has a very short memory when it comes to recognizing problems within it and a tendency to "un-recognize" problems at will,⁶⁰⁸ and remain hopeful that true and sustainable change will occur.

Roderique's discussion of choosing attire for the summer student recruitment process,⁶⁰⁹ and worries echoed within the Black bar in Dobby's 2020 follow-up that certain attire might be considered too Black for Bay Street,⁶¹⁰ struck a particular chord on several levels.

⁶⁰⁵ *Supra* note 601.

⁶⁰⁶ *Ibid.*

⁶⁰⁷ *Ibid.*

⁶⁰⁸ Mary Eberts, "Women in Law: Retreat and Renewal" in the Legal Academy" in Elizabeth Sheehy & Shelia McIntyre, eds, *Calling For Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 83 at 85.

⁶⁰⁹ *Supra* note 602.

⁶¹⁰ *Supra* note 601.

kohkum would be mad at me
 if she were still here.
 for dying my hair
 hiding the gray
 (hey, I'm not 50 yet)
 wearing make-up
 and fancy clothes.
 supposed to love who you are
 and how the Creator made you.
 not supposed to try and change that.
 Kohkum would be mad at me
 if she were still here.
 kohkum never had to live with
 white people
 least not how I have live with white people.
 i have them every day, all day,
 at work.
 (maybe I have it wrong, maybe they got me)
 kohkum just had the indian agent
 telling her what to do
 every now and again
 reserve used to be refuge
 (maybe it still is)
 but, see
 I listened to what the white folk told
 get an education
 got me a job
 in a fancy university
 I hide my hair and the evidence
 of gray injun wisdom.
 I hide my face, behind a mask
 of revlon "easy, breezy, beautiful"
 I hide.
 (Or maybe, I just like "war paint")⁶¹¹

First, I was reminded of 2017's *But I Was Wearing a Suit*, a documentary produced by the Continuing Legal Education Society of British Columbia.⁶¹² In this documentary, Indigenous

⁶¹¹ *Monture, supra* note 179 at 199.

⁶¹² "But I was Wearing a Suit" (last visited 6 August 2020), online (video): *The Continuing Legal Education Society of British Columbia* <cle.bc.ca> [perma.cc/FM9B-Y9PW].

lawyers shared their experiences of systemic discrimination and anti-Indigenous racism within the profession – even when they were wearing suits.⁶¹³ A particularly devastating aspect of the documentary was born not of the content but of the form: some Indigenous lawyers felt so precariously placed in sharing their stories of racism that the Continuing Legal Education Society of British Columbia was required to source non-Indigenous lawyers to read the stories on behalf of the knowledge sharers.⁶¹⁴

Second, I thought about my mustard yellow cardigan. You see, I own a mustard yellow cardigan. An expensive, bought-it-at-a-boutique-in-the-Glebe mustard yellow cardigan. You may have seen it. I was photographed in it once, and now it is all over the internet.

Fun fact: for over a year, my first employed at the Faculty, I exclusively wore black and blue. Fitting? Fitting in? I had several black dresses, two black skirts, and black blazers. I had two pairs of black flats and one set of pumps – those I never wore, mostly to protect the egos of shorter men. I’m quite tall without them, you see, and you just never know how people are going to react to that kind of thing.

“That kind of thing.”
Being tall, and Indigenous.

For over a year, I wore a single pair of earrings – bear paws, yes – but discreet. No larger than a nickel. Silver, no beads.

⁶¹³ *Ibid.*

⁶¹⁴ *Ibid.*

At one point, in a moment of despair sometime in April, I bought a red dress that I subsequently wore as a political statement that very few understood⁶¹⁵ to Faculty meetings where I expected to face a fight. Otherwise, it was all black and blue, all the time. You see, wearing exclusively black meant the ability to blend in, ish. In theory, no one could object to my attire. In theory, nothing would distract from what was coming out of my mouth. Black, in theory, was safe. Black “fit” where I didn’t feel like I did.

Black dresses as a survival strategy. Not the first time fabric had served as camouflage and armour, but I will save the story of the barrister skirt made from Armani fabric for another day.

With time and relationships there developed a minor feeling of ease. I bought a navy-blue dress with – gasp – flowers, for the high-heat of summer. My mocs came out of hiding.

I started a collection of work aprons, because trade cloth sheds, black shows all the fluff, and on the days I cut stoles my office is transformed into an atelier. Also, in all of the photos of the old ladies on the prairie the women wear aprons, often in contrasting colours to their other clothing.⁶¹⁶ Every time I tie an apron, I somehow feel like it is tying me to all those women and I instantly feel more grounded. The first work apron was, shockingly, black. After a few months it was joined by one in bubble-gum pink, made by my nana with extra coverage to keep my suits clean. I was gifted one in the University colours by a colleague, and my mother gifted me one for Christmas. The latter is Hudson’s Bay Company stripes. I carry around copies of Chelsea Vowel’s

⁶¹⁵ Alicia Ault, “These Haunting Red Dresses Memorialize Murdered and Missing Indigenous Women”, *Smithsonian Magazine* (19 March 2019), online: <smithsonianmag.com> [perma.cc/64J7-9M6Y].

⁶¹⁶ *Racette*, *supra* note 150 at 117.

“Blanket Statement”⁶¹⁷ in the large front pocket to distribute as a learning tool whenever someone, usually non-Indigenous, voices incredulity that I would be sporting such a “colonial symbol.”

Yes, I had Faculty resistance-teaching aprons before I had colour in my wardrobe. Bubble-gum pink aprons can easily be shed before a meeting, after all.

One day, I was to have my picture taken for a Faculty publication. Out with the children the day before, from across the street and two blocks over I saw the mustard yellow cardigan in a shop window. My friend Ellen loved that shop. I had never been in, it was fancy. But the yellow reminded me of post-its and the prairies. We walked three blocks out of our way to cross the street at the intersection, and then there was (sun)light(coloured)cardigan.

The earring revolution followed. Like the teachings that come with the aprons, my earrings are chosen with great care and thoughtful reflection to prompt more opportunities for knowledge sharing. The teachings that follow a compliment can include gentle reminders about supporting and valuing work by Indigenous artists, or teachings about laws of conversation, harvest, and sourcing materials. At a very basic level, the earrings also serve as an entry into talking about the law and beads. And the rest, as I am sure only I say, is beadstory.

This harkens back to our previous discussion of the professionalization process that begins for the first days of entry into the legal academy as a law Learner. The process of “becoming” a

⁶¹⁷ Chelsea Vowel, “Blanket Statement” (3 July 2017), online: *Canadianart* <canadianart.ca> [perma.cc/T7RL-FDW2].

lawyer that includes the “enactment of the masculine norms and practices of the profession,” is one involving three phases: adapting to the professional culture, an internalization of the professional identity, and a demonstration of solidarity with others in the profession.⁶¹⁸ Those from the “wrong background” will struggle with this process, leaving those from the dominant group in a better position from the very outset of their careers.⁶¹⁹

To put it gently, the reality faced by Indigenous and racialized Learners entering the profession remains bleak. All of the foregoing speaks to different aspects of the same phenomenon — that of a racist, sexist, traditionally homogenous “gentleman’s profession”⁶²⁰ that is slow in evolving and resists change. I feel as disheartened as Dr. Cote-Meek conducting her research on Indigenous lived experience of post-secondary education when I reflect on how little has changed in terms of diversity and inclusion in the legal profession in the past thirty years.⁶²¹

Though not specifically dealing with the lived experience of Indigenous lawyers, the challenges facing racialized licensees were recently studied and documented by a Working Group of the Law Society of Ontario.⁶²² In the Challenges Report, the Working Group attempted to hold the Law Society of Ontario to account for systemic racial discrimination against racialized lawyer and paralegal licensees. Far from representing a turning point resulting in a marked improvement of the lived experience of “others” within the profession, the issuance of the Challenges Report prompted what I can only describe as a governance crisis within the Law Society. This crisis was

⁶¹⁸ *Sommerlad, supra* note 349 at 164.

⁶¹⁹ *Ibid* at 165.

⁶²⁰ *Mossman, supra* note 554 at 121 and following.

⁶²¹ *Cote-Meek, supra* note 33 at 169.

⁶²² *Supra* note 89. Herein after “the Challenges Report.”

born of widespread resistance to change within the profession, specifically as it relates to the recommendations of the Challenges Report that seek to address systemic racism within the legal profession.

On December 2, 2016 the Challenges Report was tabled before Convocation of the Law Society of Ontario by the Challenges Faced by Racialized Licensees Working Group. Mr. Anand, then Chair of the Law Society's Equity and Indigenous Affairs Committee (EAIC), framed the tabling of the report with the following context:

We recognize in our earlier report that racialized licensees face systemic barriers in the legal professions. As Canadians, as lawyers and paralegals in 2016, we must root out those barriers and create lasting change by adopting a toolbox for the professions that will promote equal recognition and respect for all of our members. We are past tolerance. Convocation, through this report, will recognize that systemic racism exists in our professions just as it exists in Canadian society and it must be addressed urgently. Attempting to sidestep issues of race and racism in Canada is not reality. It is a coping strategy, and not a very effective one. Certainly systemic racism affects our lawyers and paralegals long before they enter or even aspire to the legal professions, but that doesn't reduce our obligation as professionals or as Benchers.⁶²³

One recommendation in the Challenges Report encouraged the Law Society to “require every licensee to adopt and to abide by a statement of principles acknowledging their obligation to promote equality, diversity and inclusion generally, and in their behaviour towards colleagues, employees, clients and the public”.⁶²⁴ It was this single sub recommendation in a report containing thirteen recommendation categories broken down into over 25 concrete recommended actions, that led to, from the perspective of this Indigenous member of the bar,

⁶²³ Law Society of Ontario, *Convocation*, (Toronto: Law Society of Ontario, 2016) at 27.

⁶²⁴ *Supra* note 89.

the breakdown of collegiality and the rise of public racist rhetoric within the legal profession in Ontario between 2017 and 2020.

This requirement that licensees adopt a “Statement of Principles” prompted significant public debate amongst members of the Law Society,⁶²⁵ including a denial by some that racism within the legal profession was in fact a challenge facing licensees.⁶²⁶ The debate came to a head during the 2019 bencher elections when a cohort of candidates campaigned on a slate they dubbed “StopSOP”, which had as primary objective the repeal of the Statement of Principles.⁶²⁷ A majority of Benchers elected were members of this slate, and at a meeting of Convocation held on September 11, 2019 they ultimately succeeded in repealing the requirement that licensees adopt a Statement of Principles by a vote of 26 to 23.⁶²⁸

Following the vote, Bencher Atrisha Lewis, a Black woman lawyer, described the repeal as “a devastating blow to all racialized licensees and the public at large... And I think it's really important that we stop metaphorically punching racialized licensees in the face, because that's what it feels like...”⁶²⁹

⁶²⁵ See e.g. Tim Wilbur, “StopSOP and the Limits of Self-Regulation: What the Statement of Principles Debate Tells Us”, *Canadian Lawyer* (15 November 2019), online: <canadianlawyermag.com> [perma.cc/5E32-CLTN]; Amanda Jerome, “LSO Repeals Statement of Principles, Replaces it With Acknowledgment of Human Rights Laws”, *The Lawyers Daily* (13 June 2020), online: <thelawyersdaily.ca> [perma.cc/XQ88-QGSF]; Bruce Pardy, “This Lawyer Was Determined to Stop the Law Society Forced Statement of Principles”, *Financial Post* (14 May 2019), online: <business.financialpost.com> [perma.cc/7EAS-SR9V]; Anita Balakrishnan, “Chasm in Opinions Remains After Statement of Principles Repealed”, *Law Times News* (13 June 2020), online: <lawtimesnews.com> [perma.cc/3XQH-KV5P].

⁶²⁶ Thomas Mathews, “There’s No Room for Unacceptable Behaviour Like This in the Legal Profession”, *National Post* (4 September 2019), online: <nationalpost.com> [perma.cc/657U-D4WC].

⁶²⁷ StopSOP, Press Release, “StopSOP Bencher Candidates Elected to Convocation to Repeal the SOP” (1 May 2019), online: <stopsop.ca> [perma.cc/LJ9Q-8ZG9].

⁶²⁸ *Supra* note 623.

⁶²⁹ Law Society of Ontario, *Convocation*, (Toronto: Law Society of Ontario, 2019) at 57.

Dr. Shawn Wilson reminds us that Indigenous ways of knowing and understanding often follow a non-linear logic, and that it is not possible for us to divorce ideas from emotion or context.⁶³⁰ My intention here was not to embark on a full and robust analysis of the StopSOP debates before the Law Society of Ontario or the related fallout, but rather to provide some context of my own lived experience as an Indigenous lawyer in Ontario as I researched and drafted this dissertation. Witnessing the rise of racist rhetoric within the legal profession via livestream of Convocation while I worked to support Indigenous Learners through their legal educations had a profound impact on my relationship to ideas of professionalism, belonging within the Profession, the role of legal education in perpetuating colonial and racist attitudes, and what responsibility the academy might have as it relates to preparing Learners for participation in the Profession. To extend Bencher Lewis' analogy, it left me with a deviated septum and blood all over my blouse.

There are moments of hope in the public professional discourse, as when outgoing treasurer Malcolm Mercer accused benchers of willful blindness on the question of systemic racism within the legal profession.⁶³¹ Mr. Mercer stated that, in his view, "failing to admit this truth is a stain. Admitting this truth would allow us to get on with the difficult work of actually addressing racial inequity, rather than quarrelling whether it actually exists."⁶³²

⁶³⁰ *Supra* note 14 at 123.

⁶³¹ Jacques Gallant, "New Law Society Head Says She Will 'Stand Up to Anti-Black Racism'" *The Star* (26 June 2020), online: <thestar.com> [perma.cc/9FL2-TP5X].

⁶³² *Ibid.*

The newly elected treasurer, Teresa Donnelly, appeared to commit to playing a leadership role in the equity, diversity, and inclusion portfolio, stating that:

My goals are broad and inclusive. These difficult times have taught us that modernization, innovation and flexibility are critical components of moving the law society forward. The status quo is not an option," she told the board after her victory at Friday's board meeting, known as convocation...I will continue to support equity, diversity and inclusion initiatives, and will stand up to anti-Black racism and anti-Indigenous racism, racism or discrimination of any kind.⁶³³

Moments of hope are critical as these public debates leave Indigenous and racialized licensees wondering if there is space for us in the legal profession at all. That the conversation now move forward so that these hopeful moments are not ultimately symbolic is imperative should the profession ever rise to the Calls to Action of the Truth and Reconciliation Commission of Canada.

⁶³³ *Ibid.*

DECOLONIZATION OF POST-SECONDARY EDUCATION

We've been setting the stage for a show I am sure wouldn't last seven nights and a matinee on Broadway. I am sure, at this point, the context seems never ending.

Imagine living it.

And yet, here we are, year 153+. In the following sections, I will discuss the approaches to indigenization and decolonization of legal education, but first we must take a tiny timeout. We have a few more things to discuss.

In January 2020, Australia burned.⁶³⁴ In February, a national movement emerged in response to the Coastal GasLink Pipeline Conflict, with Indigenous peoples across Canada mobilizing to support Wet'suwet'en hereditary chiefs opposing the project in British Columbia.⁶³⁵ Months of collective action included rail blockades, marches and rallies, and social and political action from coast to coast⁶³⁶ and resulted in bringing Canada to the negotiating table.⁶³⁷

When Covid-19 reached North America in March 2020, it rapidly became clear that not all residents of Canada were experiencing the pandemic in the same ways. Poor housing was quickly

⁶³⁴ "Australia Fires: A Visual Guide to the Bushfire Crisis", *BBC* (31 January 2020), online: <bbc.com> [perma.cc/4PC5-L75F].

⁶³⁵ Chantelle Bellrichard & Jorge Barrera, "What You Need to Know About the Coastal GasLink Pipeline Conflict", *CBC Indigenous* (last modified 11 February 2020), online: <cbc.ca> [perma.cc/4BYG-D584].

⁶³⁶ See e.g. Jorge Barrera, "Movement Sweeping Country with Blockades Will Shift Focus to Ottawa, Says Secwepemc Chief", *CBC News* (25 February 2020), online: <cbc.ca> [perma.cc/6LMM-828V]; See also Benjamin Shingler & Jonathan Montpetit, "More Blockades, Protests in Quebec as First Nations Respond to Tyendinaga Arrests", *CBC Montreal* (24 February 2020), online: <cbc.ca> [perma.cc/N3AL-JRVX].

⁶³⁷ Olivia Stefanovich, "Wet'suwet'en Agreement Outlines Steps for Transferring Control of Territory to Traditional Leadership", *CBC* (6 May 2020), online: <cbc.ca> [perma.cc/3H7B-HFD9].

identified as a risk factor for contracting the virus.⁶³⁸ Social and economic inequalities were amplified.⁶³⁹ Academics and organizations from the United Nations to the Canadian Human Rights Commission rang alarm bells about the vulnerability of Indigenous communities for reasons ranging from lack of access to clean water, poor housing, and inadequate access to health care through to systemic discrimination in law.⁶⁴⁰

Meanwhile, those of us privileged enough to be able to afford to do so began sheltering in place, locked down in our homes with our children. This is ongoing and carries significant consequences for everyone in society with a disproportionate impact on the lives of women in particular.⁶⁴¹ Do not even get me started on the impact on the careers, writing, and research of women scholars.⁶⁴²

⁶³⁸ Kelly Grant, “Data Show Poverty, Overcrowded Housing Connected to COVID-19 Rates Among Racial Minorities in Toronto”, *The Globe and Mail* (2 July 2020), online: <theglobeandmail.com> [perma.cc/2ZZM-K6S6].

⁶³⁹ “Statement: Inequality Amplified by COVID-19 Crisis” (last visited 19 August 2020), online: *Canadian Human Rights Commission* <chrc-ccdp.gc.ca> [perma.cc/M7CW-QGAZ].

⁶⁴⁰ Aimée Craft, Deborah McGregor & Jeffrey Hewitt, “COVID-19 and First Nations’ Responses” in Colleen M Flood et al., eds, *Vulnerable: The Law, Policy and Ethics of COVID-19* (Ottawa: University of Ottawa Press, 2020); “COVID-19 and Indigenous Peoples” (last visited 8 August 2020), online: *United Nations: Department of Economic and Social Affairs* <un.org> [perma.cc/B34N-3W7G]; Anne Levesque & Sophie Thériault, “Systemic Discrimination in Government Services and Programs and Its Impact on First Nations Peoples During the COVID-19 Pandemic” in Colleen M Flood et al., eds, *Vulnerable: The Law, Policy and Ethics of COVID-19* (Ottawa: University of Ottawa Press, 2020); “Statement: Inequality Amplified by COVID-19 Crisis” (last visited 19 August 2020), online: *Canadian Human Rights Commission* <chrc-ccdp.gc.ca> [perma.cc/M7CW-QGAZ].

⁶⁴¹ See e.g. United Nations, “Policy Brief: The Impact of COVID-19 on Women” (9 April 2020), online (pdf): *UN Women* <unwomen.org> [perma.cc/ZTM2-FQNP].

⁶⁴² See e.g. Jessica L Malisch et al., “In the Wake of COVID-19, Academia Needs New Solutions to Ensure Gender Equity” (2020) 117:27 *Proceedings of the National Academy of Sciences of the United States of America* 15378; Diane Peters, “Women Academics Worry the Pandemic is Squeezing Their Research Productivity” (7 July 2020), online: *University Affairs/Affaires universitaires* <universityaffairs.ca> [perma.cc/9UGC-NMHG]; Caroline Buckee et al., “Women in Science are Battling Both Covid-19 and the Patriarchy” (15 May 2020), online (blog): *Times Higher Education* <timeshighereducation.com> [perma.cc/2JAK-H4QL].

Meanwhile, between April and June 2020, six Indigenous people were shot and killed by police in Canada.⁶⁴³ Among those killed was Chantel Moore, a young mother who struggled with mental health issues. The police had been dispatched to conduct a “wellness check.”⁶⁴⁴ The Prime Minister admitted that “‘Systemic racism is an issue right across the country, in all our institutions, including in all our police forces, including in the RCMP. That's what systemic racism is.”⁶⁴⁵ The Commissioner of the RCMP, meanwhile, “struggled” with the term.⁶⁴⁶ High-ranking members of various police services doubled down, denying that systemic racism exists in policing in Canada⁶⁴⁷ before the Commissioner ultimately reconsidered her position in a public statement in late June.⁶⁴⁸

Following the death of George Floyd in May 2020,⁶⁴⁹ the Black Lives Matter movement rose up in solidarity around the globe to amplify long-suppressed voices.⁶⁵⁰

The year 2020 has been a lot. It is now July, and as I write this section, Indigenous leaders across Canada are seeking additional support to keep communities safe during Covid-19⁶⁵¹ while

⁶⁴³ Jack Graham, “Canada Confronts Racism in Police in Wake of Indigenous Deaths”, *Reuters* (24 June 2020), online: <reuters.com> [perma.cc/2ZTK-4BXD].

⁶⁴⁴ Dirk Meisser, “Chantel Moore’s Mother Says She Wants Justice After Fatal Police Shooting”, *CBC British Columbia* (18 June 2020), online: <cbc.ca> [perma.cc/D7GK-AE3L].

⁶⁴⁵ Catharine Tunney, “Systemic Racism Exists in RCMP, Trudeau Argues- After Commissioner Says She’s ‘Struggling’ With the Term”, *CBC News* (11 June 2020), online: <cbc.ca> [perma.cc/MTT5-NWVM].

⁶⁴⁶ Kristy Kirkup & Daniel Leblanc, “RCMP Commissioner Faces Grilling on Systemic Racism”, *The Globe and Mail* (last modified 24 June 2020), online: <theglobeandmail.com> [perma.cc/8PE3-QMKA].

⁶⁴⁷ Brandi Morin, “As the RCMP Deny Systemic Racism, Here’s the Real History”, *The Star* (11 June 2020), online: <thestar.com> [perma.cc/G42M-KPXC].

⁶⁴⁸ *Kirkup & Leblanc, supra* note 646.

⁶⁴⁹ Derrick Bryson Taylor, “George Floyd Protests: A Timeline”, *The New York Times* (10 July 2020), online: <nytimes.com> [perma.cc/7DLH-6ZBD].

⁶⁵⁰ Larry Buchanan, “Black Lives Matter May Be the Largest Movement in US History”, *The New York Times* <nytimes.com> [perma.cc/3HUZ-5F2R].

⁶⁵¹ Rhiannon Johnson, “As COVID-19 Curve Flattens, Indigenous Leaders Call on Federal Government for More Support”, *CBC Indigenous* (17 July 2020), online: <cbc.ca> [perma.cc/QU85-VW54].

Portland, Oregon burns.⁶⁵² Riots continue in Seattle, Washington, Austin, Texas, and across the United States.⁶⁵³ As recent social, political, and police actions have demonstrated, and as the newest treasurer of the Law Society of Ontario indicated in her opening remarks to convocation, “the status quo is not an option.”⁶⁵⁴ For society generally, never mind for post-secondary education.

At least, insofar as it relates to the indigenization of education, we have a roadmap.

Calls To Action of The Truth and Reconciliation Commission of Canada

The Final Report of the Truth and Reconciliation Commission of Canada issued in June 2015 was accompanied by 94 Calls to Action aimed to “redress the legacy of residential schools and advance the process of Canadian reconciliation.”⁶⁵⁵ Many of the Calls to Action represented targeted efforts to address systemic failings of colonial laws and policies discussed in earlier chapters of this work. The Calls to Action touch on all areas of life, law, and society from health care and child welfare systems to education systems at all levels.

In the five years that have passed since the issuance of the Calls to Action, the reality is that very little progress has been made under most of the umbrellas identified by the Commissioners. Indigenous children remain in the care of the state in disproportionate, alarming numbers.⁶⁵⁶

⁶⁵² Christian Davenport & Gregory Scruggs, “Protests Explode Across the Country: Police Declare Riots in Seattle, Portland”, *The Washington Post* <washingtonpost.com> [perma.cc/TN36-5W6G].

⁶⁵³ *Ibid.*

⁶⁵⁴ *Gallant*, *supra* note 631.

⁶⁵⁵ Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action* (Winnipeg: Truth and Reconciliation Commission, 2015) at 1.

⁶⁵⁶ Anna McMillan, “Number of Children in Saskatchewan’s Care Hits 11-Year High, with 86% Identified as Indigenous”, *Global News* (last modified 4 June 2020), online: <globalnews.ca> [perma.cc/F6K8-VW7R].

Indigenous women are subject to such tremendous violence that the Federal Government commissioned a National Inquiry into Missing and Murdered Indigenous Women and Girls.⁶⁵⁷ The Chief Commissioner of the Inquiry contextualized the final report as a report “about deliberate race, identity and gender-based genocide.”⁶⁵⁸

“I would unwrite everything
to make forever out of August 7, 2014.”⁶⁵⁹

Often, these two realities collide with horrifying outcomes.⁶⁶⁰

“We cannot remove ourselves from our world in order to examine it.”⁶⁶¹

There is so much on the line as we wait to see how Canada, Canadians, and their institutions will rise, or not, to the Calls to Action.

Abrupt pivot,
because I cannot allow myself to think about the wee girl
while I write this dissertation.
Quote the report.
Sometimes resistance is typing.

The Calls relating to education, law, and justice were many. Very broadly speaking, the Calls to Action called for decolonization and Indigenization of Canadian education systems at all levels. In the context of legal education and the legal profession specifically, discussions generally centre around Calls to Action 27, 28, 42, and 50.

⁶⁵⁷ Canada, National Inquiry Into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry Into Missing and Murdered Indigenous Women and Girls*.

⁶⁵⁸ *Supra* note 657, vol 1a (Marion Buller) at 5.

⁶⁵⁹ Billy-Ray Belcourt, “Canadian Horror Story” in *NDN Coping Mechanisms: Notes from the Field* (House of Annual Press Inc., 2019) 31 at 32.

⁶⁶⁰ See Manitoba Advocate for Children and Youth, *A Place Where it Feels Like Home: The Story of Tina Fontaine* (Manitoba Advocate for Children and Youth, (2019) (Daphne Penrose). See also *Ibid* at 31.

⁶⁶¹ *Wilson*, *supra* note 14 at 14.

Just quote the report.

In descending order.

because when I think about wee Tina Fontaine,
the world is upside down.

Call to Action 50

Professor Jeffery Hewitt suggests that Call to Action 50 offers opportunities for legal education.⁶⁶²

50. In keeping with the United Nations Declaration on the Rights of Indigenous Peoples, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.⁶⁶³

While the Commissioners did not propose frameworks for the establishment of Indigenous Law Institutes, Professor Hewitt suggests that Call to Action 50 may create opportunities for imagining new frameworks for legal education, whether or not institutes are developed within law schools.⁶⁶⁴ In fact, the establishment of an Indigenous Nationhood, Governance and Laws Institute forms a critical pillar of my own Faculty's strategic plan.⁶⁶⁵ I will not discuss Call to Action 50 further, but I encourage those interested in this idea of synergies between decolonizing legal education and the revitalization of Indigenous legal orders through institutional structures to consider Professor Hewitt's work.

⁶⁶² *Supra* note 253 at 67.

⁶⁶³ *Supra* note 655 at 5.

⁶⁶⁴ *Supra* note 253 at 67–68.

⁶⁶⁵ “Excellence, Leadership and Community: Strategic Plan 2019-2024” (last visited 18 August 2020) at 18, online (pdf): *uOttawa Faculty of Common Law* <commonlaw.uottawa.ca> [perma.cc/N4DT-WZKJ].

Call to Action 42

42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the Constitution Act, 1982, and the United Nations Declaration on the Rights of Indigenous Peoples, endorsed by Canada in November 2012.⁶⁶⁶

Call to Action 42 speaks to governments. Those operating in legal spheres in Canada will acknowledge that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) implementation remains contentious⁶⁶⁷ and difficult⁶⁶⁸ in most Canadian jurisdictions. The vocabulary emerging within spheres of legal education grounded in Call to Action 42 and the confirmation of the need to make space within Canadian society for the legal pluralism that has existed since the arrival of settlers to Turtle Island, however, represents a hopeful moment for me.

Specifically, the hope I see in Call to Action 42 stems from the reframing of the conversation around Indigenous justice systems and their positions relative to the two dominant colonial legal systems of Civil and Common Law.

When I personally pursued my undergraduate credentials in law, legal education relating to Indigenous peoples was limited to the study of Canadian Aboriginal law - how our rights and

⁶⁶⁶ *Supra* note 655 at 4.

⁶⁶⁷ Maham Abedi, “Why a UN Declaration on Indigenous Rights has Struggled to Become Canadian Law”, *Global News* (2 November 2019) <globalnews.ca> [perma.cc/F6K8-VW7R].

⁶⁶⁸ *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*, ed by John Burrows et al (Waterloo: Centre for International Governance Innovation, 2019) at 2.

peoples were understood within these colonial legal systems. There were a few legal scholars labouring against the grain and insisting upon the validity and strength of our own legal systems, but such ideas were difficult to come by in the classrooms I found myself in. With Call to Action 42, scholars are effectively empowered with new “official language,”⁶⁶⁹ as the existence of Indigenous justice systems was reframed for the rest of the academy by way of a recognition of the multiplicity of legal systems that exist and function within the territory now referred to as Canada.

In my mind, the recognition of legal pluralism and call for the revitalization of Indigenous legal orders embedded in Call to Action 42 represent some of the most important hope emerging from the work of the Truth and Reconciliation Commission where legal education is concerned. The pedagogical bridges I propose to build through the use of Indigenous Legal Pedagogies and discussed in the final chapters of this dissertation will build on the language of possibility presented in Call to Action 42.

⁶⁶⁹ Bourdieu, *supra* note 347 at 44–45.

Calls to Action 27 and 28

27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal– Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.⁶⁷⁰

28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and antiracism.⁶⁷¹

Call to Action 27 is clear: regulators, please have your licensees complete training to ensure cultural competency.

Call to Action 28 is also clear in what it asks of the legal academy: require your students to take a mandatory course as part of their legal education. Also: here is a list of the things the course should cover.

Of course, there is some interpretation of the Calls to Action required for groups to actually act. Some might describe this as uncertainty. I would characterize it as flexibility, which I assume was built into the Calls to Action on an understanding that one size will not fit all and that all things are interconnected. My reading of the Calls to Action understands that the people on the ground are likely best-placed to build solutions for their individual communities.

⁶⁷⁰ *Supra* note 655 at 3.

⁶⁷¹ *Ibid.*

One such uncertainty/opportunity surrounds the question of how to define and measure “cultural competency.” While there is little on the public record about how law societies are working through their responsibilities under CTA 27, I will gently remind readers of our discussion of the profession’s deep investment in racist and sexist professionalization processes in the previous chapter. One can imagine that discussions begin to get a little sticky when professional regulatory bodies begin to grapple with their own investments in the status quo.

Given the resistance within the legal profession in Ontario to acknowledge the existence of systemic racism within it that we surveyed in the previous chapter, readers will likely be unsurprised to learn that as of the time of writing only one provincial regulatory body has developed and adopted a mandatory training requirement in response to Call to Action 27.⁶⁷²

In December 2019, the Law Society of British Columbia announced its intention to introduce a six-hour mandatory continuing legal education requirement for licensees beginning in 2021.⁶⁷³ Lawyers will have two years to complete the modules that will make up the six hours of learning.⁶⁷⁴ Interestingly, the Deans of three law schools in British Columbia, Dean Susan Breau of the University of Victoria School of Law, Dean Bradford Morse of Thompson Rivers University, and Dean Catherine Dauvergne of Peter A. Allard School of Law at the University of British Columbia, were quoted in the Law Societies’ backgrounder underlining shortfalls in legal education: “No one questions that every law student has to study constitutional and criminal law,

⁶⁷² The Canadian Press, “Lawyers in B.C. Will be First in Canada Required to Study Indigenous Issues, History, Law Society Says”, *CBC News* (9 December 2019), online: <cbc.ca> [perma.cc/56A4-4MQX].

⁶⁷³ Law Society of British Columbia, News Release, “Law Society Adopts Indigenous Intercultural Competency Training” (6 December 2019), online: *Law Society of British Columbia News and Publications* <lawsociety.bc.ca> [perma.cc/MZ4V-FCVA].

⁶⁷⁴ *Ibid.*

contracts, torts and property to be a competent lawyer. The TRC report reveals another area that is essential to effective lawyering that many of us missed in our legal education. It is necessary for all lawyers to take Indigenous intercultural competency training to address this.”⁶⁷⁵

This could serve as Exhibit “A” in our discussion below, and I will certainly allow this admission to inform the conversation.

So.

Oh no. There she goes with the font changing bit again.

Listen.

I know I committed to talking about the decolonization and indigenization of legal education, and I will. I promise. But here is the thing: first I need tell you that anecdotal evidence shows that institutional responses to Call to Action 28 vary widely. Next, I must be clear that it is not my intention to provide a detailed and systemic analysis of the totality of institutional approaches being adopted in Canadian law schools in response to CTA 28. There are other researchers, including Ryerson Law School Assistant Professor Scott Franks who recently defended his LLM thesis, and Kory Smith, doctoral candidate in sociology at Carleton University, who are undertaking such research and analysis as stand-alone theses. I look forward to reading their findings when they become publicly available.

⁶⁷⁵ *Ibid.*

However, I cannot begin to explain why I believe Indigenous Legal Pedagogies are necessary or how I believe they might serve multiple communities and objectives in CTA 28 without first introducing you to the context of the conversation. My intention is to highlight a few specific approaches that have been tried with a view to building on lessons learned from those experiences as I work to develop my own offering of a pedagogical approach to support the learning and teaching of Indigenous legal orders and ways of knowing.

Let's start at the very beginning.
A very good place to start.⁶⁷⁶

Not for the first time, I am beginning a section of this dissertation with the caveat that the discussions contained herein will not represent a comprehensive overview of the issues I am examining. Before we continue with this work together, I would like to take a moment to discuss this because, quite frankly, all of this contextualizing is starting to grind my gears a little.

The ultimate goal of my work is to conceptualize an innovative Indigenous Legal Pedagogy. I am proposing a new way of thinking about, learning, and teaching law. A new way to build relationships to ideas. My pedagogy proposal is grounded in hope and love, though in the weeds of all of this context that might come as a surprise to you. I would love nothing better than to get down to it and tell you more. To do so would be a privilege. One I do not benefit from as an Indigenous woman scholar.

⁶⁷⁶ Julie Andrews, MP3: *Do-Re-Mi* (Argyle Enterprises, Inc., 1965).

When I perceive and experience the world, I understand all things to be interrelated.⁶⁷⁷ This is a core tenant of Métis worldview, and also of my research paradigm. As Dr. Shawn Wilson said, “The use of an Indigenous research paradigm when studying Indigenous peoples requires the holistic use and transmission of information.”⁶⁷⁸ The ways in which Learners and scholars experience legal education – built on colonial principles⁶⁷⁹ – and the profession – seeped in discrimination⁶⁸⁰ – are important context. Events outside the four walls of the classroom also influence how we will interact with the world more generally. It would be foolish to think that Indigenous people in Canada were not affected by the Black Lives Matter movement or by Australia burning. For example, during a mental health benefit concert held at the Wabano Centre for Indigenous Health in Ottawa in January 2020, Jeremy Dutcher spoke at length of our responsibilities as Indigenous peoples to support our kin in Australia through environmental action taken in solidarity at home.⁶⁸¹ Consider the implications of that – mental health, the environment and colonial laws that surround her, kinship structures and responsibilities under Indigenous law, art and music. Interrelated, grounded in a simple call for global Indigenous solidarity. Citing Dr. Wilson again for good measure: “This is our epistemology. Thinking of the world around us as a web of connections and relationships. Nothing could be without being in relationship, without its context. Our systems of knowledge are built by and around and also form these relationships.”⁶⁸²

⁶⁷⁷ Lana Ray & Paul Cormier, “Killing the Weendigo with Maple Syrup: Anishinaabe Pedagogy and Post-Secondary Research” (2012) 35:1 Canadian J of Native Education 163 at 169.

⁶⁷⁸ *Supra* note 14 at 32.

⁶⁷⁹ *Supra* our previous discussion on Force Assimilative Education.

⁶⁸⁰ See e.g. *The Challenges Report*, *supra* note 89.

⁶⁸¹ Jeremy Dutcher, “An Evening with Jeremy Dutcher in Support of Mental Health” (Concert held at the Wabano Centre For Aboriginal Health, Ottawa, 29 January 2020).

⁶⁸² *Supra* note 14 at 77.

Note to self:
ask an Auntie to introduce me to Shawn Wilson
once we emerge from captivity.
I need to hug that man.

It would be irresponsible for me, as an educator, to proceed with my work as if in a vacuum. This is particularly true given my intention to consider pedagogies through the analytical lens of Therapeutic Jurisprudence. It is, however, be impossible for me to write all of the words on all of the things that result in experiences of violence against Indigenous Learners and scholars. As we have seen in previous sections, the colonialism collision in the lives of Indigenous people is far too complex.

As researchers, we all make choices.⁶⁸³ We choose what topics to study. We choose what questions to ask, who to ask, and ultimately how to frame our findings.

My choices may be perceived by some to be unorthodox. I am not blind, for example, to the fact that we sit on page 196 of this dissertation and I am still setting the table. I imagine my beloved thesis advisor having a minor heart attack by now, even though I forewarned her of the possibility of significant time spent fussing over tablecloths and centrepieces. Eventually, we will feast on new, hopeful, and healing ideas of beadwork practice as a tool for change. But: we are not there yet.

⁶⁸³ *Wilson, supra* note 14 at 97 and following.

Remember when you hit the brakes too soon
 Twenty stitches in a hospital room
 When you started crying baby, I did too
 But when the sun came up I was looking at you
 Remember when we couldn't take the heat
 I walked out, I said, I'm setting you free
 But the monsters turned out to be just trees
 When the sun came up you were looking at me
 You were looking at me
 Oh!
 You were looking at me

Are we out of the woods yet?⁶⁸⁴

The choices we make as researchers are often more complicated for Indigenous researchers.⁶⁸⁵ Through the various phases of Aboriginal academic research described by Dr. Wilson, the choices made by Indigenous scholars, marginalized within the academy, were never easy.⁶⁸⁶ For the purposes of illustrating the additional factors we weigh as scholars, we can zoom in on how this plays out in one specific aspect of research: writing style and choice of voice. The issue of voice is one that researchers have recently started discussing more openly; some saw academic slow-downs resulting from struggles over voice in their academic writing,⁶⁸⁷ other made conscious choices to espouse western academic writing styles to avoid expending energy on fights over voice,⁶⁸⁸ some channeled issues of voice into other forms of writing that they produced in parallel to their academic work in avoid their erasure from the written record.⁶⁸⁹ As we move forward, many are insisting, as I have here, on ensuring their own voices can be heard above the din of

⁶⁸⁴ Taylor Swift, MP3: *Out of the Woods* (Nashville: Big Machine, 2016).

⁶⁸⁵ *Wilson, supra* note 14 at 97 and following.

⁶⁸⁶ *Ibid* at 45.

⁶⁸⁷ *Ibid* at 26–27.

⁶⁸⁸ *Battiste, supra* note 1 at 14.

⁶⁸⁹ *Monture, supra* note 181 at 116.

western knowledge production⁶⁹⁰ and valorizing narrative as a form of Indigenous knowledge and knowledge creation.⁶⁹¹

I lost my Talk

“Two ways I talk

Both ways I say
Your way is more powerful.
So gently I offer my hand and ask,

Let me find my talk
So I can teach you about me.”⁶⁹²

The voices we choose to amplify through citation also pose a particular challenge for some Indigenous researchers. My reading and research are far from limited to only Indigenous scholars, but when given a choice I will always cite Indigenous writers first. The multiply-subjugated voices of Indigenous women are cited before the marginalized voices of Indigenous men. Relationships are everything, and as a matter of principle I will not cite writers, Indigenous or not, who have done harm to any of my kin. Lateral violence within our communities is a concern for me. These are uncomfortable conversations that I have only with my academic aunts.⁶⁹³ They are not conversations for you, beyond the simple fact of learning that these are calculations that Indigenous women must make before putting pen to paper.

⁶⁹⁰ Edge, *supra* note 111 at 6.

⁶⁹¹ Ray & Cormier, *supra* note 677 at 164.

⁶⁹² Rita Joe, “I Lost My Talk” in Patricia A Monture & Patricia D McGuire, eds, *First Voices: An Aboriginal Women’s Reader* (Toronto: Inanna Publications and Education Inc, 2009) 129 at 129.

⁶⁹³ Erica Violet Lee, “I’m Concerned For Your Academic Career if You Talk About This Publicly” (5 February 2016), online (blog): *Moontime Warrior* <moontimewarrior.com> [perma.cc/9NDP-657H].

When citing scholars, I research each one to determine their highest western academic rank and subsequently use their full names and titles throughout my work. Does it make my writing feel clunky in places? Yes, especially when a single family generates multiple brilliant thinkers and I am also required to use given names, such as the Wilsons from Northern Manitoba, or the Smiths in New Zealand. I acknowledge that this choice impacts readability, but it is not one I am willing to forgo. To repeat the academic credentials of Indigenous scholars, sometimes ad nauseum, is to honour their work and underline the sacrifices individuals are making to bring change from within. Each of these scholars challenged and survived ongoing racism and colonialism within the academy to earn their law degrees, masters, and doctorates. Based on what we have seen so far of the academy and the profession, it is safe to assume that they did so largely on the academy's terms. None of my readers will be given the opportunity to forget this while reading my work.

When I engage in academic work, the additional (emotional, intellectual) energy I must expend on concerns born of colonial constructs of teaching and learning are not insignificant in my processes.

Another choice: adopting a non-linear writing style unexpected in a doctoral dissertation in law, arguably one of the most linear of the humanities disciplines. I expect readers may be growing weary, wondering when this little trick of mine will lead to the prestige. Sorry folks, there will be no tying off until the very end. But keep the faith: the knots are where the love lives.



Figure 4: The knots are where the love lives

To be clear: these are pedagogical choices. To the reader, the experience of engaging this work may feel chaotic. The non-linear style may be experienced as confusing, meandering. High-level overviews of half a dozen legal, social, and political phenomena might be seen as, at best, a lack of focus, at worst an attempt to “pad” this work with tangential or incomplete research. Readers working through the piece may feel uncomfortable at the disruptions experienced through the inclusion of extra-intellectual knowledge, the changing of fonts, and the use of multiple voices – including my own. I am sure some will consider the work to be unfocused and grow frustrated, unable to see the big picture of where we are headed on this long walk together.

Like many Indigenous Learners, I pursue my academic credentials while shouldering significant caring commitments for generations before and after. I also hold a full time (plus) executive role, duties as a part-time professor, I am heavily involved in my various communities, and throughout the pandemic I have committed to decolonial homeschooling for my three children. Those who know me will tell you that I don’t have a lot of time for nonsense.

Dear Reader:
 don't think for a second
 that any part of this dissertation
 was written or spared my editing backspace
 without thoughtful consideration.

I refuse to apologize for provoking discomfort in my readers. I can guarantee that nothing you have experienced in reading this dissertation thus far comes within a mile of the discomfort Indigenous Learners experience via ongoing colonialism and racism in legal education.⁶⁹⁴ Even that bit where I may or may not have been looking at you while talking about systemic racism in the profession. When one is asked to confront their own privilege cognitive dissonance is common, discomfort is anticipated.⁶⁹⁵

Something has changed within me
 Something is not the same
 I'm through with playing by
 The rules of someone else's game.⁶⁹⁶

Unfortunately, I, alongside every other scholar working in Indigenous education and research, find myself in an unenviable position. I am, as a result of Eurocentric and colonial constructions of knowledge and education, required to engage in a 200 page (+) stage setting before I can contemplate sharing my own new ideas. Unable to know in advance who my readers might be,⁶⁹⁷ I cannot assume even a base-level knowledge or understanding of Canadian history as it relates

⁶⁹⁴ See e.g. *Cote-Meek*, *supra* note 33; *Hewitt*, *supra* note 253.

⁶⁹⁵ Fiona Purton, Sandra Styres & Arlo Kempf, "Speaking Back to the Institution: Teacher Education Programs as Sites of Possibility" in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 175 at 181.

⁶⁹⁶ Idina Menzel & Kristin Chenoweth, MP3: *Defying Gravity* (Decca Broadway, 2003).

⁶⁹⁷ *Wilson*, *supra* note 14 at 6.

to Indigenous peoples, let alone a recognition of the lived experience of Indigenous peoples in modern Canadian society on the part of my readers.⁶⁹⁸

Spend some time improving what's inside your head!
Out, out, put it in storage, sell it on eBay, leave it behind
Out, out, what, are you angry?
Good, so get angry!⁶⁹⁹

As most Canadians have been systemically denied the opportunity to learn anything about us⁷⁰⁰ I must invest time, energy, and (heart)knowledge into ensuring a base-level understanding of the systems at work in the lives of Indigenous law students and lawyers before I can proceed with my work. I do this so that our children will not have to.⁷⁰¹ As Dr. Shauneen Pete of Little Pine First Nation⁷⁰² once said, this, dear reader, should make you angry.⁷⁰³ I will admit, at this late hour of the day, bordering on the wee small hours of the morning, I personally battle not feelings of anger, but rather the green monster of jealousy when I think of my peers and colleagues who can launch into their own research and thoughts without having to engage in such an onerous preamble. To be able to assume a starting point where readers are presumed to be on a level playing field: what a weightless privilege that must be to carry.

⁶⁹⁸ Teresa Wright, “First Nations Coalition Rejects Recommendation to Lift Sen. Lynn Beyak’s Suspension”, *The Canadian Press* (2 July 2020), online: <theglobeandmail.com> [perma.cc/N72C-VNFX].

⁶⁹⁹ Christian Borle, Laura Bell Bundy & Legally Blonde Ensemble, MP3: *Chip on My Shoulder* (New York City: Ghostlight Records, 2007).

⁷⁰⁰ Shauneen Pete, “Think Indigenous” (15 October 2017), online (podcast): *podtail* <podtail.com> [perma.cc/3C8A-BDPH].

⁷⁰¹ Lindberg, *supra* note 72 at 326.

⁷⁰² Jennifer Batten, “Indigenizing the Academy: Indigenization and Decolonization in Post-Secondary Education”, *Memorial University Gazette* (6 January 2017), online: <gazette.mun.ca> [perma.cc/BQ2E-4EUX].

⁷⁰³ *Supra* note 700.

This is me, being true to my research method and paradigm and honouring the lived of experience of Indigenous peoples in legal education and the profession. It is part of fulfilling my obligations to the communities to whom I am accountable.

As we will see in the section that follows, as much as we would like to consider ourselves members of a “learned profession,”⁷⁰⁴ even a modern legal education does not guarantee access to learning about Indigenous peoples⁷⁰⁵ that might begin to level the playing field. I encourage you to once again consider what is asked of Indigenous writers, scholars, and Learners walking, reading, and writing in two worlds as we move into this next section. Channel feelings of discomfort, disorientation, frustration, or anger, properly directed at the colonial frameworks that got us into this pickle, into reading this piece as an act of decolonizing your understandings of education, knowledge, and law.

⁷⁰⁴ John W Wade, “Public Responsibilities of The Learned Professions” (1960) 21:1 La L Rev 130.

⁷⁰⁵ See Law Society of British Columbia, “Lawyer Competence Requires Indigenous Intercultural Competency” (last visited 17 August 2020), online (pdf): *Law Society of British Columbia* <lawsociety.bc.ca> [perma.cc/2RG7-RBGZ].

Legal Education: Patchwork and Stop-Gap Approaches

It is not only regulators who must consider their investments in the status quo – as we have already discussed, the legal academy exists on a solid foundation of hierarchies, curriculum, and teaching frameworks that serve to discriminate against and exclude both Indigenous students and Indigenous scholars. Following our field trip down a back alley of subjugated knowledge, allow me to reorient you on the map before we begin. As we think about moving forward, informed by what has come before and carrying our marching orders from the TRC, our conversation will begin with an overview of drivers and rationales behind efforts to decolonize and indigenize the academy, followed by a brief overview of efforts made in post-secondary education in Canada since 2015. We will explore some of the many novel practices and pedagogies that have been adopted to mobilize or revitalize Indigenous knowledge in post-secondary education including land-based learning and the development of Indigenous Course Requirements (ICRs). From there, we will dive into some of the (sometimes stop-gap) approaches, and the underlying pedagogies, that are emerging in various law schools in Canada in response to the Calls to Action.

Following a discussion of resistance to learning/unlearning that sometimes occurs when new ideas are introduced into legal education, I will consider the process of decolonizing the legal academy through the analytical lens of Therapeutic Jurisprudence. I will position the act of decolonizing legal education as one with the potential for healing a community struggling with ongoing subjugation of Indigenous knowledge, racism, and colonialism. The hope in this section rests in the idea of decolonizing the legal academy as a forward-looking remedy to the shortfalls

in colonial constructs of education and begin to heal from the trauma, racism, and ethno-stress it continues to inflict on Indigenous Learners.

Decolonization, Indigenization, and other stories

Why was the TRC specifically concerned with law schools? In Canada, legal education has been “in large part...an imperial project of the legal profession.” Law schools produce legal actors and, through this production line, serve as a site of colonization because in Canada law has been, and continues to be, a vehicle to oppress Indigenous peoples.⁷⁰⁶

Institutional responses to Call to Action 28 vary widely. As discussed in a previous chapter, some Faculties have chosen to implement a mandatory course in their first-year curriculum,⁷⁰⁷ others offer a variety of optional courses across several years of study.⁷⁰⁸ I look forward to reading the forthcoming works of researchers currently surveying the national landscape on progress towards rising to this call. In this section I do not propose to compare or contrast approaches, nor will I offer opinions on the politics and policy work that is ongoing in many law schools. Rather, I intend to situate the need to centre decolonization efforts in the first place. I am hopeful that nothing in this reflection will come as a surprise to my readers following our previous discussions of the Indigenous lived experience of legal education.

A wave of optimistic,⁷⁰⁹ if largely siloed, efforts to “do something” in post-secondary institutions across Canada followed the issuance of the Calls to Action. As Dr. Marie Battiste reminds us, “the modern educational system was created to maintain the identity, language, and culture of a

⁷⁰⁶ Hewitt, *supra* note 253 at 68.

⁷⁰⁷ “Windsor Law Introduces Indigenous Legal Traditions Course For First-Year Students” (last visited 18 August 2020), online: *University of Windsor* <uwindsor.ca> [perma.cc/8GRJ-T32P].

⁷⁰⁸ “Osgoode Hall Law School Adopts New Indigenous and Aboriginal Law Requirement” (6 April 2018), online: *York University News* <news.yourku.ca> [perma.cc/NNL5-MKNH].

⁷⁰⁹ Gaudry & Lorenz, *supra* note 275 at 222.

colonial society, while ignoring the need to decolonize.”⁷¹⁰ This was never going to be an easy journey. As the years passed, it became clear to many Indigenous Learners and scholars that universities were struggling to reconceptualize their relationships with Indigenous peoples and communities.⁷¹¹ From my vantage point, it seemed as though barriers to rising to the Calls to Action existed at the most basic levels – having never considered the question of the institution’s ethical responsibilities towards Indigenous peoples before,⁷¹² these colonial systems simply didn’t have the vocabulary required to begin the conversation.

As the prospect of decolonization is unsettling to everyone involved,⁷¹³ attempts are sometimes made to absorb decolonization into social justice or human rights-based discourse.⁷¹⁴ I believe this is sometimes an attempt to translate concepts that are not readily understood into “official language.”⁷¹⁵ Very few people appear to see the irony in attempts to reframe decolonization through colonial discourse, and in my experience these attempts to shoehorn decolonization into other movements leaves many elements lost in translation. Dr. Eve Tuck, Unangax̄ and enrolled member of the Aleut Community of St. Paul Island, Alaska,⁷¹⁶ and Dr. Wayne Yang, meanwhile, suggest that attempts to shift discourse are grounded in efforts to “escape or contain the unbearable searchlight of complicity, of having harmed others just by being one’s self.”⁷¹⁷ They

⁷¹⁰ *Supra* note 1 at 30.

⁷¹¹ *Gaudry & Lorenz, supra* note 275.

⁷¹² Linda Pardy & Brett Pardy, “Decolonizing Non-Indigenous Faculty and Students: Beyond Comfortable Diversity”, in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 229 at 233.

⁷¹³ Eve Tuck & K Wayne Yang, “Decolonization is Not a Metaphor” (2012) 1:1 *Decolonization: Indigeneity, Education & Society* 1 at 7.

⁷¹⁴ *Ibid* at 2–3.

⁷¹⁵ *Bourdieu, supra* note 347 at 44–45.

⁷¹⁶ “Eve Tuck” (last visited 24 August 2020), online: *Eve Tuck* <evetuck.ca/bio> [perma.cc/2GL6-XFDZ].

⁷¹⁷ *Supra* note 713 at 9.

remind us that decolonization is not, in fact, a metaphor.⁷¹⁸ Rather, paraphrasing Franz Fanon, decolonization is a process that will not go unnoticed.⁷¹⁹ A “symbolic approach” to decolonization is not adequate to bring about true change in academic institutions.⁷²⁰

In their 2018 piece entitled *Indigenization as Inclusion, Reconciliation, and Decolonization: Navigating the Different Visions for Indigenizing the Canadian Academy*, Lake-of-the-Woods Métis scholar Dr. Adam Gaudry⁷²¹ and Danielle Lorenz suggest that early efforts within the academy can be broadly classified under three different umbrellas representing three different understandings of the concept of “indigenization.”⁷²² They define these three conceptualizations of indigenization as follows:

Indigenous inclusion is a policy that aims to increase the number of Indigenous students, faculty, and staff in the Canadian academy. Consequently, it does so largely by supporting the adaption of Indigenous people to the current (often alienating) culture of the Canadian academy. *Reconciliation indigenization* is a vision that locates indigenization on common ground between Indigenous and Canadian ideals, creating a new, broader consensus on debates such as what counts as knowledge, how should Indigenous knowledges and European-derived knowledges be reconciled, and what types of relationships academic institutions should have with Indigenous communities. *Decolonial indigenization* envisions the wholesale overhaul of the academy to fundamentally reorient knowledge production based on balancing power relations between Indigenous peoples and Canadians, transforming the academy into something dynamic and new.⁷²³

Dr. Gaudry and Lorenz distinguished between optics and action, noting that while many academic institutions espoused rhetoric that suggested a commitment to *reconciliation indigenization*,

⁷¹⁸ *Ibid* at 2–3.

⁷¹⁹ *Ibid* at 7.

⁷²⁰ Pardy & Pardy, *supra* note 712 at 233 and following.

⁷²¹ “Adam Gaudry, PhD” (last visited 24 August 2020), online: *University of Alberta* <apps.ualberta.ca> [perma.cc/765K-AC9L].

⁷²² *Supra* note 275 at 218 and following.

⁷²³ *Ibid* at 218–19.

concrete actions demonstrated that efforts were concentrated on *Indigenous inclusion*.⁷²⁴ Further, the authors identified a schism between visions of indigenization held by institutions and by the Indigenous people working within them. They maintained that while institutions prioritize inclusion, “...Indigenous faculty, staff, students and their allies are much more likely to envision a fundamental and decolonial shift.”⁷²⁵

Dr. Marie Battiste describes the potential of a decolonial shift beyond inclusion as “bridging programs to a new perspective and processes that support Indigenous knowledges, communities’ continued enriched livelihood within place, their languages, and self-determination in a new, decolonized way.”⁷²⁶ Understood this way, decolonized education becomes a space of hope.⁷²⁷

Institutions, Dr. Battiste argues, have a choice to make.⁷²⁸ They may choose to be a site of reproduction, maintaining existing structures of colonial domination, or they may choose to be a site of change.⁷²⁹ Decolonization is required for an institution to become a site of change.⁷³⁰

Some maintain, and I wholeheartedly agree, that the need for a decolonial shift⁷³¹ is particularly critical for law schools.⁷³² I opened this section with a quote from Professor Hewitt whose sentiment bears repeating here: Commissioners of the Truth and Reconciliation Commission of

⁷²⁴ *Ibid* at 219.

⁷²⁵ *Ibid* at 225–26.

⁷²⁶ *Supra* note 1 at 72.

⁷²⁷ *Ibid*.

⁷²⁸ *Ibid* at 175.

⁷²⁹ *Ibid*.

⁷³⁰ *Ibid*.

⁷³¹ *Gaudry & Lorenz, supra* note 275 at 225–26.

⁷³² *Hewitt, supra* note 253 at 68.

Canada specifically identified legal education as a sphere of education requiring targeted attention because law schools contribute to colonization through the training of future members of the legal profession.⁷³³ Law schools have a responsibility to decolonize education as Canadian law was historically, and remains, a tool of oppression of Indigenous peoples.⁷³⁴

Change is occurring within the legal academy, sometimes slowly, and in an irregular pattern across the country. Universities are massive institutional machines and, like turning a ship, a change of course takes advanced planning and many hands. Further, as a friend of mine often says, there may be a perception that universities are filled with “leftist liberal intellectuals,” but in reality, they are desperately conservative institutions that are invested in the status quo and highly resistant to change.⁷³⁵

I am greatly encouraged by some notable successes in building programming grounded in Indigenous Legal Pedagogy. For example, several Faculties, including the Universities of British Columbia, Victoria, Toronto, Lakehead, and Osgoode Hall have developed and launched land-based learning opportunities grounded in Indigenous Legal Pedagogy.⁷³⁶ Land-based learning: a contextual learning process where Learners literally learn law on the land, outdoors.⁷³⁷ Educators can be law professors, law students, community members, and Elders, and participants are

⁷³³ *Ibid.*

⁷³⁴ *Ibid.*

⁷³⁵ Personal conversation, March 2020.

⁷³⁶ *Lindberg, supra* note 170 at 65. The author also notes that the Civil Law Section at the University of Ottawa was among the first law schools in the country to create land-based learning program options in collaboration with community leaders and Elders on Cree and Innu territories in Québec in 2004.

⁷³⁷ See generally John Borrows, “Outsider Education: Indigenous Law and Land-Based Learning” (2017) 33:1 Windsor YB Access Just 1.

immersed in Indigenous laws and legal orders for the duration of the course.⁷³⁸ This move to offer learning opportunities on the land recognizes both that “ideas can become more meaningful when presented in cultural settings,” and that one need not be a professor to be an educator.⁷³⁹ Land-based learning also serves to acknowledge that knowledge creation and dissemination is not the exclusive purview of universities and scholars who hold western academic credentials.⁷⁴⁰

Land-based learning is gaining popularity, but in reality, it is not a new concept. The University of Victoria’s AbCamp, a four-day intensive land-based course, in fact predates the TRC, having first launched in 1995.⁷⁴¹ This program ultimately served as a community-building springboard, generating momentum towards broader changes and greater incorporation of Indigenous laws and legal orders into the fabric of the Faculty.⁷⁴² As I have previously noted, the University of Victoria houses the first, and only, Indigenous Legal Orders – Juris Doctor joint program in Canada.⁷⁴³

Other institutions, like my own, continue to work towards anchoring policy that will support development and change. In July 2019, four years after the release of the Calls to Action, the

⁷³⁸ *Ibid.*

⁷³⁹ *Weenie*, *supra* note 119 at 8.

⁷⁴⁰ *Gaudry & Lorenz*, *supra* note 275 at 225.

⁷⁴¹ “AbCamp: 20 Years of Understanding” (last visited 4 August 2020), online: *University of Victoria Law* <uvic.ca> [perma.cc/8RQL-7964].

⁷⁴² *Ibid.*

⁷⁴³ *Supra* note 341.

Faculty of Law, Common Law Section at the University of Ottawa issued the following Pathways

Statement to the community:

The University of Ottawa Faculty of Law recognizes that it is on Algonquin land in a territory where Algonquin legal orders have operated for millennia and continue to do so today. As a Faculty we are committed to education that is multi-juridical including Indigenous laws and legal orders, common law, and civil laws. We provide space for all students to learn, interrogate and critique all law in a professional, ethical and respectful way.

We believe in the values of respect and reciprocity of relationships and are committed to fostering knowledge and skills relating to Indigenous laws, Indigenous peoples, anti-discrimination and the full implementation of the Truth and Reconciliation Commission Calls to Action and United Nations' Declaration on the Rights of Indigenous Peoples. Our teaching, research and service will engage Indigenous knowledge, legal orders, governance, nations, communities and people. With open minds and hearts, we commit ourselves to creating and maintaining an institution of legal pedagogy that amplifies and features Indigenous pedagogy, methodology and research. Our research is interdisciplinary, inclusive and committed to the service of the community. This commitment includes providing decolonizing spaces, pedagogies, and knowledge in order to prepare our learners, staff and faculty for participation in respectful and reciprocal relationships with Indigenous peoples and communities.

This law school will not shy away from recognizing the destructive nature of colonial law on Indigenous peoples' political and cultural survival. The Faculty has a role to play in correcting past cultural and legal arrogance and will be fully respectful and inclusive of Indigenous legal theory, laws and processes as an integral part of what we call Canadian law.⁷⁴⁴

Make no mistake: I am proud of my Faculty's work on *Indigenous inclusion*, in particular in the area of huge strides in the conceptualization of whole-Learner support⁷⁴⁵ encompassing spiritual (community support, community practice including beading circle), physical (financial support and improvements in physical spaces within the Faculty), mind (academic support and skills-

⁷⁴⁴ Adam Dodek, "Indigenous Pathways Statement" (30 July 2019), online: *Faculty of Law: Common Law Section* <commonlaw.uottawa.ca> [perma.cc/9LQK-4YPU].

⁷⁴⁵ See e.g. *Cote-Meek*, *supra* note 33 at 157.

based programming), and emotion (community support, peer mentorship programs, in-house mental health counselling). Incredible efforts by Indigenous Faculty and allies also resulted in a massive surge in extra-curricular offerings to build community and assist all students in building their cultural competency.⁷⁴⁶

Individuals in leadership positions are investing tremendous energies into learning, unlearning, and supporting Indigenous Learners. I am proud of them, and I see their work. Many put their money where their mouths are, quietly supporting the Learner community through donations in cash and kind: donations to bursaries, gifts of grocery cards, hygiene products, food, and clothing to support the most vulnerable. Individuals are working to build thoughtful and healthy relationships: to ideas, people, and communities. Unfortunately, for every colleague who puts in the work, there remains one who will make jokes about cannabis when they smell smudge in the hallway, or who will respond to suggestions that they might consider integrating Indigenous legal orders into their courses with a terse reply about academic freedom. Some professors choose to teach content relating to Indigenous peoples only “if time allows.” Others teach it but declare it unexaminable, effectively diminishing its value in the eyes of overwhelmed law students.⁷⁴⁷

To bring system-wide change will require system-wide approaches. A collective sense of responsibility must be acknowledged and subsequently supported by collective action.

⁷⁴⁶ See e.g. “‘Sage Advice’ Session 1” (last visited 8 September 2020), online: *University of Ottawa* <uocal.uottawa.ca>; “RedTalks 2019-2020 Indigenous Women Leaders Session 1” (last visited 8 September 2020), online: *University of Ottawa* <uocal.uottawa.ca> [perma.cc/4REX-3XRG]; “Indigenous Peoples Imagery, Racialization and Racism” (last visited 8 September 2020), online: *University of Ottawa* <uocal.uottawa.ca> [perma.cc/ZMZ5-LG33].

⁷⁴⁷ I have personally experienced all of the foregoing during my time as a Learner, graduate student, and staff member.

To this end, some elements of the Pathways Statement have been embedded in the Faculty's inaugural strategic plan⁷⁴⁸ following significant intra-Faculty consultation and red-dot sticker voting. But: more than a year after issuing the statement above, the Faculty is no closer to adopting the fully-developed draft action plan that would allow those working within the academy to convert the rhetoric into action. Some will blame Covid-19 for disrupting the timeline and that may explain some delays but cannot explain away the whole. We have certainly not established an Indigenous Nationhood, Governance and Laws Institute, nor have we developed a "Indigenous legal knowledge programming including core JD courses, the development of specialties in Indigenous legal knowledge, and developing in-house education and resources for faculty, staff and Learners."⁷⁴⁹ In fact, we remain without a mandatory Indigenous Course Requirement (ICR), the minimum action required under CTA 28.

My lived experience of the Faculty-wide curriculum consultation meeting was one of violence. There was little deference for the work of the Indigenous faculty, staff, or the Indigenous Legal Traditions Committee who had spent the last eighteen months reflecting, researching, and developing a plan that would not simply satisfy a CTA 28 checkbox, but rather would rise to the Calls to Action in a holistic way and support the revitalization of Indigenous Legal Orders.

Answering one Call to Action in a vacuum, a fractured approach to reading the final report of the TRC, would be a colonial approach worthy of an academic institution built on Forced Assimilative Education frameworks. The Indigenous Legal Traditions Committee chose to develop pathways

⁷⁴⁸ *Supra* note 665.

⁷⁴⁹ *Ibid.*

in context, considering CTA 27, 28, 42, 50, and the rest of the many writings of the Commissioners who worked at a devastating pace to bring forward truth. A piece of the puzzle was a proposal to build and deliver a mandatory course that centred Indigenous laws and legal orders.

Colleagues, seemingly ignoring the proposal before them in the manner of casual violence that results in deep cuts, suggested that there was certainly space to “carve out” some classroom time to talk about “Aboriginal dispute resolution” in the first year Alternative Dispute Resolution intensive. Another colleague very helpfully added that yes, adding some “First Nations ideas” to ADR would be a great approach.

In relation to law faculties,
‘jurisdictional disputes’
might be
individual faculty members
who deny the development
and implementation
of a mandatory course in response to the TRC
is necessary,
which in turn leads to a pedagogical debate
while the machinery of colonization
hums along.”⁷⁵⁰

Indigenous laws and legal orders were frequently disparaged, I suspect accidentally. That is the very nature of everyday racism, after all:

“Racialized people know when they experience everyday racism because it is repetitive and consistent with their past experiences; however, White people often do not see it or recognize it, even in their own words and actions. The denial of racism is still strong amongst the more traditional members of the academy, especially those who are influenced by a liberal ideology that holds that unless there is the intention to be racist, racism does not exist.”⁷⁵¹

⁷⁵⁰ *Hewitt, supra* note 253 at 75.

⁷⁵¹ *Henry et al., supra* note 303 at 117.

“Many racialized and Indigenous faculty have suggested that only specific types of knowledge are recognized as legitimate, which excludes forms that diverge from the Eurocentric norm.”⁷⁵²

Cross-institutional research on racialization and Indigeneity at Canadian universities published in 2017 found that:

“An emphasis in most Canadian universities on the Eurocentric curriculum, and in some disciplines the dominance of the “canon,” was an important theme that emerged from the interviews. Curricula communicate the message that only particular kinds of knowledge are validated and valued. Eurocentric frameworks and content are often given more resources and curriculum space, as well as greater dominance and status[.]”⁷⁵³

Lines of inquiry about institutional capacity to teach a single course on Indigenous laws and legal orders are brutal reminders that our laws are not considered entrenched, valid, or constituting a piece of the core.

One colleague indicated they were uncomfortable considering any proposal to create a new course until a capacity audit was conducted, on the basis that it would be damaging for the Faculty to create a course it had no capacity to teach.

Quite simply, Indigenous legal orders are not worthy of the same consideration as colonial law within the legal academy. I can personally imagine no circumstances wherein a debate on whether teaching corps capacity issues should be a barrier to offering contracts, torts, or Canadian constitutional law would emerge. Those courses are understood to have an inherent legitimacy. One can just imagine how people would react to even the whiff of a suggestion that

⁷⁵² *Ibid* at 131.

⁷⁵³ *Ibid* at 131.

criminal law could not be offered because of a perceived lack of in-house capacity to teach it, or, alternatively, that only criminal defence or Crown prosecutors were equipped to teach it. Either premise would be rejected as absurd.

If a Faculty were to ever lack in-house capacity to teach a mandatory course, there is no question that arrangements would be made for the courses to be taught. In fact, let's get serious: if no one wants to teach them, faculties find people to do so. The hiring of part-time professors to teach first year core curriculum courses had in fact become so commonplace in recent years within my own Faculty that students successfully argued to have the objective of ensuring "that the vast majority of 1L courses are taught by full-time faculty members" adopted into the Faculty's strategic plan.⁷⁵⁴

No such consideration for courses in Indigenous laws and legal orders was even contemplated out loud during the meeting. Two brave souls suggested increasing in-house capacity by hiring more Indigenous scholars. I experienced a repeated and jarring realization that even the supportive colleagues seemingly failed to recognize that our legal systems represent law caused me to physically fold in on myself. It made me think of Bencher Lewis' comments upon the vote to repeal the Statement of Principles requirements for licensees in Ontario: please stop repeatedly punching me in the face.⁷⁵⁵

⁷⁵⁴ *Supra* note 665.

⁷⁵⁵ Ontario, Law Society of Ontario, (Convocation), (Toronto: Law Society of Ontario, 2019).

Recall that
 while Indigenous peoples have been
 studying Canadian law;
 practising it;
 completing graduate degrees in it;
 and are teaching it,
 most practitioners, legal academics and
 law schools
 have learned very little
 about Indigenous legal orders.⁷⁵⁶

Indigenous scholars are expected – required – to teach colonial law. We are expected to be fluent in the language of colonial legal systems to earn the privilege of accessing the legal academy as scholars, even when our research focuses on Indigenous laws and legal orders. And you know what? I’m cool with that, because I live in a pluri-judicial society.⁷⁵⁷ Individual legal systems do not operate in vacuums, though sometimes interacting with Canadian law does feel a little like being caught in a tourbillon. Systems interact. How can I understand one without, at minimum, a base-level understanding of the others?

Tangentially related: I happen to have knowledge of, insights into, and opinions on (wait for it) other things beyond questions and laws relating to my Indigeneity. The academy seems to assume otherwise,⁷⁵⁸ leaving racialized and Indigenous scholars to develop coping mechanisms, “...to show we are all complex thinkers who can be both specific in our focus and universal.”⁷⁵⁹

⁷⁵⁶ *Hewitt, supra* note 253 at 71.

⁷⁵⁷ *Supra* note 655 at 4.

⁷⁵⁸ *Henry et al., supra* note 303 at 168. (“Further, there is an expectation that their scholarship will be about issues related to racialized people. The risk here is the perception that they are knowledgeable only about minority issues.”).

⁷⁵⁹ *hooks, supra* note 2 at 38.

Of course Indigenous scholars can, and should, teach mandatory core curriculum and other courses.⁷⁶⁰ Do I want to teach Métis Law, and Beadwork and the Law, and Indigenous Women and the Law? Yes. But: Institutions have a bad habit of attempting to contain Indigenous scholars to defined spaces within the academy, while simultaneously devaluing those disciplines.⁷⁶¹ I am not here to be an institutional token,⁷⁶² nor do I have any interest in playing the part of Native Informant.⁷⁶³ The pigeon-holing of Indigenous Learners and scholars into narrow practice areas that limit the use of our voices to questions of Indigenous or Indigenous-adjacent issues drives me bananas, especially when it is used as a tool of the colonial project to subjugate our knowledge.⁷⁶⁴

If the assumption is only Indigenous scholars should be teaching Indigenous legal traditions, apparently it is not incumbent on non-indigenous Faculty to reach the same pluri-juridical⁷⁶⁵ competency threshold required of Indigenous scholars. I cannot compute this, especially given the Calls to Action that require all legal professionals, not only new licensees, to develop cultural competency.⁷⁶⁶ As Professor Hewitt states plainly: “...supports for a mandatory course should not solely be placed on the shoulders of Indigenous scholars. Rather, it must be owned by the whole of the academy – men and women.”⁷⁶⁷ I agree and believe it an ethical imperative for the legal

⁷⁶⁰ *Hewitt, supra* note 253 at 72.

⁷⁶¹ See e.g. *Cote-Meek, supra* note 33 at 95, 156.

⁷⁶² *Lavallee, supra* note 406 at 120.

⁷⁶³ *Cote-Meek, supra* note 33 at 13–14, 84; *Henry et al., supra* note 303 at 106.

⁷⁶⁴ *Cote-Meek, ibid* at 13–14, 156.

⁷⁶⁵ *Supra* note 655 at 4.

⁷⁶⁶ *Ibid* at 3.

⁷⁶⁷ *Supra* note 253 at 72.

academy to collectively share the responsibility for the indigenization of law school curricula. The burden cannot be carried by the Indigenous people in the room alone.⁷⁶⁸

My kingdom for a course.⁷⁶⁹

Classified under the umbrella of *reconciliation indigenization* by Dr. Gaudry and Lorenz,⁷⁷⁰ the development of ICRs is a common approach of institutions working to respond to the Calls to Action.⁷⁷¹ As Professor Hewitt reminds us, “a single mandatory course will not erase ongoing colonization,”⁷⁷² but ICRs can represent a step in the indigenization process that can serve to encourage students to engage with “a prescribed amount of content focused on Indigenous peoples.”⁷⁷³

Unlearning is a difficult process for non-Indigenous students,⁷⁷⁴ one that requires confronting one’s own positions of power and privilege.⁷⁷⁵ It is not surprising that “[d]irectly and indirectly benefitting from the erasure and assimilation of Indigenous peoples is a difficult reality for settlers to accept.”⁷⁷⁶ Even once ICRs are adopted in principle, their integration into existing academic programming is not always a smooth or seamless process.

In a recent chapter containing preliminary findings of a study of the incorporation of a new ICR into a teacher education program, Fiona Purton, Dr. Sandra Styres, scholar of Mohawk, English,

⁷⁶⁸ *Lavallee*, *supra* note 406 at 120.

⁷⁶⁹ An allusion to Shakespeare’s *Richard III*, Act 5, Scene 4.

⁷⁷⁰ *Fiola & MacKinnon*, *supra* note 421 at 161.

⁷⁷¹ *Gaudry & Lorenz*, *supra* note 275 at 222.

⁷⁷² *Supra* note 253 at 68.

⁷⁷³ *Gaudry & Lorenz*, *supra* note 275 at 222.

⁷⁷⁴ *Battiste*, *supra* note 1 at 69.

⁷⁷⁵ *Purton, Styres & Kempf*, *supra* note 695 at 184–85.

⁷⁷⁶ *Tuck & Yang*, *supra* note 713 at 9.

and French descent,⁷⁷⁷ and Dr. Arlo Kempf discuss some of the challenges and opportunities facing post-secondary institutions implementing Indigenous Course Requirements.⁷⁷⁸ A significant challenge identified by the researchers is that of students experiencing “settler anxiety” resulting from the “unsettling” of entrenched understandings and beliefs.⁷⁷⁹ The authors explain:

It can be difficult for students to have their cherished beliefs about “Canada the good and benevolent nation” disrupted and to be confronted with arguments suggesting the narratives that have shaped their worldviews are faulty. When students realize that they have been unknowingly complicit in the silencing and/or erasure of Indigenous experiences and worldviews, they often experience moments of dissonance. Further, the notion that this erasure has benefited them is a painful and difficult concept for many settler and non-Indigenous teacher candidates.⁷⁸⁰

While participants in the study stated an appreciation for the learning opportunity, the researchers noted that many struggled with their feelings of vulnerability throughout the course.⁷⁸¹ Further, researchers suggested that very few of the students seemed to appreciate the importance of confronting their own biases and acknowledging their own positions of privilege in order to truly change the lived experience of Indigenous Learners in education.⁷⁸² Some authors suggest, and this is confirmed by my own experiences existing in the academy, that this

⁷⁷⁷ “Dr. Sandra Styres, PhD” (last visited 8 September 2020), online: *University of Toronto Ontario Institute for Studies in Education* <oise.utoronto.ca> [perma.cc/GMA4-T6HD].

⁷⁷⁸ *Supra* note 695 at 175.

⁷⁷⁹ *Ibid* at 181.

⁷⁸⁰ *Ibid*.

⁷⁸¹ *Ibid* at 184.

⁷⁸² *Ibid* at 184–85.

failure to acknowledge one's own privilege within the status quo demonstrates a mainstream colonial mentality.⁷⁸³

This resistance to unlearning and learning is, in my experience, a widespread phenomenon. It is not always recognized as such, likely because it takes many forms. For example, students will sometimes move to “reinstate the status quo so that they do not have to critically engage in deconstructing their counter-resistance” through silent resistance practices – by simply refusing to engage with Indigenous content.⁷⁸⁴ Resistance sometimes manifest as microaggressions, such as a student who vocalizes opposition to classroom content with a “Do we have to discuss this again?”⁷⁸⁵ or comments about needing to prioritize other coursework – the implication being that in the hierarchy of learning Indigenous content ranks below other learning. Resistance can be cowardly and under cover of darkness, such as those who deface and destroy posters advertising events showcasing Indigenous speakers.⁷⁸⁶ Resistance can also take open and overt privilege-empowered forms, such as the experience of a facilitator who was called a “bitch” to her face during a history unlearning workshop.⁷⁸⁷

My first day of work as a staffer at the Faculty of Law coincided with the first day of term and orientation for the incoming class of 2021. Before I had keys to my office, an employee card, or

⁷⁸³ Dawn Zinga & Sandra Styres, “Decolonizing Curriculum: Student Resistances to Anti-Oppressive Pedagogy” 11:1 Power and Education 30 at 36.

⁷⁸⁴ *Ibid* at 46.

⁷⁸⁵ *Coupal*, *supra* note 167 at 211.

⁷⁸⁶ This was a reoccurring affair for every event hosted by the Indigenous Legal Traditions Committee at Fauteux Hall during the 2019-2020 academic year.

⁷⁸⁷ Queen's University, “Unlearning and Relearning the KAIROS Blanket Exercise: Culturally Safe for Who?” (20 December 2019), online: *Together We Are* <queensu.ca> [perma.cc/Z7FC-B9XZ].

login credentials, I found myself giving introductory remarks to an incoming cohort so robust that it overflowed all three sections of our moot court classroom. I vaguely recall welcoming them and joking that I was so experienced I was now in my forty-first minute of my career as Indigenous Learner Advocate. I believe I suggested that we could learn and grow into our new roles together.

Law school orientation is a behemoth: the days are long, but the minutes are short. The first day might see students attending mandatory training on sexualized violence and the prevention of harassment, completing campus and library tours, listening to introductory lectures by professors, and meeting an endless parade of staff, advisors, and peers. All of this before the “social gatherings” organized by the student society and many student clubs. It can be overwhelming for some, triggering for many, and is generally exhausting for all.

My first task on my second day of work, and the first item on the agenda for the incoming cohort after their first endless day of orienteering, was a “blanket exercise.” My manager at the time indicated my role was to support students and Learners because this was “my thing.”

As a professional, I did not walk in to the room completely blind. Unfamiliar with the workshop, I had done significant research into who had developed the program and why, and what it entailed. I had spoken with family members who had participated in similar workshops in the workplace. I read everything Google would share with me about what I was getting myself into - including a series of articles by Faculty members at the University of Victoria’s Faculty of Law.⁷⁸⁸

⁷⁸⁸ “The Blanket Exercise: Part 1” (last visited 16 August 2020), online: *Reconciliationsyllabus* <reconciliationsyllabus.wordpress.com> [perma.cc/NJZ5-YAVE]; “The Blanket Exercise: Part 2” (last visited 16 August 2020), online: *Reconciliationsyllabus* <reconciliationsyllabus.wordpress.com> [perma.cc/PP4E-83SQ]; “The

To say that I was woefully underprepared for the experience is an understatement.

A “Blanket Exercise” is a participatory workshop originally developed by KAIROS Canada in 1997 following the release of the Final Report of the Royal Commission on Aboriginal Peoples the year prior.⁷⁸⁹

Workshops can last from thirty minutes⁷⁹⁰ to three hours,⁷⁹¹ depending on the number of participants, the format, and the length of time spent in the final debriefing circle. In my experience, all workshops follow roughly the same format regardless of the amount of time allotted:

During the [blanket exercise], participants walk on blankets representing the land and into the role of First Nations, Inuit and Métis peoples by reading scrolls and carrying cards which ultimately determine their outcome as they literally ‘walk’ through situations that include pre-contact, treaty-making, colonization and resistance. Participants are guided through the experience by trained facilitators (who read the script and assume the roles of European explorers and settlers) and Indigenous Elders or knowledge keepers. The Exercise concludes with a debriefing, conducted as a “talking circle”, during which participants discuss the learning experience, process their feelings, ask questions, share insights and deepen their understanding.⁷⁹²

The workshop is hugely popular; KAIROS states that they have offered the workshop “tens of thousands of times” since it was originally developed,⁷⁹³ and it has become common place in

Blanket Exercise: Part 3” (last visited 16 August 2020), online: *Reconciliationsyllabus* <reconciliationsyllabus.wordpress.com> [perma.cc/N66H-FK6K].

⁷⁸⁹ KAIROS Canada, “‘Shame and Sadness’ Stirred by Indigenous Blanket Exercise” (26 January 2017), online: *KAIROS Canada* <karioscanada.org> [perma.cc/PH8R-962B].

⁷⁹⁰ Waubgeshig Rice, “Blanket Exercise Teaches History From an Indigenous Perspective”, *CBC News* (12 January 2016), online: <www.cbc.ca> [perma.cc/H8P3-8F2J].

⁷⁹¹ Based on personal experience.

⁷⁹² KAIROS, “History of the Blanket Exercise” (last visited 16 August 2020), online: *The Blanket Exercise* <kairosblanketexercise.org> [perma.cc/6RXK-GTRQ].

⁷⁹³ *Ibid.*

educational settings beginning as early as sixth grade.⁷⁹⁴ The blanket exercise is also used beyond education, often employed in professional development contexts to raise awareness of Canadian history and Indigenous lived experience in Canada in workplaces from hospitals⁷⁹⁵ to government departments and community organizations.⁷⁹⁶

A colleague once suggested that, as a participatory interactive workshop that includes elements of role playing, the blanket exercise in some ways imitates Augusto Boal's "Theatre of the Oppressed."⁷⁹⁷ Boal's approach is considered by some to be revolutionary in engaging communities in processes of social change,⁷⁹⁸ but I personally worry about underlying assumptions of how participants experience the process.

Many workshop participants find the program to be informative and worthwhile, and the reality is that the blanket exercise is an accessible option for institutions looking to start a learning journey. The use of the Blanket Exercise is one I understand to be a stop-gap measure in the legal academy. I believe it is often introduced to fill curriculum voids while Faculties develop more sustainable long-term approaches to ensuring their graduates will leave the academy with the

⁷⁹⁴ KAIROS, "Book a KBE" (last visited 16 August 2020), online: *The Blanket Exercise* <kairosblanketexercise.org> [perma.cc/CZG6-SHUR].

⁷⁹⁵ The Ottawa Hospital, "Blanket Exercise Boosts Staff Awareness About Colonization Effects on Indigenous Patients" (last visited 16 August 2020), online: *You're in My Care- Archive* <ottawahospital.on.ca> [perma.cc/H87P-PKE3]; KAIROS, *supra* note 794.

⁷⁹⁶ KAIROS, *Ibid.*

⁷⁹⁷ Kelly Howe, Julian Boal & José Soeiro, *The Routledge Companion to Theatre of the Oppressed*, 1st ed (London: Routledge, 2019).

⁷⁹⁸ Monica Taylor, Emily J Klein, & Julian Boal, "An Interview With Julian Boal: The Role of Theatre of the Oppressed to Promote Social Activism" (2019) 83:4 *The Educational Forum* 343–50.

cultural competency the Calls to Action require. I believe that it is popular for this purpose because it is easy.

It is easy insofar as it is a ready-made workshop that can be parachuted in to a defined time slot during the first days or weeks of law school orientation with little preparation, forethought, or coordination. Not to put too fine a point on it, the approach can very much be as easy as book a room, book a facilitator, and write “mandatory” on the schedule.

It is easy in that it starts at the beginning, carrying participants through 500+ years of settler-Indigenous relations in one fell swoop. In this way, it is accessible even to those who have zero experience with, or knowledge of, Indigenous peoples and the colonial history of Canada.

It is easy in its highly visible nature, and in that it is reasonably contained. It is absolutely possible for participants to choose not to engage in or do follow-up learning, debriefing, or work. Buy-in can be more robust for these reasons. In these ways, it appeals to those individuals and institutions that find comfort in symbolic approaches to reconciliation⁷⁹⁹ and who prefer decolonization by metaphor.⁸⁰⁰

It is easy because indigenization initiatives are often under resourced in academic institutions.⁸⁰¹ Funds, staff, and time are difficult to come by, and stand-alone workshops with defined

⁷⁹⁹ Pardy & Pardy, *supra* note 712 at 233.

⁸⁰⁰ Tuck & Yang, *supra* note 713 at 9.

⁸⁰¹ See e.g. Fiola & MacKinnon, *supra* note 421 at 165–66; Gaudry & Lorenz, *supra* note 275 at 221.

parameters that draw on outside expertise can be more palatable than contemplating wide-scale change that seems impossible in evolving economic landscapes.⁸⁰²

Because it is easy, it is popular. Law Societies, Bar Associations, Federal and Provincial ministries and departments now “do” Blanket Exercises as part of their ongoing professional development training. So widespread is their use that sometimes the exercises are done in a *pro forma* way.⁸⁰³

Because it is popular, we feel like we are in good company. We must be doing the right thing. It is expected and accepted. All these groups cannot be wrong.

I believe they are wrong.

Let me be clear: objectively, the workshop is excellent for what it is designed to do: introduce participants to the history of Canada as they have never had the opportunity to learn it. The exercise is highly valuable for many. In each of my personal experiences with the workshop, the facilitators have been highly trained, magnificent humans who are excellent at what they do. Many, Faculty and students alike, find the workshop engaging, moving, and eye-opening. In undoing centuries of oppression of Indigenous peoples through education, we have to start somewhere. This is important and valuable. Further, there are other institutions who have used the blanket exercise as a starting point within a larger learning plan.⁸⁰⁴ Those processes have not been without difficulty or debate,⁸⁰⁵ but represent a different, more comprehensive and

⁸⁰² Jacquie Miller, “‘Revolutionary’ New Funding to Shake up Ontario’s Colleges and Universities”, *Ottawa Citizen* (12 April 2019), online: <ottawacitizen.com> [perma.cc/PC8D-22ME].

⁸⁰³ Personal conversation, May 2019.

⁸⁰⁴ “The Blanket Exercise: Part 1,” *supra* note 788.

⁸⁰⁵ “The Blanket Exercise: Part 3,” *supra* note 788.

thoughtful approach to the one that concerns me most: performing the exercise with inconsistent or non-existent opportunities to debrief.

I will admit that I fundamentally disagree with the heavy reliance on the blanket exercise as a response to the Calls to Action for a few reasons. When weighing the benefits of the workshop against the harms it can also engender, paired with the tendency to treat the exercise as a “one and done” event with little formal feedback for participants, I believe that Faculties should dispense with the use of blanket exercises unless it forms part of a larger, developed learning plan. A significant part of the failure of my own Faculty is grounded in inadequate framing of the exercise: it is largely performed in a vacuum. In many groups, little context is offered in advance. We do not offer adequate time for the workshop in an already compressed schedule. In some exercises the debriefing circle was so tight on time that participants were asked to say only “one word”. We do not offer appropriate aftercare, support, or debriefing to participants who may struggle with after effects.

Further, it does not matter that the workshop is labelled “mandatory” on the orientation schedule. In the hierarchy of learning, the content of the workshop is devalued by not integrating it into for-credit courses. It is devalued by allowing debates about its value in the context of rescheduling tutorials and “actual” lectures. It is devalued by the lack of formal, standardized pre- and post-workshop in-class discussions. Devaluing the history of Canada and lived experience of Indigenous peoples perpetuates stereotypes and constitutes colonial violence.

As a tool for quickly beginning a conversation and providing some shared common vocabulary, it has value. This is particularly true for those who have been systemically denied the opportunity to learn about Indigenous peoples. The lived experience of Indigenous persons participating in the blanket exercise, however, is often in stark contrast to the experience of non-Indigenous community members. The stories of the experiences of my Learners and colleagues are many, often traumatic, and not mine to share. For me personally, the workshop experience is horrendous. Even the moniker “exercise” is difficult for me: this is not an “exercise.” It is the history of our communities and many pieces of the teachings reflect my lived experience as an Indigenous person.

In a piece written as a virtual debrief following a difficult blanket exercise she facilitated at Queen’s University, Paige Van Tassel shared her experience of facing an aggressive reaction from a non-Indigenous workshop participant.⁸⁰⁶ The story here isn’t the hostility from the participant, nor is it the fact that a student felt empowered to call her a “bitch” in response to the threat to their positionality and privilege brought by the blanket exercise.⁸⁰⁷ For me, the story here is the many weeks that the facilitator spent reflecting on the experience before ultimately putting pen to paper; the important story is the trauma she experienced as a facilitator/participant in the exercise.⁸⁰⁸ I am especially bothered by this because, as a facilitator, Van Tassel had chosen to

⁸⁰⁶ *Supra* note 787.

⁸⁰⁷ *Ibid.*

⁸⁰⁸ *Ibid.*

sacrifice her own full participation in the exercise and circle debrief in order to protect the hostile student and insulate them from guilt and shame.⁸⁰⁹

Long-lasting feelings of instability and discomfort following participation in the workshops and interactions with workshop participants are something I too have struggled with, having frequently been put in professional positions of putting Learner, student, and colleague needs above my own. This was the case on my second day of work. Two babies, doctoral studies, a later addition to the party and a fellowship later, this represented my second day of full-time paid work outside the home in nearly seven years. The baby was one and had screamed into the wee small hours, presumably in protest to the idea of returning to childcare the following day.

I had, if you recall, been asked to attend and participate in a series of blanket exercises with a view to supporting the students and Learners on this, my second day of work. I barely made it through the first workshop, and ultimately retired to my new and empty office where I sat on the floor and wept, wondering what the hell I had gotten myself into. In that moment, I deeply regretted the day I accepted the position, which required to take a leave of absence from my doctoral studies.

You see, to express emotion outwardly in front of your Learners can leave one feeling quite vulnerable, never mind in front of new colleagues. As a new employee on contract, I worried about how my reaction might influence my precarious employment situation. As a mother who

⁸⁰⁹ *Ibid.*

had effectively delegated her parental authority over three wee people under age six to various educators around town an hour before, I felt nauseated by the intensive comprehensive review of Forced Assimilative Education in Canada that was communicated during the workshop. There were so many feelings. Also, there was no air-conditioning in the room and a knowledge keeper had wrapped me in a blanket to calm my physical reaction to the exercise, so I was a dripping, sweaty, hot mess.

Though I have never facilitated the exercise, I have frequently been asked to play a professional role during the workshops. My experiences are very much reflected in this passage of Paige Van Tassel's virtual debrief:

The KAIROS exercise is emotionally, physically, mentally, and spiritually heavy, so while participants immediate emotions are valid, the context in which those emotions (guilt, fear, anger) are presented can be taken as a re-packaging of colonial violence that is extremely harmful to the facilitators both indigenous and non-indigenous who volunteer their time to facilitate this exercise. This is a re-packaging of violence because these emotions of fear and anger are what settlers had when they first came to this land, fear of the indigenous peoples and anger that indigenous peoples have and continue to resist the colonial power. So, for participants to project these emotions onto indigenous facilitators in a setting where we are teaching you an indigenous history, it is viewed as violent and harmful.⁸¹⁰

Following those first days of work, I, like Van Tassel,⁸¹¹ attempted to repress the trauma and move forward in my work. Eventually, I felt secure enough to begin sounding the alarms about my concerns with the workshop and pushed back against its use in future Faculty events.

⁸¹⁰ *Ibid.*

⁸¹¹ *Ibid.*

Another year, a fresh round of exercises with an incoming class. The knowledge keeper sought my assistance to distribute cards for speaking roles at the outset of the exercise. An incoming student refused to take a handout, saying, while standing up and crossing his arms over his chest: "The schedule doesn't say anything about me having to actually participate in this thing, it just says I have to be here. I'm here."⁸¹²

"I think I need more than a patch of grass in the snow."
"I know, we all want more than that.
But sometimes that's all you get."⁸¹³

In discussions about the use of the blanket exercise, those around me generally raise the issue of the staff professional development day that I developed, stewarded, and executed that included a blanket exercise in defense of the use of the workshop.

The staff professional development day differed a few significant ways from the mandatory workshops for incoming law students. First, while all staff were at different moments of their careers, none were asked to participate in such a workshop on their first days of employment. Stakes are therefore rather lower, as a minimum base level of collegiality was already established prior to the workshop. Second, the blanket exercise was ultimately used at the request of a critical mass of staff who were at least vaguely aware of what the exercise was, and who wanted to better understand what the students were experiencing during orientation. Third, as the solitary Indigenous staff person at the Faculty, there were no other Indigenous people in harm's way.

⁸¹² Personal conversation, September 2019.

⁸¹³ *Piatote*, *supra* note 276 at 99–100.

A fourth, but not final, consideration was that of structure. During this professional development day that opened with a blanket exercise employed as a tool to disrupt deep-seated colonial narratives and begin to build a common vocabulary when talking about Indigenous Learner support, there were also moments of cognitive-oriented learning and moments to gather and eat together. The day ended with a physical-arts based workshop – jiggling lessons – with a phenomenal jigger from the Métis Nation of Alberta. It ended with a message of cultural resiliency and learning new things together.⁸¹⁴

In short, the exercise was not attempted in a vacuum. Immediately following the workshop was a meal which allowed participants to visit, and sometimes continue the debrief, in community. Following the meal there was a gentle panel of speakers, people with the expertise but also known to the staff, to discuss possibilities for actioning and understanding the content of the exercise in the day-to-day work of personnel. There was an opportunity to ask questions, build relationships between ideas, and consider possibilities for approaching work from a trauma-informed perspective. This allowed staff to reflect on how they might better serve all students, not just Indigenous Learners.

Finally, the day ended in an art workshop. Most important, if perhaps least visible, I followed up with participants on the following day to ensure people were well. Those who struggled with content were provided access to resources, and I made myself available in the days and weeks

⁸¹⁴ While I wouldn't replace the moment of release and lightness of heart that came with the jiggling component, this is the one part of the day I would redesign were I to repeat a professional development day. This final component was not as inclusive as I would have wished and I would do better next time. I learned many lessons from watching the room that day.

that followed for debriefing sessions. Some colleagues sent short emails seeking recommendations for books to continuing learning with their children or partners and about ten staff members sought more individualized support. Obviously that kind of one-on-one follow-up support would be impossible with an incoming class of over 300 students without additional resources and significant time investment.

Overall, from an outsider's perspective, the integration of the blanket exercise into a full-day staff retreat for support staff was a success. And so, it is held up and against me whenever I resist the workshop's use in our Faculty.

Behind the curtain, however, the experience was ultimately personally devastating. My own lived experience of that professional development day was acutely violent and isolating, and absolutely served to concretize my "otherness" as the only Indigenous staff person at the Faculty. Colleagues actively resisted the exercise, characterizing it out loud both to my face and to privately to other colleagues, as a complete waste of time. Some colleagues were disrespectful in arriving late, leaving mid-exercise, or failing to attend entirely.

For every colleague who engaged with the process with an open heart, there was another who actively resisted learning, with some even openly attacking my existence within the Faculty. Comments ranged from questions about why the Faculty had hired me specifically through to broader questions about why my role existed in the first place. When concerns about this pre-workshop resistance were raised with leadership, both private and outward-facing shows of support were robust.

We spent an awful lot of time that day sitting on a rock wall talking about baseball in quiet moments in between various elements of the day, which was a show of support that was both appreciated and necessary to silence the public violence, but the attacks were worse than I allowed leadership to understand. I am almost certain, for example, that I failed to mention the interaction where a colleague suggested that time and money would be better spent on X other position they wanted to see filled than on my salary because there were not enough “native” students to justify having someone in a role like mine. To hear from colleagues that they believe your work is a waste of time, energy, and investment is - at best - demoralizing. For me, having recently supported a Learner was struggling acutely with experiences of colonial violence, it was devastating.

As I began to push back against the use of the blanket exercise and quietly worked to build consensus around the broader Pathways framework, I faced significant resistance from some who insisted on maintaining the use of the exercise. It was suggested that my concerns about the replication of colonial violence were exaggerated and insisted the Faculty maintain the workshop as part of 1L orientation because they personally felt it was valuable.

This is a multi-layered reaction that I will not unpack here, for I cannot begin to know the motivations of those non-Indigenous community members who advocate for the inclusion of the exercise despite strenuous objections from an Indigenous advisor. I would, however, respond that as we work towards building relationships and community, I frequently return to a most critical point. It is one that I have always known to be true, but it took a note from my Auntie who gave me the language to properly express the concern: the work of decolonization,

indigenization, and reconciliation cannot be an experiment performed on the Indigenous people in the room. Further, conversations about the use of single-event workshops led by external facilitators as a response to the Calls to Action cannot be divorced from the context of the violent and traumatic experiences Indigenous Learners face during ongoing colonial experiences in Canadian post-secondary institutions.⁸¹⁵

Professor Dennis McPherson reminds us that Indigenous Learners often find themselves in precarious learning situations within post-secondary environments:

For the most part, indigenous or Aboriginal students in mainstream institutions spend most of their time in argument or debate defending their right to exist in this world. Their struggles add to their frustration, anger, and rage. It is an activity they are forced to engage in, which is extremely detrimental to their own learning. They quickly become the “Indian” expert in the classroom, teaching others what others should have learned in their earlier educational experiences.⁸¹⁶

As we have already seen, significant academic research that both preceded and followed the issuance of the Final Report of the Truth and Reconciliation Commission documents the racism and violence faced by Indigenous Learners in education. Based on my own lived experience of post-secondary education and those experiences of other law Learners documented in published works, I would argue that the situation is even more precarious for Indigenous Learners who pursue studies in law.

In sharing his lived experience of legal education specifically, Dr. Darcy Lindberg notes a resistance to engaging with Indigenous laws by law students who question the relevance of the

⁸¹⁵ *Cote-Meek, supra* note 33 at 166; See also *McPherson, supra* note 86.

⁸¹⁶ *McPherson, Ibid.*

work and of “the legitimacy of forms of Indigenous laws.”⁸¹⁷ He posits that such resistance to learning is grounded in discomfort, as teachings that centre Indigenous law damage pre-held conceptions of the law.⁸¹⁸

Even with proper framing, such as integrating the exercise into the classroom and developing curriculum content around it, I remain unconvinced that law schools should be relying on the exercise at all. Beyond worries that it does not appropriately rise to the Calls to Action, and grave concerns about the potential for trauma that can and does result from manifestations of resistance to unlearning and the “re-packaging of colonial violence,”⁸¹⁹ the underlying pedagogy of the Blanket Exercise is my most serious preoccupation. The emergence of feelings of guilt and shame in workshop participants is a reoccurring and prevalent theme in reflections written by workshop participants.⁸²⁰ Though some maintain that prompting feelings of shame is not the goal of the exercise,⁸²¹ I have first-hand experience supporting people who have experienced tremendous and destabilizing shame following their participation in the blanket exercise. Further, having now participated in several workshops, I would note that shame has surfaced in every version I have personally participated in.

⁸¹⁷ *Supra* note 170 at 52.

⁸¹⁸ *Ibid.*

⁸¹⁹ *Supra* note 787.

⁸²⁰ See e.g. *The Ottawa Hospital*, *supra* note 795; *Supra* note 787 (in the context of post-secondary education); “Finding Our Place in Indigenous History” (last visited 16 August 2020), online: *The United Church of Canada* <united-church.ca> [perma.cc/7Z64-YBAX] (in the context of community organizations such as the United Church); Bill Young, “Young: Blanket Exercise Bridges the Indigenous, non-Indigenous Gap”, *Montreal Gazette* (21 October 2019), online: <montrealgazette.com> [perma.cc/5H78-XPAZ] (in the context of broader community based education).

⁸²¹ Sharman Hnatiuk, “Blanket Exercise Explores Indigenous Experience” (17 August 2018), online: *Alberta Health Services* <albertahealthservices.ca> [perma.cc/KK44-MTRE].

I do not believe that shame in any form is the ideal vehicle for learning or building reciprocal, trust-based relationships following community trauma. Make no mistake: legal education, in its active participation in the colonial project,⁸²² is a site of community trauma.

There is also a distinct possibility that I am simply shame-adverse given its long history of use as a tool of the colonial project of Forced Assimilative Education. Through colonial education frameworks, Indigenous Learners were actively taught to be ashamed of their identities.⁸²³ In fact, entrenching feelings of shame in indigeneity was a core tenet of the residential school complex. Encouraging feelings of shame in one's identity, parents, kin, and community expedited the process of assimilation,⁸²⁴ serving Canada's desire to eliminate Indigenous peoples from "the body politic."⁸²⁵

Some might assume that with the shuttering of residential schools and the issuance of the Apology in 2008 shame might no longer figure in the educational landscape. This is a false assumption. As discussed in previous chapters of this dissertation, while Canada has officially abandoned its legal and policy positions of Forced Assimilative Education, colonialism and racism are ongoing struggles in post-secondary education. This results in different manifestations of shame that are no less damaging to Learners.

⁸²² *Hewitt, supra* note 253 at 68.

⁸²³ See e.g. *Supra* note 331 at 107.

⁸²⁴ *Ibid.*

⁸²⁵ *Ibid.*

In modern post-secondary education, Indigenous Learners have been found to experience shame born from this ongoing colonial violence and racism in the classroom,⁸²⁶ with these feelings of shame manifesting alongside other emotions including sadness and anger – both towards “the systems of oppression and the people who represent the oppressors.”⁸²⁷

Other times, shame manifests as a result of intergenerational effects of Canada’s Forced Assimilative Education framework. A colonization of the mind via shame continues to follow many Indigenous people who struggle with internalized belief in their inferiority.⁸²⁸ Indigenous students are convinced that they are “dumb”⁸²⁹ or “incapable of learning” as a result of their Indigeneity.⁸³⁰ As Dr. Leanne Betasamosake Simpson explains, “We are made to feel ashamed for being Indigenous. This shame leads to disconnection from the practices that give us meaning. It elicits pain.”⁸³¹

I also harbour concerns about shame that are not so site-specific. I worry about shame simply because of the role it plays in dehumanizing Learners from vulnerable groups more generally.⁸³² As bell hooks explains in *Teaching Community: A Pedagogy of Hope*, “One of the ways racism colonizes the minds and imaginations of black people is through systemic shaming.”⁸³³ bell hooks identifies shame as an invisible, undiscussed barrier to learning,⁸³⁴ and notes that shame in the

⁸²⁶ *Cote-Meek, supra* note 33 at 115.

⁸²⁷ *Ibid* at 9.

⁸²⁸ *Simpson, supra* note 185 at 85.

⁸²⁹ *Ibid.*

⁸³⁰ *Fiola & MacKinnon, supra* note 421 at 158.

⁸³¹ *Supra* note 185 at 187.

⁸³² *hooks, supra* note 2 at 103.

⁸³³ *Ibid* at 94.

⁸³⁴ *Ibid* at 93.

classroom carries with it not only significant challenges for students and educators, but also carries with it significant risks. Rage, she explains, is “the most common secondary reaction to shame.”⁸³⁵

When I raise concerns about shame in learning contexts, it is not uncommon for people to raise the question reintegrative shaming in restorative justice contexts – this is especially true when they learn of my academic interest in Therapeutic Jurisprudence. We will explore Therapeutic Jurisprudence more generally in a later chapter, but it is worth pausing for a moment here to address the question of shame specifically.

Professor Susan Daicoff identifies two types of shame employed in the context of Therapeutic Jurisprudence: “shame that condemns behavior but also motivates change” and “shame that stigmatizes and alienates offenders making them more likely to reoffend.”⁸³⁶ The paragraphs that follow with focus on the former, sometimes described as “reintegrative shaming.”

Some scholars working in restorative justice spheres, such as Dr. John Braithwaite, conceptualize shaming “as a mechanism of informal social control” that can be mobilized in the context of the rehabilitation of predatory offenders.⁸³⁷ Dr. Braithwaite explains that “reintegrative shaming” frames disapproval of one’s actions within a “continuum of respect” and communicates shame in a way that encourages someone to stop their undesirable behavior without marginalizing the

⁸³⁵ *Ibid* at 101.

⁸³⁶ Susan Daicoff, “Apology, Forgiveness, Reconciliation and Therapeutic Jurisprudence” (2013) 13:1 *Pepperdine Dispute Resolution J* at 144.

⁸³⁷ Chivon Fitch, Zavin Nazaretian & Devon Himmel, “Exploring the Efficacy of Reintegrative Shaming for Non-Predatory Offending” (2018) 28 *Criminal Behaviour & Mental Health* 361 at 361.

wrongdoer.⁸³⁸ He suggests that shame, when framed as reintegrative, and can be used as a tool for learning.⁸³⁹

A few elements are required in contexts where principles of reintegrative shame are employed. Interdependent relationships, i.e., relationships of mutual dependence between parties to the process, are required for reintegrative shaming to act as an effective deterrent to recidivism.⁸⁴⁰ Further, the relationships in question need to be “strong,” with “strong” characterized as grounded in love and forgiveness.⁸⁴¹

The opportunity to acknowledge the shame and ability to make reparations or express remorse are also required elements in theories of reintegrative shaming.⁸⁴² Citing Ahmed, Fitch, Nazaretian, and Himmel describe these elements as opportunities for “shame management.”⁸⁴³

It is important to draw some major distinctions between the shaming frameworks employed in justice systems described above and the shame experienced by Learners in education and during workshops like the blanket exercise. Specifically, the questions of intent, framing, and context differ greatly between the two. In restorative justice and therapeutic justice frameworks, shame is conceptualized as a tool of healing.⁸⁴⁴ It is thoughtfully and purposefully employed in ways

⁸³⁸ John Braithwaite, “Restorative Justice and Therapeutic Jurisprudence” (2002) 38:2 244 *Crim L Bull* at 258.

⁸³⁹ *Ibid.*

⁸⁴⁰ Fitch, Nazaretian & Himmel, *supra* note 837 at 361–62.

⁸⁴¹ *Ibid* at 361.

⁸⁴² Kristen L Hourigan, “Reintegrative Shaming” in Crag J Forsyth & Heith Copes, eds, *Encyclopedia of Social Deviance* (Thousand Oaks: SAGE Publications, 2014).

⁸⁴³ Fitch, Nazaretian & Himmel, *supra* note 837 at 362.

⁸⁴⁴ Cindy Brooks Dollar et al., “The Practice of Reintegrative Shaming in Mental Health Court” (2015) 26:1 *Criminal Justice Policy Rev* 29 at 39, 41.

designed to support individuals, shaming the action and not the individual.⁸⁴⁵ Frameworks support opportunities for shame management, and rely on pre-existing relationships grounded in concepts of love and forgiveness.⁸⁴⁶

In the case of the blanket exercises, the stated intention of the workshops is to act as a “unique, interactive, and participatory history lesson.”⁸⁴⁷ Some have specifically argued that the purpose of the exercise is not to prompt feelings of shame, but rather to raise awareness of the truth of Canada’s actions towards and relationships with Indigenous peoples.⁸⁴⁸ Indeed, when used as learning tool in response to Call to Action 28, the intention is to build cultural competency.⁸⁴⁹ Shame, it seems, is not purposely mobilized, but rather is an accidental but widely resultant by-product.⁸⁵⁰

Meanwhile, “[a]n important part of reintegrative shaming is acknowledging the shame itself...By expressing one's remorse and seeking forgiveness for one's act, an individual can discharge shame, acknowledging the shame rather than externalizing or internalizing it.”⁸⁵¹ As reintegrative shaming is not the stated intention of the exercise, it is unsurprising that the additional framing required to ensure healing over harm are not built into the workshop when it affords minimal opportunity for shame management.⁸⁵² As we have seen, while the debrief portion used to close

⁸⁴⁵ *Ibid* at 31.

⁸⁴⁶ *Supra* note 837 at 362.

⁸⁴⁷ *KAIROS*, *supra* note 792.

⁸⁴⁸ *Hnatiuk*, *supra* note 821.

⁸⁴⁹ *Supra* note 655 at 3.

⁸⁵⁰ See e.g. *The Ottawa Hospital*, *supra* note 795; *Supra* note 787 (in the context of post-secondary education); *The United Church of Canada*, *supra* note 820 (in the context of community organizations such as the United Church); *Young*, *supra* note 820 (in the context of broader community-based education); *KAIROS Canada*, *supra* note 789.

⁸⁵¹ *Hourigan*, *supra* note 842 at 3.

⁸⁵² *Fitch, Nazaretian & Himmel*, *supra* note 837 at 362.

the Blanket Exercise might serve to fill some of this need, there are many reasons participants might not feel comfortable or safe in sharing during a closing circle.⁸⁵³ Even in contexts where participants are empowered to share, I question the strength and interdependence of relationships amongst law students, Faculty, and staff. This concern would remain even if the workshops were not hosted on the first day of orientation.

Dr. Kristen Hourigan says that “Shame left unacknowledged can be destructive to one’s sense of self.”⁸⁵⁴ I fear that the unintentional shame generated through stop-gap measures implemented in response to the Calls to Action and left largely unacknowledged may develop into anger or rage, as suggested by Dr. Cote-Meek⁸⁵⁵ and bell hooks.⁸⁵⁶

perhaps I am overacting,
 (I am not)
 but we must stop
 (performing)
 experiments in institutional indigenization
 (reconcili-action?)
 on the backs
 (on the hearts)
 of the Indigenous people in the room

Any learning process that has been demonstrated to prompt shame, thus opening the door to her companions anger and rage, is not one I find particularly promising to advance efforts to

⁸⁵³ These might include but are not limited to: a desire to protect other participants, as discussed by Van Tassel; resistance to unlearning as discussed by Battiste and others; fear of consequences relating to employment or student status as I shared in my own life story piece; or, shame. I would suggest that 1L students on their first day of law school orientation might experience all of the above. And herein lies the problem.

⁸⁵⁴ *Supra* note 842.

⁸⁵⁵ *Supra* note 33 at 9.

⁸⁵⁶ *Supra* note 2 at 101.

decolonize the academy. Using the blanket exercise, even temporarily as a stop-gap measure while Faculties develop sustainable action plans to rise to the calls of the TRC, is, I believe, ill-advised. As with curriculum reform, I firmly believe that responses to the Calls to Action will require collective responsibility and collective action, and I worry that the use of blanket exercises can result in both the distraction from work towards larger projects and possible stagnation of momentum for broader initiatives as some prefer to avoid the work of cutting the road less travelled. I personally understand decolonization as a process of building sustainable, healthy, ongoing, and reciprocal relationships with people, communities, and ideas. I would prefer those relationships to be grounded in truth and *debwewin* born of radical, decolonial love over understandings of truth generated through shame and rage.

Despite all of the foregoing, I am grateful for my own lived experiences of blanket exercises as they were ultimately what prompted me to begin thinking seriously about possibilities for decolonizing legal education in ways that do not mobilize shame as a pedagogical practice.⁸⁵⁷

In my experience, people engage more easily with love, beauty, and art than shame – reintegrative or otherwise. As Professor Jeffrey Hewitt said: “Art can be a “helper” for law, and we have to unpack the meaning ourselves. What will be required of me to live a good life will be different each day. Some might say different each breath. We need to listen with open heart and open mind, listening with both head mind and heart mind.”⁸⁵⁸ As an artist, I reflect on the therapeutic benefits I personally gain from the act of beadwork practice, in particular in academic

⁸⁵⁷ See *hooks*, *supra* note 2.

⁸⁵⁸ Jeffrey Hewitt, “Law, Art, & Emblems” (Presentation delivered at the Indigenous Bar Association Annual Conference, Ottawa, 1 November 2019) [unpublished].

spaces. More so than even art, I have always understood spending time with kin and in community in safe spaces as an act of therapeutic learning.

“I want to believe
it all starts somewhere
these legendary love stories
these matriarchs and patriarchs
that have guided us all into being
all love starts somewhere”⁸⁵⁹

Safe Spaces for Healing

In reality, many of the practices and pedagogies currently employed in post-secondary education described above appear grounded in attempts to create “safe spaces,” and most of my concerns about stop-gap measures relate to the safety of Indigenous peoples in the room. Long before I began seriously contemplating the development of Métis Beadwork Practice as an Indigenous Legal Pedagogy, I was reflecting on the need for, and the creation of, safe spaces within legal education both in and beyond the classroom.

The call for the creation of safe spaces for Indigenous Learners within post-secondary institutions as part and parcel of both indigenizing and decolonizing processes is loud and reoccurring. In the classroom context, some argue for the need to create safe spaces where Learners can “work through” intellectual and interpersonal challenges.⁸⁶⁰ Red River Métis Anishinaabe scholar Dr. Chantal Fiola,⁸⁶¹ and Professor Shauna MacKinnon of the University of Winnipeg insist that the

⁸⁵⁹ Tenille K Campbell, “#IndianLovePoems” (Winnipeg: Signature Editions, 2017).

⁸⁶⁰ *Steinhauer et al.*, *supra* note 362 at 73.

⁸⁶¹ “Chantal Fiola” (last visited 26 August 2020), online: *The University of Winnipeg* <uwinnipeg.ca> [perma.cc/S6QW-YR38].

creation of safe classroom spaces, specifically through the use of critical pedagogy, “is particularly crucial for Indigenous students who have internalized colonization and have come to believe ‘that we are incapable of learning and that the colonizers’ degrading images and beliefs about Aboriginal people and our ways of being are true (Hart, 2002, p. 27).’”⁸⁶²

In her research, Dr. Cote-Meek also underlines the importance of the creation of safe spaces for Indigenous Learners who are often the targets of discrimination in post-secondary education.⁸⁶³

Dr. Cote-Meek’s research emphasizes the creation of safe spaces within the institution but beyond the classroom, specifically underlining the need for spaces where Indigenous Learners “can connect,”⁸⁶⁴ seek access to academic and peer support,⁸⁶⁵ and can have access to traditional medicines.⁸⁶⁶

In a recent study on indigenization and decolonization practices within the academy conducted by Dr. Adam Gaudry and Danielle Lorenz, respondents – all scholars, mostly Indigenous – suggested that the creation of safe spaces in post-secondary education environments “really means overhauling existing policy regimes to better reflect the experiences, worldviews, and needs of Indigenous peoples.”⁸⁶⁷

Dr. Keri Cheechoo, meanwhile, following unsuccessful efforts to create safe spaces for Learners in her classroom, has come to believe that the creation of safe classroom spaces is an

⁸⁶² *Fiola & MacKinnon, supra* note 421 at 158.

⁸⁶³ *Supra* note 33 at 154.

⁸⁶⁴ *Ibid* at 164.

⁸⁶⁵ *Ibid* at 131.

⁸⁶⁶ *Ibid* at 129.

⁸⁶⁷ *Supra* note 275 at 220.

impossibility.⁸⁶⁸ Instead, she proposes the creation of “ethical spaces,”⁸⁶⁹ describing them as grounded in “ethical relationality:” “the act of being responsible for what we bring into any space with us[.]”⁸⁷⁰ Dr. Marie Battiste expresses the belief that the creation of space for ethical reflection in educational contexts imbued with hierarchies and racism is a critical aspect of the process of decolonizing education.⁸⁷¹

Dr. Dawn Zinga and Dr. Sandra Styres also conceptualize the safe classroom spaces with a view to encouraging students to face their own privilege, challenge and understand “Eurocentric assumptions of superiority within the context of history and to recognize the continued dominance of these assumptions in all forms of contemporary knowledge.”⁸⁷² Drs. Zinga and Styres later describe these efforts towards decolonizing their own classrooms as educators as the challenge of “creating ethical spaces where we can critically examine those power relations, tensions and challenges in purposeful and meaningful ways.”⁸⁷³

While I do understand the nuance of Dr. Cheechoo’s suggestion that safe spaces and ethical spaces are two separate and distinct constructs, I feel more inclined towards Dr. Zinga and Dr. Styres’ use of the two terms as complimentary. I believe that we should be aiming to create spaces that are simultaneously safe from the perspective of Indigenous Learners in particular, and ethical – in support of all who study in our Faculties. Given the colonial context of post-secondary education, the depth of the wounds we need to heal in order to move forward

⁸⁶⁸ *Supra* note 177 at 258.

⁸⁶⁹ *Ibid* at 258.

⁸⁷⁰ *Ibid* at 263.

⁸⁷¹ *Battiste, supra* note 1 at 104–05.

⁸⁷² *Supra* note 783 at 34–35.

⁸⁷³ *Ibid* at 48.

together, and the distance we will ultimately need to travel together, perhaps we need to begin thinking in terms of not the ideal safe and ethical, but rather in terms of a compromise starting point.

In the context of an experiential learning opportunity grounded in Indigenous practice and worldview offered to pre-service teaching candidates at the University of Victoria called the “earth fibres course,” creating space for safe learning opportunities appears to have formed a critical part of the pedagogy employed by the wisdom keepers who guided learning processes.⁸⁷⁴ It was further noted that “the wisdom keepers were conscious of providing a space within the university where the status quo was actively being disturbed.”⁸⁷⁵ In her comprehensive reflection on her study of the earth fibres course, Dr. Michele Tanaka proposes the creation not of safe spaces but of *safe enough spaces*.⁸⁷⁶ Per Dr. Tanaka:

The notion of a *safe enough space* is at the heart of building good relationships. It is not only that we need to feel safe when we choose to come or to put aside the familiar. It is also that the transformative work of remembering wholeness and refusing the status quo requires pre-service teachers to engage in the risky matter of negotiating emotional terrain.⁸⁷⁷

Dr. Tanaka further explains that *safe enough spaces* promote a holistic understanding of Learner well-being, and suggested that when such spaces can be forged, “it creates a space where both Learners and teachers are more willing to take risks with their learning.”⁸⁷⁸ In the case study of the earth fibres course, she notes that as these *safe enough spaces* emerged. Learners engaged

⁸⁷⁴ See e.g. Michelle TD Tanaka, *Learning and Teaching Together: Weaving Indigenous Ways of Knowing into Education* (Vancouver: UBC Press, 2016) at 50, 57, 75.

⁸⁷⁵ *Ibid* at 55.

⁸⁷⁶ Note that Dr. Tanaka italicizes the terms “safe enough spaces” in her work. To honour the obvious intention of the author, I will do the same here. *Tanaka, supra* note 874 at 142.

⁸⁷⁷ *Ibid* at 142.

⁸⁷⁸ *Ibid* at 144.

with both the learning and each other in different ways, and the personal sphere began to enter the learning space. While Tanaka distinguished between well-being and comfort, noting that the learning process was sometimes “awkward and uncomfortable,” she suggested that the classroom experience was largely one of contented happiness.⁸⁷⁹ The Learners began to share pieces of their lives outside the classroom, and “...conversations... mingled with beading, weaving, and sewing: the holistic and complex lives of the individual Learners were honoured.”⁸⁸⁰

When I took on my current role at the University of Ottawa, the Indigenous Learner community was quite fractured. The student community on the whole wasn’t grounded, having experienced several changes in leadership, staff, and Faculty in a short period. Universities facing financial pressures and a changing legal profession resulted in tremendous instability, and the community was quite unwell. Whether it be classified as a safe space as described by Dr. Cote-Meek, an ethical space as described by Dr. Cheechoo, or some combination of the two, the need for different spaces was acute – existing spaces were inadequate.

Speaking to legal education specifically, Professor Jeffery Hewitt encourages law schools to prioritize the creation of safe spaces with a view to amplifying “largely silenced Indigenous voices, particularly those of Indigenous women.”⁸⁸¹ I firmly believed that a beading circle could act as an ethical/safe/different space and serve the

⁸⁷⁹ *Ibid.*

⁸⁸⁰ *Ibid* at 143.

⁸⁸¹ *Supra* note 253 at 72.

community in multiple ways. As a natural community-building and healing practice, I conceptualized the integration of beadwork practice into the Faculty as one that might support and build community, but also serve to prompt difficult but gentle conversations about how Indigenous peoples interact with our Faculty.

I therefore introduced beadwork into the Faculty of Law at the University of Ottawa in January 2019. I knew that these first efforts would not represent truly ethical or entirely safe spaces one hundred percent of the time. I did hope, however, to create a safe enough space. The efforts represented an attempt to ground and heal the Indigenous community that was struggling to find safe spaces in which to exist with the added benefit of centring the knowledge of Indigenous women. I also considered the beadwork as an opportunity to create safe spaces beyond the law school, specifically at convocation – one of the most heavily regulated, protocol-governed, arguably colonial, ceremonial events of university life. Knowing, anecdotally, that many Indigenous graduates choose not to attend their convocations, but also knowing from personal experience the sense of closure and release convocation can bring after struggling to complete academic credentials, the work of beading circle was centred on the creation of stoles customized for each graduate.

By the time a beaded stole is gifted to a Learner at convocation, it has passed through a dozen or more sets of hands, who have all engaged in active work to honour the journey of the beadwork recipient. We call those who do the work members of the Beauty of Beaders, so named by Dr. Tracey Lindberg one cold Thursday morning in the winter of

2019. A murder of crows, a flock of sheep, a celebration of polar bears, a Beauty of Beaders.

Beadwork recipients are lovingly referred to as Beadees.

The first four weekly beading circles attracted a handful of Learners and our first task, while practicing the basic single needle backstitch technique, was to collectively develop a symbol for our community. To engage more Learners, we turned to online platforms and we reached out to our 2019 graduates individually to elicit their input. The result of this collaborative process was Àbimì. It was determined that Àbimì should appear on the left-side of all stoles, over the heart of the graduates. She was named by Kelly Duquette, JD 2019, who also collaborated remotely on the story of Àbimì while she completed an internship in New Zealand.

Figure 5: Àbimi



Walking together, in the same direction, in respect of one another.

Please meet Àbimi.

Àbimi, Algonquin for “defend”, is a symbol developed in community that acknowledges the diasporic nature of our Learner body by integrating ideas and traditions from a multiplicity of Indigenous communities and nations. The design was heavily influenced by consultations with the 2019 cohort of graduates that includes one Inuk Learner, several Métis women, and First Nations Learners from across Canada. She is a gift from the Indigenous Law Learner community to Indigenous Learners past, present, and future. In giving the design an Algonquin name, we honour the land that has fostered our growth as young leaders.

The design is a white bear paw with claws bared. The bear is commonly regarded as a protector of the law and a symbol of courage by Indigenous nations in Canada. In this respect, the bear symbolizes our journeys as legal professionals, protectors of the law and defenders of the people. The palm of the bear paw is in the shape of a polar bear, embodying the spirit of the North, in mid-step. Through her eyes and heart are the two rows of Guswenta.

Guswenta, the Two-Row Wampum, is a physical representation of one of the oldest treaty relationships between the Onkewhonweh (original people of Turtle Island/North America) and European settlers. Signed in 1613, this agreement was translated into a belt made of quahog shells, also known as wampum beads. Guswenta enshrines legal principles of non-interference, with the purple lines representing the two nations, brothers and equals, paddling down the same river in their own canoes with neither attempting to steer the other. The three white lines represent the three agreements underpinning the treaty: peace, friendship, and respect — in perpetuity.

The inclusion of the Two Row Wampum belt in Àbimi’s design honours this significant legal agreement and reflects our current goals of reconciliation and building reciprocal, trust-based relationships between the Faculty and Indigenous peoples, communities, and nations.⁸⁸²

⁸⁸²UOttawa Faculty of Law, “Please Meet Àbimi” (2019) [unpublished].

The right-hand side of the stoles is reserved for the individual, their families, and their communities outside of the law school. Years before convocation, future Beadees are asked to reflect on what images, colours, and ideas best reflect them as law Learners, Indigenous peoples, and future lawyers. They are asked to engage with their families and communities to complete a stole survey, a research tool so rigorously academic that it contains a disclaimer that the Beauty of Beaders reserves the right to completely disregard all responses if inspiration strikes us.

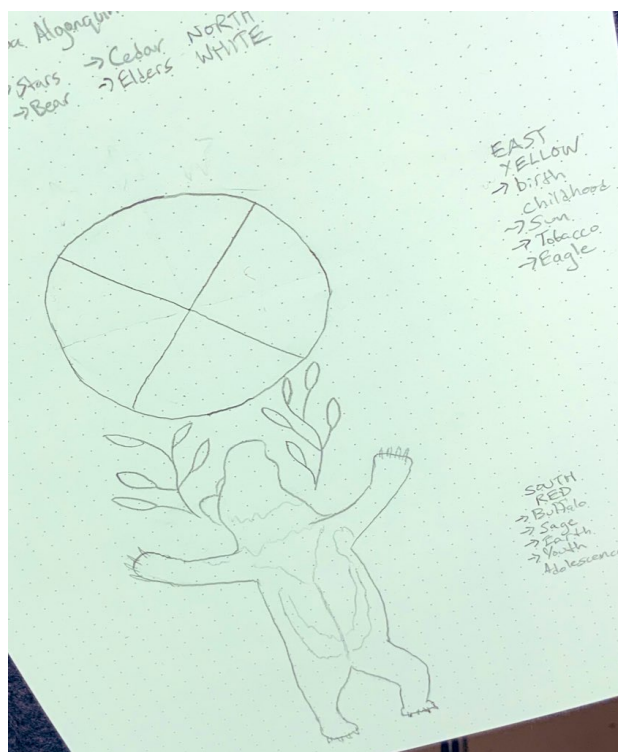


Figure 6: Stole research and development

Stole surveys are then forwarded to researchers who pick up the threads of curiosity and dive deep into readings on images, laws, colours, symbols, communities. They propose ideas for the pattern makers, who get on with the work of imagining what the end product might look like.



Figure 7: Pattern Making

Pattern makers come in all levels of artistic ability. Some source images online, some trace existing images. Some freehand designs using graphite pencils on Japanese pattern paper sourced at a local fabric studio. Others literally decoupage and glue on printer paper.



Figure 8: Cedar in evolution

*Beadwork by Danielle Lussier and Jessica Simon,
from a pattern drawn in graphite by Maryse Piché-Benard.*

In the end, patterns are often modified by the beaders as they experiment and test the limits of beads. The beaders sometimes bead on stabilized felt that supports beadwork, which is added to stoles with darning needles and calm hands. Other times, they bead directly on rough-edge stoles we cut from bolts of tradecloth ordered from Treaty 1 territory. We use a self-healing mat that is roughly the size of Prince Edward Island and a rotary cutter that would put the occupational health and safety officer off his lunch on the conference table in the Dean's office when he is out of town. As a general rule, we tend to ask forgiveness and not permission.

Beading can take days, or weeks, or months.

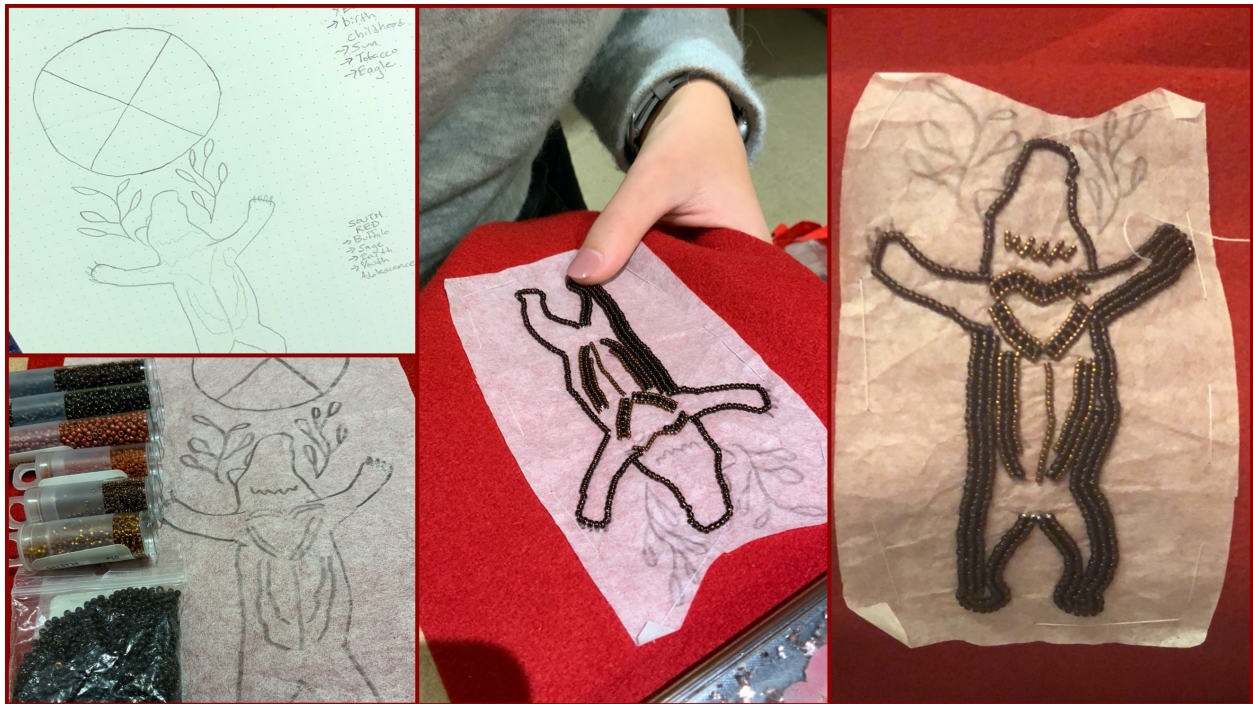


Figure 9: Makwa in Evolution

Beadwork by Abigail Green, Mohawk from Tyendinaga First Nation
based on a pattern collectively created by
Connor Leggot, Tara Rose McDonald, Danielle Lussier, and Abigail Green

Completed beadwork is checked and sometimes repaired or reinforced by members of the Beauty before being handed off to volunteer seamstresses for backing, edging, and finishing. Usually this is done by machine, but when the beading gets away from us and we do not leave adequate seam allowances, they sew by hand. They don't love us when this occurs, but there is a common understanding that the beaders follow the beads, and not the other way around.



Figure 10: Beaders follow the beads

Beadwork by Professor Teresa Scassa, pattern by Tara Rose McDonald

When finished stoles are returned to the Faculty, they are held safe until stoles for the entire cohort are complete.

They are displayed in public for a morning in what Professor Jamie Liew once called a “vernissage.” This space was created to allow people to come and share in the process, ask questions, and get to know our graduates before convocation day. We gather, we visit, we touch the beadwork, and we eat together - this before engaging in ceremony where we cleanse the stoles and prepare to gift them in a good way to Beadees.



Figure 11: Vernissage

*Vernissage, there Professor Jeremy DeBeer was drawn to stoles carrying prairie flowers for a Métis graduate from Saskatchewan.
(Photo credit: Monique Washnuk)*

At convocation, before a gathering of more than 4000 graduates, family members, and community, information about the stoles is displayed on the big screens, bringing the rest of our community into the process.

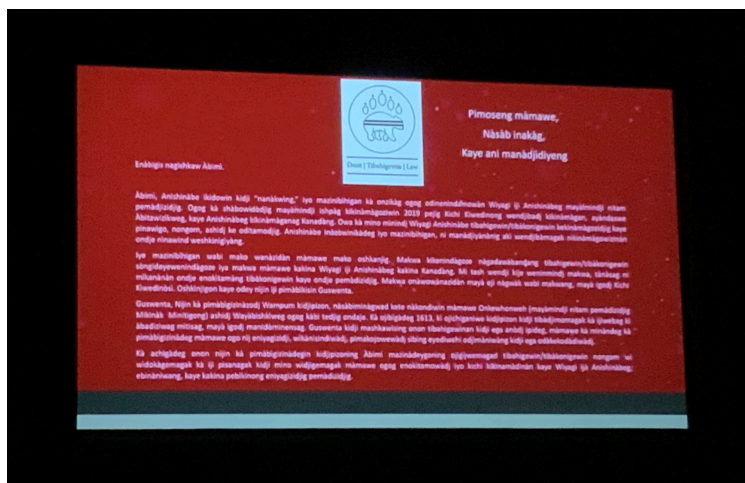


Figure 12: Àbimi's convocation debut

Àbimi makes her convocation debut at the Shaw Centre, Ottawa, Ontario. June 2019. (Photo credit: Monique Washnuk)

In a parallel but absolutely separate and distinct initiative, the Beauty of Beaders also beads stoles for leadership within the Faculty. Where stoles for Learners and graduates are conceived to honour their journeys through law school, stoles for leadership are designed to highlight the responsibilities of those holding positions of authority and power vis-à-vis reconciliation and making space for Indigenous ways of knowing and pedagogies within the law school. Stole surveys are completed, patterns are made, stoles are sewn - all the steps are the same, but with a different purpose, objective, meaning. Academics and leadership who choose to accept stoles are acknowledging their responsibilities, and we encourage them to reflect on how they can and will engage in reciprocal relationships with Indigenous peoples and communities as they discharge their duties within the Faculty.



Figure 13: Leadership stole

Leadership stoles serve as a visual reminder of the personal journeys taken by, and reconciliation responsibilities on the shoulders of, those who serve in positions of authority within the academic institution.

And what of the difficult conversations I had hoped to facilitate through beading circle? They emerge throughout all of the phases of the process, including when Beaders and community members learn of the stoles for the unknown Learners.



Figure 14: Stole for the Unknown Learner

*Stole for the Unknown Learner,
example of the earliest beadwork by the Beauty of Beaders.
Spring 2019.*

From the first week of circle, we began beading stoles for those Learners I knew would emerge at convocation, having felt unable, unwilling, or unsafe to publicly identify as Indigenous while learning law. We bead full stoles for the unknown Learner, using community symbols that could be accessible to First Nations, Métis, or Inuit Learners,

including medicine wheels, infinity flags, tundra flowers, and a vine we conceived that incorporates symbols of Ottawa such as tulips and is beaded in the colours of the University and the Faculty. I could tell that Beaders were skeptical of my insistence that graduates would come forward on convocation day, but I insisted. My insistence prompted many conversations. I suspect there may have been a friendly over/under on whether or not I had properly understood the experience of legal education for Indigenous Learners, though I also suspect that is not how wagers were framed.

In case the foregoing was unclear: this initiative actually has very little to do with the actual stole. It is grounded in a process of community growth and healing, in the hopes that we may honour our Learners and send graduates off into the profession in a spirit of hope.

I wish I could say that I was proven wrong at that first convocation I attended in 2019. Unfortunately, I was left weeping in my car in the underground parking following the ceremony where I gifted two beaded stoles to graduates who had felt unsafe existing as Indigenous peoples within our law school... even though I knew full well it would happen.

The conversations that followed took a different tone, and you can bet that wagered dollar that there has not been a raised eyebrow at the idea of beading for the unknown Learners since. And that is what led me to consider the transformative possibilities of Métis Beadwork Practice as a pedagogical tool that might be employed as a healing agent in the classroom.

Decolonizing Legal Education as a Therapeutic Exercise

“You are welcome to read so long as it doesn’t take away from your healing,” the brunette said. “We have romance novels in stock and some books from the Oprah Book Club.” I did enjoy Oprah.⁸⁸³

As demonstrated in the preceding chapters, there is a pressing need to reframe the legal learning process. This reframing is required not only to address ongoing colonialism and racism in the classroom and beyond, but also to ensure that all students have access to learning opportunities that will support the unlearning of colonial constructs and the building of cultural competencies.

Perhaps a radical suggestion: I believe that before sustainable change can occur, the legal academy must have a moment of reckoning. There can be no reconciliation before there is truth,⁸⁸⁴ and true reconciliation requires us to abandon adversarial or defensive stances⁸⁸⁵ and publicly acknowledge damage to the community.⁸⁸⁶ Individuals within the legal academy, and the collective that it forms, must claim ownership of their own investments in the colonial project; this will require leaving denial behind and taking responsibility for managing the feelings that accompany unlearning.⁸⁸⁷

Decolonizing legal education and creating spaces in which Indigenous Learners are safe to learn law will, in my view, require significant community building and healing.

⁸⁸³ *Mailhot, supra* note 5 at 24.

⁸⁸⁴ Roslyn Meyers, “Truth and Reconciliation Commissions 101: What TRCs Can Teach the United States Justice System about Justice” (2009) 78:1 *Revista Juridica Universidad de Puerto Rico* 95 at 101.

⁸⁸⁵ *Daicoff, supra* note 836 at 133.

⁸⁸⁶ *Braithwaite, supra* note 838 at 258.

⁸⁸⁷ *Meyers, supra* note 884 at 101.

Now, I could pretend that when I first began reading in the area of Therapeutic Jurisprudence (TJ) I had in mind the idea of linking its study to the decolonization of the legal academy. The reality is that my doctoral research has greatly evolved over the five years since I began my studies, studies which have been interrupted by three leaves of absence: the first, a maternity leave; the second, a mandatory leave when I took on full-time employment to pay my mortgage; and the third as a result of the Covid-19 pandemic. My initial engagement with Therapeutic Jurisprudence was in fact grounded in building relationships with ideas in the area of workplace harassment. Specifically, my early research considered the implications of harassment and discrimination in the workplace on the mental health of employees.

As with any relationship, sometimes we unexpectedly begin to view reality in a new light. The shift can be prompted by an event, a change of heart/mind/behavior, or some combination of both. In the case of Therapeutic Jurisprudence, the tipping point was the birth of my second daughter. Raising Indigenous girls carries a different weight than the prospect of raising my son – not more or less, just different. The responsibilities I carry in raising daughters influence how I experience the world and shift my understandings of how Indigenous knowledge is produced, subjugated, shared, taught, and learned.

As Dr. Shawn Wilson explains, “[i]f you talk about research as a ceremony, that’s the climax of the ceremony, when it all comes together and all the connections are made. Cause that’s what ceremony is all about, is strengthening those connections.”⁸⁸⁸ In a moment that could be described as the climax of my initial research ceremony, I acknowledged that I never wanted my

⁸⁸⁸ *Supra* note 14 at 89.

daughters to experience the violence of being subjected to jokes about ethical struggles *et la question autochtone* should they ever choose to become legal warriors for our community. I began to consider the possible healing role of law, and by extension legal education, through the conceptual “mechanism, vector, prism or lens”⁸⁸⁹ of Therapeutic Jurisprudence.

The concept of Therapeutic Jurisprudence was initially articulated by David Wexler and Bruce Winick in the late 1980s as a mechanism for considering the role of the law in the context of modern mental health law.⁸⁹⁰ In this context, Wexler suggested that those engaged in the practice of mental health law should consider whether the ways in which the law operates is generating a therapeutic effect, an anti-therapeutic effect, both simultaneously, or neither.⁸⁹¹ Wexler argued that this reflection should be done in a broad and holistic context, considering not only “the role of law in producing psychological dysfunction”, but also extending the reflection to therapeutic aspects of laws, legal systems, lawyering, and judging.⁸⁹²

In a stance that would later be critiqued by some opponents as lacking inherent foundation,⁸⁹³ Wexler argued that monitoring law-related psychological dysfunction was crucial as legal actors, like doctors, should “strive first to do no harm.”⁸⁹⁴ As we have seen in previous chapters, Indigenous peoples understand Canadian law in different ways, having long been subject to the devastating impacts of racist, assimilationist colonial law and policy. Considering colonial law

⁸⁸⁹ Ian Freckelton, “Therapeutic Jurisprudence Misunderstood and Misrepresented: The Price and Risks of Influence” (2008) 30:2 Thomas Jefferson L Rev 575.

⁸⁹⁰ *Supra* note 21 at 4.

⁸⁹¹ *Ibid.*

⁸⁹² *Ibid.*

⁸⁹³ See Dennis Roderick & Susan T Krumholz, “Much Ado About Nothing: A Critical Examination of Therapeutic Jurisprudence” (2006) 1:1 U of Massachusetts L Rev 201 at 228.

⁸⁹⁴ *Supra* note 21 at 5.

from the perspective of an Indigenous person through a lens of “first do no harm” would result in a very different analysis than the same analysis through western eyes. That said, in my view, this idea as articulated by Wexler is most certainly supported by most western conceptualizations of justice as including a moral element and being based on a “collective expectation that the law is a force for good.”⁸⁹⁵

As discourse surrounding TJ developed, some argued that Therapeutic Jurisprudential analysis as an approach to the practice of law engenders a shift from a rights-based approach to legal problem-solving to a broader view of the role of lawyer as “social conflict solver.”⁸⁹⁶ Put differently, Therapeutic Jurisprudence views the law as part of the greater whole of human life, and not as an independent project grounded purely in logic.⁸⁹⁷ Unsurprisingly, analysis based in considerations of Therapeutic Jurisprudence quickly expanded beyond the scope of mental health law and into the areas of criminal justice,⁸⁹⁸ civil litigation,⁸⁹⁹ torts,⁹⁰⁰ and law reform.⁹⁰¹

Therapeutic Jurisprudence takes on different meanings for different scholars, lawyers, and judges. Let us be clear that I do not believe Therapeutic Jurisprudence to be a legal theory. Some,

⁸⁹⁵ Meyers, *supra* note 884 at 97.

⁸⁹⁶ Christian Diesen & Hugh Koch, “Contemporary 21st Century Therapeutic Jurisprudence in Civil Cases: Building Bridges Between Law and Psychology” (2016) 2:1 Ethics, Medicine and Public Health 13 at 18.

⁸⁹⁷ Freckelton, *supra* note 889 at 577.

⁸⁹⁸ See e.g. Bruce J Winick, “Therapeutic Jurisprudence and Victims of Crime” in Edna Erez, Michael Kilchling & Jo-Anne Wemmers, eds, *Therapeutic Jurisprudence and Victim Participation in Justice* (Durham: Carolina Academic Press, 2011) at 3; Jo-Anne Wemmers, “Victims in the Criminal Justice System and Therapeutic Jurisprudence: A Canadian Perspective” in Edna Erez, Michael Kilchling & Jo-Anne Wemmers, eds, *Therapeutic Jurisprudence and Victim Participation in Justice* (Durham: Carolina Academic Press, 2011) at 67.

⁸⁹⁹ Diesen & Koch, *supra* note 896 at 13.

⁹⁰⁰ See e.g. Elizabeth Adjin-Tettey, “Righting Past Wrongs through Contextualization: Assessing Claims of Aboriginal Survivors of Historical and Institutional Abuses” (2007) 25 Windsor YB Access Just 95 at 134; Katherine Lippel, “Therapeutic and Anti-Therapeutic Consequences of Workers’ Compensation” (1999) 22 Intl J L & Psychiatry 521.

⁹⁰¹ See e.g. Michael S King, “Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice (Australia)” (2008) 32:3 Melbourne UL Rev 1096; Nathalie Des Rosiers, “Rights are Not Enough: Therapeutic Jurisprudence Lessons for Law Reformers” (2015) 18:3 Touro L Rev 443.

as we will see later when discussing critiques of TJ, would argue against this position. I am confident, however, in my understanding of Therapeutic Jurisprudence as a conceptual “mechanism, vector, prism or lens” for the consideration of how the law and legal processes operate on the ground, and not a full theoretical legal framework.⁹⁰²

In “Therapeutic Jurisprudence: Five Dilemmas to Ponder,” Christopher Slobogin explicitly addresses this line of inquiry, noting that some view TJ as an “umbrella” under which other movements such as Critical Legal Studies, Critical Race Theory, and even the feminist movement could be grouped.⁹⁰³ Conceptualizing TJ in this way, he argues, would rob it of its spirit.⁹⁰⁴ Instead, he suggests that TJ has features that distinguish it from other helping movements, specifically its emphasis on links to the social sciences and its focus on well-being, which is often not the primary objective of other frameworks.⁹⁰⁵ According to Slobogin, TJ is special not because of its content but rather because of its emphasis, and one of the strengths of the approach is born from the fact that TJ is amorphous⁹⁰⁶ and flexible, not wedded to a specific movement.⁹⁰⁷ As Dr. Valmaine Toki, Māori of Ngapuhi Ngati Wai Ngat Whatua descent,⁹⁰⁸ notes, one of the benefits of TJ’s

⁹⁰² *Freckelton, supra* note 889.

⁹⁰³ Christopher Slobogin, “Therapeutic Jurisprudence: Five Dilemmas to Ponder” in David B Wexler & Bruce J Winick, eds, *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (Durham: Carolina Academic Press, 1996) at 783.

⁹⁰⁴ *Ibid* at 783.

⁹⁰⁵ *Ibid* at 771.

⁹⁰⁶ Amanda Wilson, “Putting Therapeutic Jurisprudence on Edge: A Gendered Engagement (Canada & Australia)” (2014) 47:3 UBC L Rev 1185 at 1188.

⁹⁰⁷ *Supra* note 903 at 771.

⁹⁰⁸ “Dr. Valmaine Toki” (last visited 8 September 2020), online: *The University of Waikato* <waikato.ac.nz> [perma.cc/KJ6V-R9YF].

flexible conceptualization is that it “co-exists” with other systems, which would support the incorporation of Indigenous worldviews.⁹⁰⁹

Some scholars argue that Therapeutic Jurisprudence considerations are not meant to supersede but rather should be balanced against other considerations, such as community safety or autonomy.⁹¹⁰ Using other language, the theorists appear to be arguing that analysis through a Therapeutic Jurisprudence lens should supplement, not supplant – the same framing applied by Drs. Friedland and Napoleon in their work developing methodologies for use in the context of the study of Indigenous legal traditions.⁹¹¹ As I completed my research for this dissertation, these similar conceptualizations allowed me to build intellectual relationships that bridge between Therapeutic Jurisprudence, Indigenous Legal Traditions, and Indigenous Research Methods.

As my relationships to the ideas of Therapeutic Jurisprudence deepened, so did my belief that most critiques of TJ flow from what I now characterize as a misunderstanding of TJ as a theory and not an analytical lens.⁹¹² For example, Roderick and Krumholtz state that “a theory should address what something is, may even predict what something will be, but should never determine what ought to be” and suggests that TJ fails in this by taking the stance that law should do no harm or that it should seek to operate in a therapeutic way.⁹¹³ Obviously, if a scholar is

⁹⁰⁹ Valmaine Toki, “Therapeutic Jurisprudence and Mental Health Courts for Maori” (2010) *Intl J L & Psychiatry* 33:5 440 at 444.

⁹¹⁰ *Slobogin, supra* note 903 at 783; *Wexler, supra* note 21 at 4.

⁹¹¹ *Supra* note 40 at 30.

⁹¹² *King, supra* note 901 at 1117; *Freckelton, supra* note 889 at 592.

⁹¹³ *Supra* note 893 at 215.

anticipating building a relationship to ideas constituting a theoretical framework, TJ will fail to meet their expectations.

Other critiques are, in my view, fairer. A frequently-cited concern about the application of TJ is a risk of paternalism: who decides what is therapeutic and what is not?⁹¹⁴ As Arrigo notes, some voices might be silenced in favour of the “masculine judicial voice.”⁹¹⁵ Alternatively, proponents of TJ, including Wexler, view TJ as a remedy to a strict and paternalistic application of the law as it considers factors beyond the black letter (in the context of mental health law, for example, emphasizing choice).⁹¹⁶

This concern about paternalistic analysis is linked to a second critique relating to “empirical indeterminacy” – the difficulty in measuring therapeutic impacts.⁹¹⁷ In Wexler’s conceptualization, TJ was never meant to adhere to strict definitions of “therapeutic” or “anti-therapeutic.”⁹¹⁸ Some argue that this leaves TJ with only a vague sense of itself⁹¹⁹ while others maintain that it renders TJ more flexible and able to adapt to multiple contexts.⁹²⁰ Despite divergent understandings of challenges versus opportunities, many agree that it is difficult to conduct empirical studies without a firm definition of “therapeutic”⁹²¹ and without having recourse to the social sciences that don’t always understand the law.⁹²² From my vantage point,

⁹¹⁴ Priscilla Ferrazzi & Terry Krupa, “‘Symptoms of Something All Around Us’: Mental Health, Inuit Culture, and Criminal Justice in Arctic Communities in Nunavut, Canada” (2016) 165 *Social Science & Medicine* 159 at 165.

⁹¹⁵ Bruce Arrigo, “The Ethics of Therapeutic Jurisprudence: A Critical and Theoretical Enquiry of Law, Psychology and Crime” (2004) 11:1 *Psychiatry* 23 at 31.

⁹¹⁶ *Freckelton*, *supra* note 889 at 585; *Wexler*, *supra* note 21 at 11 and 165.

⁹¹⁷ *Slobogin*, *supra* note 903 at 775.

⁹¹⁸ *Supra* note 21 at 812; *Slobogin*, *supra* note 903 at 776; *Freckelton*, *supra* note 889 at 584.

⁹¹⁹ *Roderick & Krumholz*, *supra* note 893 at 209.

⁹²⁰ *Freckelton*, *supra* note 889 at 594; *Ferrazzi & Krupa*, *supra* note 914 at 162.

⁹²¹ *Roderick & Krumholz*, *supra* note 893 at 209.

⁹²² *Slobogin*, *supra* note 903 at 776.

this last point could certainly be framed as an opportunity, affording flexibility to incorporate beyond mainstream worldviews and understandings of healing.

Arrigo further contends that “TJ conceives of the public as a homogeneous whole” and that it ignores differences between groups and “otherness.”⁹²³ The assertion that TJ is blind to questions of diversity⁹²⁴ was quite jarring and I fundamentally disagree with Arrigo’s critique. My understanding of TJ leads me to believe that it could in fact support an extensive analysis of otherness, as a determination of whether something is therapeutic or not will necessarily be based on the inherent qualities and differences of each person who is subject to laws and legal processes.

In a final critique I would like to highlight here, Slobogin notes that tailoring law to meet individual therapeutic goals could ultimately backfire. In what he call the “rule of law dilemma,” he argues that the legal actors involved in TJ processes hold a significant amount of power and exercise substantial discretion.⁹²⁵ He reminds us that lawyers and judges are human, and humans sometimes make less than desirable decisions.⁹²⁶ Wexler, in response, notes that the success of any and all laws is dependent on how legal actors use their discretion in its implementation.⁹²⁷ He suggests that the use of discretion is not a challenge but a space of possibility: discretion means a potential for “influencing outcomes” as therapeutic.⁹²⁸

⁹²³ *Supra* note 915 at 37.

⁹²⁴ *Ibid.*

⁹²⁵ *Supra* note 903 at 782.

⁹²⁶ *Ibid* at 783.

⁹²⁷ David B Wexler, “Reflections on the Scope of Therapeutic Jurisprudence” in David B Wexler & Bruce J Winick, eds, *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (Durham: Carolina Academic Press, 1996) at 817.

⁹²⁸ *Ibid.*

Moving beyond common critiques, some scholars have undertaken forward-looking research exploring possible interactions between Therapeutic Jurisprudence and other legal frameworks, including some Indigenous justice models. One such area of academic exploration has been in the context of Restorative Justice, a model of justice that is strongly linked to ideas of holistic conceptualizations of community healing and that is often linked to Indigenous justice frameworks. Restorative Justice, like TJ, has a flexible definition and means different things to different people, groups, and communities. Michael King proposes the following general definition of Restorative Justice: “a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.”⁹²⁹ This definition broadly reflects my own understanding of Restorative Justice.

Both Therapeutic Jurisprudence and Restorative Justice must balance the interests of multiple groups⁹³⁰ and consider how emotions play into legal processes.⁹³¹ Per King, much as in Restorative Justice processes, a lawyer practicing in a TJ context will view problems holistically and looks beyond the immediate legal problem to consider other aspects of their client’s life including health, family, and work.⁹³²

I agree with Anaya’s position that “for a jurisprudence concerning Indigenous peoples to be in any sense therapeutic from the standpoint of all concerned, it should include a recognition of the

⁹²⁹ See e.g. *Supra* note 901 at 1102.

⁹³⁰ Robert Schopp, “Integrating Restorative Justice and Therapeutic Jurisprudence” (1998) 67:1 *Revista Juridica Universidad de Puerto Rico* 665 at 669.

⁹³¹ See e.g. *King, supra* note 901 at 1097.

⁹³² *Ibid* at 1122.

wrongful nature of historic events and the suffering those events have caused.”⁹³³ Looking beyond obvious links between TJ and Restorative Justice discussed in the preceding paragraphs, I believe the most significant language of possibility insofar as linking TJ and indigeneity lies in the Indigenous conceptualization of Therapeutic Jurisprudence+ (TJ+) as articulated by Justice Joseph Flies-Away, Hualalapi,⁹³⁴ and Chief Justice Carrie Garrow⁹³⁵ of the St. Regis Mohawk Tribal Court.⁹³⁶

In the equation of TJ+, the plus (+) represents a spiritual component that isn't bound to a particular dogma, but rather that accounts for how individuals connect with others around them, including animals and the inanimate.⁹³⁷ In other words, the plus (+) is an acknowledgement of the Law of Interconnectedness, a fundamental tenet of Indigenous worldview that frames all knowledge as interrelated.⁹³⁸ This necessarily includes consideration of family and community,⁹³⁹ with a focus on rebuilding damaged or lost connections and relationships in a positive way.⁹⁴⁰ According to Justice Flies-Away and Chief Justice Garrow, the plus (+) in TJ+ “works as an adhesive, helping to stabilize the form, frame, and foundation of not only principles and processes, but also persons.”⁹⁴¹

⁹³³ James Anaya, “The United States Supreme Court and Indigenous Peoples: Still a Long Way to Go Toward a Therapeutic Role” (2000) 24:2 Seattle UL Rev 229 at 230.

⁹³⁴ “Joseph Flies-Away” (last visited 8 September 2020), online: *Justice Clearinghouse* <justiceclearinghouse.com> [perma.cc/HE8H-LREY].

⁹³⁵ “Carrie Garrow (Mohawk)” (last visited 8 September 2020), online: *Race Forward* <facingrace.raceforward.org> [perma.cc/NY5Z-HKV8].

⁹³⁶ Joseph Thomas Flies-Away & Carrie Garrow, “Healing to Wellness Courts: Therapeutic Jurisprudence +” (2013) 2013:403 Mich L Rev 403.

⁹³⁷ *Ibid* at 424.

⁹³⁸ Tiffany Prete, “Beadworking as an Indigenous Research Paradigm” (2019) 4:1 Art/Research International 28 at 44.

⁹³⁹ *Flies-Away & Garrow*, *supra* note 936 at 424.

⁹⁴⁰ *Ibid* at 407.

⁹⁴¹ *Ibid* at 424.

In support of this emergent TJ+ analysis, Justice Flies-Away and Chief Justice Garrow conceptualize an analytical frame they term “the Sphere.”⁹⁴² The Sphere contextualizes all of life’s moving parts in a holistic but rigorously structured way that recognizes the “interrelatedness of all things.”⁹⁴³ What I find particularly interesting about the Sphere as analysis framework is that it provides a concrete structure that is both back and forward looking – as Justice Flies-Away and Chief Justice Garrow explain, it is “concerned with the past, the present, and the possible.”⁹⁴⁴ To employ the language of Wexler’s TJ, the analysis not only seeks to determine the therapeutic or anti-therapeutic, but also to uncover pathways to move ahead that recognize the plus (+) in the TJ+ equation.⁹⁴⁵

Winnick encourages TJ practitioners to conceptualize law as a tool of “healing and rehabilitation,” and to consider how legal actors, processes, and laws themselves either support or hinder the use of this tool.⁹⁴⁶ The premise of Therapeutic Jurisprudence, in short, is to look beyond the black letter of the law and consider the real-life consequences that are born of the law and legal processes.⁹⁴⁷ Dr. Braithwaite, reflecting on TJ and Restorative Justice, reminds us that “active responsibility is required for securing restoration,”⁹⁴⁸ and Dr. Friedland suggests that making space for Indigenous laws, legal orders, and peoples within existing systems is a form of therapeutic legal practice.⁹⁴⁹ Meanwhile, the holistic conceptualization of law proposed under

⁹⁴² *Ibid* at 426.

⁹⁴³ *Ibid*.

⁹⁴⁴ *Ibid* at 435.

⁹⁴⁵ *Ibid*.

⁹⁴⁶ *Supra* note 898 at 3.

⁹⁴⁷ See *Des Rosiers*, *supra* note 901 at 44; *King*, *supra* note 901 at 1113; *Freckelton*, *supra* note 889 at 580; *Adjin-Tettey*, *supra* note 900 at 134.

⁹⁴⁸ *Supra* note 838 at 258.

⁹⁴⁹ Hadley Friedland, “Navigating Through Narratives of Despair Making Space for the Cree Reasonable Person in the Canadian Justice System” (2016) 67 UNBLJ 269.

Therapeutic Jurisprudence frameworks generally and TJ+ specifically, allows space for the recognition of the interconnectedness of all things. I believe that this holistic analysis, much like approaches to research grounded in Indigenous worldview as proposed by Dr. Shawn Wilson,⁹⁵⁰ represents an expression of the language of possibility – a way out of colonialism.⁹⁵¹

By extending principles of Therapeutic Jurisprudence to the context of legal education, we might consider how legal education could pivot away from anti-therapeutic models that facilitate ongoing colonialism and racism and towards pathways for community healing through the use of novel Indigenous Legal Pedagogies. Applying a TJ+ lens, the creation of safe spaces for all Learners can be considered in parallel to the need to prepare Learners for the practice of law within the colonial legal systems of Canada and the development of necessary cultural competencies for all who pass through the academy en route to the legal profession.⁹⁵²

On the eve of the release of the Final Report, the Chair of the TRC, now Senator Murray Sinclair is quoted in an interview as saying that "Education is what got us into this mess — the use of education at least in terms of residential schools — but education is the key to reconciliation."⁹⁵³ I would add to this soundbite that the education frameworks that got us in to this mess were established and empowered by laws and governmental policies, and that the legal academy was complicit in supporting these colonial frameworks through the training of lawyers⁹⁵⁴ who upheld

⁹⁵⁰ *Supra* note 14 at 118.

⁹⁵¹ *Smith, supra* note 27 at 204.

⁹⁵² *Supra* note 655 at 3.

⁹⁵³ Hayden Watters, "Truth and Reconciliation Chair Urges Canada to Adopt UN Declaration on Indigenous Peoples", *CBC News* (1 June 2015), online: <cbc.ca> [perma.cc/BE23-SWSU].

⁹⁵⁴ *Hewitt, supra* note 253 at 68.

these systems of assimilation and genocide.⁹⁵⁵ I humbly suggest that if any education will get us out of this mess,⁹⁵⁶ it will be legal education.

I also gently suggest that the legal profession is not ready to acknowledge its own privilege and responsibility in this regard, and without this acknowledgement of shame sustainable positive change and moves towards reconciliation will not be forthcoming from the leadership of the law societies. This belief is based on the recent widespread resistance to basic acknowledgements of systemic racism within the legal profession, and to the rise in non-collegial demonstrations of anti-diversity sentiment before convocation of the law society of Ontario discussed earlier in this work. I suspect that the legal academy may carry the responsibility of Call to Action 28 for the time being on the assumption that the Law Society of Ontario will not make progress toward Call to Action 27 in the short-term. The legal academy, I believe, is more likely to collectively accept efforts to decolonize, though not without previously described resistance on multiple fronts.

Building relationships to ideas in a holistic way and reading the works cited above as part of an interrelated web of knowledge, I have demonstrated that my research is very properly considered through the analytical lenses of Therapeutic Jurisprudence and Therapeutic Jurisprudence+. For the purposes of this analysis, the definition of what is “therapeutic” need not be complicated: does the approach serve to counteract ongoing colonialism and racism in the classroom and provide opportunities for learning grounded in a practice of building reciprocal, trust-based relationships to ideas, people, and communities? If so, I believe that the approach holds the potential for community healing within the legal academy. Put another way, “anti-

⁹⁵⁵ *Supra* note 331 at 103.

⁹⁵⁶ *Supra* note 953.

therapeutic” can be understood as actions supporting the status quo, reinforcing colonial structures and understandings of law, and failing to confront ongoing colonialism and racism in the academy.

I believe that the language of possibility lies in the application of a TJ framework, in particular as I consider efforts to decolonize and indigenize law schools framed as moments of healing. Moments of healing in education are not only necessary for Indigenous Learners and scholars, but also for settlers who occupy these spaces and who carry heavy burdens of unlearning that sometimes result in guilt, unmanaged shame, and anger. Community healing will not only advance efforts towards building cultural competency⁹⁵⁷ and revitalizing Indigenous legal orders through the acknowledgment and advancement of legal pluralism,⁹⁵⁸ but will also work towards building reciprocal, trust-based relationships – like those originally promised in law when settlers first arrived on Turtle Island.

⁹⁵⁷ *Supra* note 655 at 3.

⁹⁵⁸ *Ibid* at 4–5.

Beads and the Mobilization of Law: Wampum

*Three principles shall be adhered to between our peoples.
First – there will be everlasting peace,
second we will maintain a good friendship,
third we will always practice “the Good Mind”
(which means mutual respect, justice, and equality.)
Leroy Jock Hill, Cayuga Nation Sub-Chief, Bear Clan⁹⁵⁹*

Beads have been used to entrench, codify, and disseminate law since the very first interactions between peoples Indigenous to Turtle Island and settlers who arrived and made claims to the space. I speak of wampum belts, often created out of beads made from quahog shells to allow law and commitments to be shared amongst community members when agreements were concluded between nations.

Wampum and quahog teachings are not part of the fabric of the story of the Métis Nation as I know it. I am limited in my knowledge of wampum teachings, and often question the ethics of my pursuit of this knowledge.⁹⁶⁰ Early in my learning journey, I was honoured and privileged to unexpectedly receive teachings generously offered by Elder Myeengun Henry of the Chippewas of the Thames First Nation.

I met Elder Henry through my work on the Indigenous Advisory Group at the Law Society of Ontario. We sat together in the Lower Barrister’s Lounge of Osgoode Hall, which must be the seat

⁹⁵⁹ Penelope Myrtle Kelsey, *Reading the Wampum: Essays on Hodinöhsö:ni’ Visual Code and Epistemological Recovery* (Syracuse: Syracuse University Press, 2014) at 1.

⁹⁶⁰ *Smith, supra* note 27 at 138.

of the Law Society of *Upper Canada* because that is what all of the brass plaques told me – early one cold January morning in 2019. We visited over breakfast as we awaited the arrival of the other members of our group, and Elder Henry shared wampum teachings as he removed a belt from his bundle. My starting line was so far back that my initial reaction was to ask if I should put away my laptop and move my things – I wasn't sure if such things could share a table with a wampum belt. Then, I asked about protocols for touching wampum. In the most gentle and humbling teaching, Elder Henry reminded me that wampum belts are not artifacts, they are living law. They are meant to live in and around us, to be held and cared for, and yes, Danielle, you can touch it.

I believe in taking responsibility for one's own learning, and I subsequently actively sought learning opportunities from knowledge keepers relating to the creation and the art and law of wampum. As we will see in the following section, Métis floral beadwork relies primarily, though not exclusively, on glass beads, whereas the beads used to create wampum belts utilize wampum beads – “small, short, tubular bead, made from the quahog clam shell,” usually in white and purple.⁹⁶¹ White beads created from “the inner whorl of the shell, and the purple beads come from the dark spot or “eye” on the shell.”⁹⁶² Some wampum beads have been dated as far back as 4500 years.⁹⁶³

⁹⁶¹ Angela M Haas, “Wampum as Hypertext: An American Indian Intellectual Tradition of Multimedia Theory and Practice” 19:4 *Studies in American Indian Literatures* 77 at 78.

⁹⁶² *Ibid.*

⁹⁶³ *Edge, supra* note 111 at 137.

Traditionally, wampum beads were made with a bow drill, one at a time and by hand, in a process one researcher described as “laborious.”⁹⁶⁴ Laborious, I believe, is an understatement. Modern researchers working to replicate the production of wampum beads learned it could take up to thirteen minutes to create a single bead.⁹⁶⁵ Remember: some wampum belts contain up to 10 000 individual beads.⁹⁶⁶

Each one of the many thousands of beads, acting in the same way as articles of a written treaty, holds “meaning and instruction.”⁹⁶⁷

Each bead holds law.

Let that sink in for a minute. Four thousand five hundred years ago, people were investing incredible time and energy into making wampum beads. One at a time, at a possible rate of thirteen minutes per bead. The beads in a single belt might represent 2166 hours and 40 minutes of work, or over 270 eight-hour days, on the creation of the beads alone – never mind the design, weaving, and the negotiation of the treaty. The subsequent training of the wampum readers is another investment of time and intellectual energy entirely.⁹⁶⁸

I literally drove across the country to learn more.

⁹⁶⁴ *Racette*, *supra* note 150 at 11.

⁹⁶⁵ Malinda Grey, *Beads: Symbols of Indigenous Cultural Resilience and Value* (MA, University of Toronto, 2017) at 5, online: <tspace.library.utoronto.ca> [perma.cc/T7RY-P6QE].

⁹⁶⁶ *Edge*, *supra* note 111 at 137.

⁹⁶⁷ Ruth Buchanan & Jeffrey G Hewitt, “Treaty Canoe” in Jessie Hohmann & Daniel Joyce, eds, *International Law’s Objects* (Oxford: Oxford University Press, 2018) at 493.

⁹⁶⁸ *Edge*, *supra* note 111 at 138.

In the summer of 2019, I drove from Ottawa to Prince Edward Island with the children, then ages 2, 6, and 7, side-by-side in the backseat of a sedan. My desire to engage with the First Peoples of the territory, and learn about quahog shells, led us to Lennox Island First Nation.

As a family, we spent the day learning with cultural interpreters and knowledge keepers working at the Mi'kmaq cultural centre. If you asked each of us what the most important thing that we learned during our time on Lennox Island was, you would certainly get different answers. Rosie would likely talk about how to properly centre the handle and balance a hand drum when weaving the wet hide. Hugo would launch into a description of cooking bannock by burying it in sand and would surely note that though the process differed, the recipe of a little of this and a pinch of that until the ancestors tell you to stop was exactly the same as ours. Opale was only aged two, but she seems to have vivid memories involving bannock on a stick and a bowl of molasses for dipping.

For me, it was the quahog. Cooking them over the fire, I learned that they generally open gently when they are ready to be eaten. Other times, they unexpectedly explode. Knowing what we know about the negotiations and respect of treaties on Turtle Island, this felt like an important teaching. It was the high heat of a summer afternoon in July, and when the initial batch was ready and I caught my first glimpse of vibrant purple, I got verklempt. If they noticed, the knowledge keepers were not alarmed at this reaction – probably

because of the role quahog and wampum have been known to play in relation to healing from grief.⁹⁶⁹

In Hodinöhsö:ni' oral traditions, wampum was originally received by Ha:yëwënta' when he lay deep in grief at the side of Tully Lake. Ha:yëwënta' had quickly lost his three daughters and his wife to illness and accident in a shocking series of events, and he no longer wished to carry on living. As he lay on the beach in grief, a large body of birds that had been floating on the waters of the lake arose in flight, and the tremendous force of so many wings drove the water from the lake, revealing the wampum shells on the floor of the lake. Ha:wëwënta' picked up the shells and strung them on to a cord, repeating to himself "This would do if I found anyone burdened with grief even as I am. I would take these shell strings in my hand and console them. The strings would become words and lift away the darkness with which they are covered. Holding these in my hand, my words would be true." Ha:wëwënta' was able to clear his troubled mind and recover from the tremendous loss of his family, thereby allowing him to function as a speaker for the Peacemaker and to bring the message of peace and power to the Hodinöhsö:ni' peoples.⁹⁷⁰

I learned how to clean the shells and we lovingly packed them for the long drive home where they became a learning tool for the Beauty of Beaders.



Figure 15: Quahog and Oysters and Tools for Shucking

July 2019, Lennox Island First Nation.

⁹⁶⁹ *Kelsey, supra* note 959 at xii–xiv.

⁹⁷⁰ *Ibid.*

I acknowledge that a thesis on beadwork practice as a tool for mobilizing law would be incomplete without speaking of the role of quahog beads serving to mobilize law through wampum belts, however I harbour grave concerns about the ethics of me, a Métis legal scholar, attempting to mobilize legal knowledge or interpret laws that are not of my own Nation(s). I am entirely unconvinced this is an appropriate space for me to occupy. In a different world, I would have applied for university ethics approval to seek guidance from wampum carriers. This would have required travel. I simply do not know how to build such relationships in an ethical way during this pandemic. I hope that as the pandemic progresses, communities of practice will develop to work through these challenges of mobility, technology, and ethical community protocols. In the meantime, like everyone else, I am attempting to adapt to these new ways of being and interacting.

Further, I fully acknowledge that I do not have the right to “learn anything I want,” and that learning carries with it a significant responsibility.⁹⁷¹ I also remain alive to Professor Dennis McPherson’s teaching that “[w]e must keep in mind that one size does not fit all: what is learned in Mohawk country certainly does not apply in Anishinaabe country or vice-versa. Regardless of what anyone might say, we must properly respect the local wisdom of the Elders. And we must keep it exactly where it belongs, within the Aboriginal community.”⁹⁷²

In this section, I will therefore briefly explore the historic and ongoing role of quahog and wampum in mobilization of both Indigenous and Indigenous-Settler Law and Legal Knowledge, relying on written teachings, for the purposes of providing context to the longstanding place of

⁹⁷¹ Sylvia Moore, *Trickster Chases the Tale of Education* (Montreal: McGill-Queen’s University Press, 2017) at 101.

⁹⁷² *Supra* note 86.

beadwork in Indigenous and International law. I am relying exclusively on publicly available written materials for a few reasons, the most important being the aforementioned concerns about my ethical responsibilities while producing academic knowledge in this area. By relying on writing that already exists in the public sphere, I feel reasonably confident that I will not be violating any Indigenous laws by disseminating the teachings further.

I do not purport to be an expert in these areas of law – areas plural: we are speaking of the laws of multiple Nations that inhabit multiple legal orders in addition to forming part of the body of International Law. I do, however, hold a deep respect for wampum beads, belts, and the laws they carry. In a spirit of learning, I humbly offer the following brief introduction to wampum: beads that hold, preserve, and mobilize law.

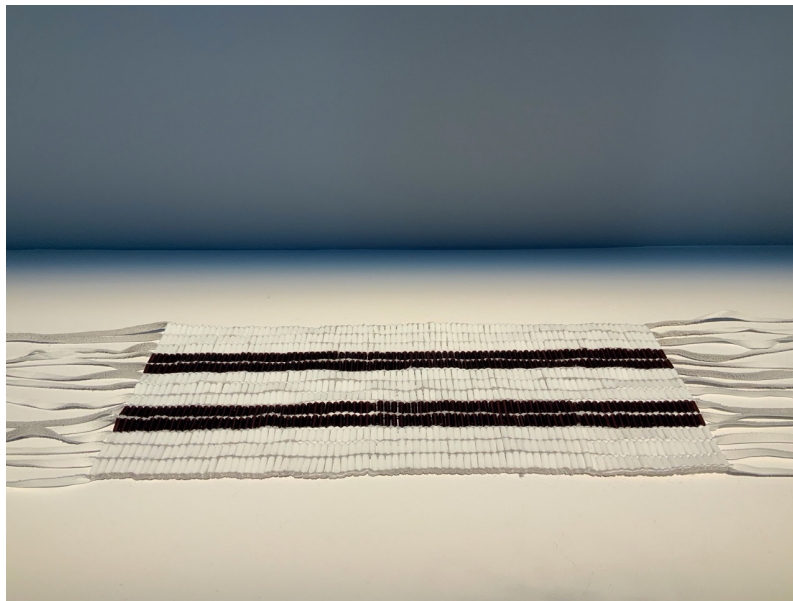


Figure 16: Two Row Wampum⁹⁷³

⁹⁷³ Personal photo. Image captured by Danielle Lussier at the National Gallery of Canada, February 22, 2020. Wampum belt of leather, sinew, and glass beads beaded by Kathleen Deerhouse, forming part of a multimedia art installation “Teiakwanahstahson-tehrha’ – We Extend the Rafters” (2017); Artist: Skawennati (Kanien’keha:ka and Italian).

“Woven in the wampum treaty belts, is a history of politics and a complicated value system that owes its existence to beads.”⁹⁷⁴

The Two-Row Wampum, known by many names including Guswenta⁹⁷⁵, Guswentah⁹⁷⁶, Gaswënta’,⁹⁷⁷ Kaswentha⁹⁷⁸, and Teioháte,⁹⁷⁹ is one of the most widely recognized wampum belts. Originally negotiated in 1613 between the Five Nations and the Dutch,⁹⁸⁰ the Two Row Wampum carries the legal agreements of the first Treaty negotiated between Indigenous Nations on Turtle Island and settlers.⁹⁸¹ The agreements and law embodied in wampum belts were not considered static or frozen in time; agreements were frequently renewed⁹⁸² and revisited⁹⁸³ after they were negotiated. An example of one such revision was the adoption of the Covenant Chain to supplement existing treaties, renewing commitments and healing the relationships between nations that had suffered damage from neglect and conflict.⁹⁸⁴

Guswenta, some argue, served as the “basis for all other Treaties” that followed.⁹⁸⁵ The two rows of purple beads represent the two signatory Nations travelling together on their own paths in a spirit of peace and friendship, in perpetuity.⁹⁸⁶ The overarching principle of respect was

⁹⁷⁴ Grey, *supra* note 965 at 3.

⁹⁷⁵ Tom Keefer, “A Short Introduction to the Two-Row Wampum” (4 March 2014), online: *Briarpatch* <briarpatchmagazine.com> [perma.cc/X3JK-JKKBK].

⁹⁷⁶ Haas, *supra* note 961 at 88.

⁹⁷⁷ Kelsey, *supra* note 959 at 2.

⁹⁷⁸ Robin Kair Sehdev, “Lessons From the Bridge: On the Possibilities of Anti-Racist Feminist Alliances in Indigenous Spaces” in Leanne Betasamosake Simpson & Kiera L Ladner, eds, *This is an Honour Song- Twenty Years Since the Blockades: An Anthology of Writing on the “Oka Crisis”* (Winnipeg: Arbeiter Ring Pub Books, 2010) 105 at 112.

⁹⁷⁹ Grey, *supra* note 965 at 28.

⁹⁸⁰ Kelsey, *supra* note 959 at xix.

⁹⁸¹ Grey, *supra* note 965 at 28.

⁹⁸² See e.g. John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002) at 126; Haas, *supra* note 961 at 92.

⁹⁸³ Gaudry & Lorenz, *supra* note 275 at 224.

⁹⁸⁴ Sehdev, *supra* note 978 at 112.

⁹⁸⁵ Kelsey, *supra* note 959 at 2.

⁹⁸⁶ “Two Row Wampum– Guswenta” (last visited 14 June 2020), online: *Onondaga Nation: People of the Hills* <www.onondaganation.org> [perma.cc/RL8G-NJCD].

imbedded in the treaty with both Nations negotiating as brothers, equals.⁹⁸⁷ Guswenta is the beadwork representation of, among other legal principles, that of non-interference:⁹⁸⁸

The Haudenosaunee explained to the Dutch that they did not use paper to record their history. They would make belts made of white and purple wampum shells. The Haudenosaunee made a belt to record this agreement. The belt has two purple rows running alongside each other representing two boats. One boat is the canoe with the Haudenosaunee way of life, laws, and people. The other is the Dutch ship with their laws, religion, and people in it. The boats will travel side by side down the river of life. Each nation will respect the ways of each other and will not interfere with the other. "Together we will travel in Friendship and in Peace Forever; as long as the grass is green, as long as the water runs downhill, as long as the sun rises in the East and sets in the West, and as long as our Mother Earth will last."⁹⁸⁹

Treaty obligations were often not equally upheld by both parties.⁹⁹⁰ Over time, settlers, in espousing Eurocentric constructs of knowledge prioritized the written word, effectively subjugated Indigenous knowledge systems and devalued Indigenous law.⁹⁹¹

Despite this shift in colonial narrative through the years,⁹⁹² "the historical record indicates that non-native contemporaries at the time understood the intellectual weight the wampum symbolized, carried, and communicated."⁹⁹³ As Professor Monture-Angus expressed in her work *Journeying Forward: Dreaming of First Nations Independence*, the use of beadwork to codify law was a question of longevity and resiliency, and not a question of Indigenous nations lacking

⁹⁸⁷ Keefe, *supra* note 975.

⁹⁸⁸ Gehl, *supra* note 74 at 55.

⁹⁸⁹ *Supra* note 986.

⁹⁹⁰ Haas, *supra* note 961 at 80.

⁹⁹¹ Grey, *supra* note 965 at 30.

⁹⁹² *Ibid* at 31.

⁹⁹³ Kelsey, *supra* note 959 at xv.

sophistication.⁹⁹⁴ By beading treaties, the principles were in fact elevated to a status above pen and ink:

There is a reason why we record our laws, our agreements and our treaties in shell: and it was not because we were inferior peoples. I do not believe that writing everything down is necessarily a very advanced idea or a sign of great humility. This is not how I experience it. When you write things down they are easily forgotten, as you assume the paper will do your job of remembering. When you write things down they are easily destroyed, for example by fire. But, if a wampum belt is thrown into the fire, the shells will still be there when the ashes are cool. If you have learned well, you will be able to put that wampum back together again. This is the standard of knowing the law that all Mohawks will be responsible to. The only way you can destroy a wampum belt is willfully. It cannot happen by accident. Those shells will last a very long time and the law of the people will be taught from those belts.⁹⁹⁵

Wampum belts are traditionally read from top to bottom, not left to right,⁹⁹⁶ by highly skilled knowledge holders.⁹⁹⁷ A legal war was waged against wampum readers on both the Canadian and American sides of the colonial border, with different jurisdictions mobilizing in different ways to devalue Indigenous law, Indigenous-settler agreements, and Indigenous political systems.⁹⁹⁸ In some cases, officials were empowered by legislation to impound wampum belts,⁹⁹⁹ as was the case with New York state's "Wampum Laws":

27. Custody of wampums. The university of the state of New York, which was duly elected to the office of wampum keeper by the Onondaga nation on February twenty-sixth, eighteen hundred and ninety-eight, and which by unanimous action of its regents on March twenty-second, eighteen hundred and ninety-eight, accepted such election as authorized to do by law, and which accepted the custody of the wampums as formally transferred to the chancellor as part of the exercises and with the unanimous approval, both of the election and transfer, by the council of the Five Nations held in the senate chamber of the capitol at Albany on June twenty-second, eighteen hundred and ninety-eight, by duly chosen representatives of all the original nations of the Hode-no-san-nee,

⁹⁹⁴ *Supra* note 18 at 37.

⁹⁹⁵ *Ibid.*

⁹⁹⁶ *Buchanan & Hewitt, supra* note 967 at 501.

⁹⁹⁷ *Ibid* at 493.

⁹⁹⁸ *Kelsey, supra* note 959 at xiv.

⁹⁹⁹ *Ibid.*

shall hereafter be recognized in all courts and places, as having every power which has ever, at any time, been exercised by any wampum-keeper of the Onondaga nation, or of any of the Ho-dc-no-sau-nee, otherwise known as the Five Nations, or the Six Nations, or the Iroquois, and shall keep such wampums in a fireproof building, as public records, forever, and is hereby authorized to secure by purchase, suit, or otherwise, any wampums which have ever been in the possession of any of the Ho-d-no-sau-nee, or any preceding wampum-keeper, and which are now owned by any of them or to which any of them is entitled, or to which it is entitled, in law or in equity, and to maintain and carry on suit to recover any of such wampums in its own name or in the name of the Onondaga nation at any time notwithstanding that the cause of action may have accrued more than six years, or any time, before the commencement of any such suit. The provisions of this section shall not apply to the subject matter of any litigation pending on March twenty-seventh, eighteen hundred and ninety-nine, in any court of this state.¹⁰⁰⁰

I wonder what Trish Monture¹⁰⁰¹ would say
of
fire-proof buildings
built on
(stolen) land
to guard
(stolen) wampum
forever

In other contexts, law enforcement officers such as the Royal Canadian Mounted Police were mobilized to disrupt intergenerational knowledge transfer of wampum teachings and impose colonial political systems on communities through the seizure of wampum belts.¹⁰⁰²

Repatriation of the belts seized in the United States did not begin in earnest until the Civil Rights era, with efforts continuing through the 1980s.¹⁰⁰³

debwewin:
colonization ongoing

¹⁰⁰⁰ Frederick E. Wadhams (ed.), Consolidated Laws of the State of New York, 1909 (New York: American Law Book Company., 1909) [emphasis added].

¹⁰⁰¹ *Supra* note 18 at 37.

¹⁰⁰² *Kelsey*, *supra* note 959 at xv.

¹⁰⁰³ *Ibid* at xvi–xvii.

Some argue that these acts of theft/seizure/legally sanctioned removal of wampum belts from communities/the possession of readers “were acts of international aggression”¹⁰⁰⁴ and “crimes against humanity on par with the Spanish campaign to burn the libraries that recorded Mayan and Aztec spiritual, cultural, and scientific knowledges.”¹⁰⁰⁵ Regardless of how the events are characterized, the reality is that this interference with physical access to wampum belts was devastating for communities, resulting in disruption of intergenerational knowledge transfer of legal knowledge held in the missing belts for many generations.¹⁰⁰⁶ This undermined/s the self-determination, intellectual and political, of communities and nations.

Remember: some wampum belts hold up to 10 000 beads, each individual bead carrying instructions. Further, wampum readers who are charged with carrying the law and teachings of the wampum on behalf of the community not only memorize “all of the words within the message of the law”¹⁰⁰⁷ but are also held to a standard of being able to recite and perform the law as articulated through the beadwork.¹⁰⁰⁸

I challenge
any
Western trained lawyer
to live up to a comparable standard
of legal literacy
and competency.

I also dare you to argue with me when I say that law lives in beads.

¹⁰⁰⁴ *Ibid* at xv.

¹⁰⁰⁵ *Ibid* at xiv–xv.

¹⁰⁰⁶ *Ibid* at xiv.

¹⁰⁰⁷ *Edge, supra* note 111 at 138.

¹⁰⁰⁸ *Ibid* at 138; *Haas, supra* note 961 at 86–89.

Métis (Floral) Beadwork

*Every culture is identified by its art. What it is that makes it unique, what identifies the artwork as Métis, that's really important.*¹⁰⁰⁹

*Métis art is important to Métis people, because it expresses some of the traditional art forms; capote-making, sash-making, beading and weaving. They come from both European and Aboriginal art forms but together, they mesh into something new. I think that's what the Métis are proud of.*¹⁰¹⁰

Wampum belts are not a part of the story of the Métis Nation as I know it, and to my knowledge Métis beadwork has never been used to embody treaty. As we will see in this section, however, Métis beadwork can, and does, carry Indigenous knowledge in many forms.¹⁰¹¹ Like wampum belts,¹⁰¹² Métis beadwork can be used as a mnemonic device.¹⁰¹³ As such, the work of modern Indigenous beadwork artists is considered a complement to "an important dimension to oral tradition, recording the beliefs of their people in a visual language of motifs and symbols."¹⁰¹⁴ Through this visual language, it can be mobilized to convey stories and songs¹⁰¹⁵ which, many scholars and thought leaders including Senator Murray Sinclair, Dr. Leanne Betasamosake Simpson, Dr. Darcy Lindberg, Dr. John Burrows, and Professor Sylvia McAdam, remind us, can carry law.¹⁰¹⁶

¹⁰⁰⁹ Parks Canada (Lisa Shepherd), "The Flower Beadwork People" at 00h:2m:10s, online (video): *YouTube* <www.youtube.com/watch?v=54ipBLZJ6L4>.

¹⁰¹⁰ Parks Canada (Karen Shmon), "The Flower Beadwork People" at 00h:00m:46s, online (video): *YouTube* <www.youtube.com/watch?v=54ipBLZJ6L4>.

¹⁰¹¹ See e.g. *Ray*, *supra* note 35 at 97.

¹⁰¹² *Haas*, *supra* note 961.

¹⁰¹³ *Ray*, *supra* note 35 at 97; *Racette*, *supra* note 150 at 318.

¹⁰¹⁴ *Edge*, *supra* note 111 at 136.

¹⁰¹⁵ *Ray*, *supra* note 35 at 97; *Racette*, *supra* note 150 at 318.

¹⁰¹⁶ See e.g. *Lindberg*, *supra* note 170 at 53; *Hewitt*, *supra* note 253 at 71; *Saysewahum (McAdam)*, *supra* note 121 at 23.

The work of Christi Belcourt is an excellent example of modern Métis artistic practice mobilized to revitalize Indigenous knowledge systems. Through her practice, one that extends from beadwork and paintings to textile collaborations with Pendleton Blankets,¹⁰¹⁷ the Valentino fashion house,¹⁰¹⁸ and Manitobah Mukluks,¹⁰¹⁹ Belcourt creates rich and layered resources for use in educational settings and communities that engage with multiple ways of knowing. A recent folio publication *Medicines To Help Us: Traditional Métis Plant Use*¹⁰²⁰ integrates several dialects of Michif, written teachings relating to traditional medicines, beadwork patterns, and image cards that can be assembled into a large-scale print incorporating visual language and beadwork aesthetic. Of her work, Belcourt says:

Like the generations of Aboriginal beadworkers before me, my art celebrates the beauty of flowers and plants while exploring their symbolic properties. I follow the tradition of Metis floral art, inspired by the traditional beadwork patterns of Metis and First Nation women, and use the subject matter of plants as a metaphor for our own lives to relay a variety of meanings which include concerns for the environment, biodiversity, spirituality and awareness of Metis culture. This journey has led me on an exploration into traditional Metis art, Metis history, traditional medicines and contemporary issues that face Metis in modern times.¹⁰²¹

Métis artist Kelly Duquette's artistic practice also incorporates elements of beadwork that act as a vehicle of knowledge transfer, specifically historic-legal knowledge. For example, in her 2018 piece "KAASHKIKWAATA – MEND," Duquette presents a "visual depiction of the mediation

¹⁰¹⁷ "The Manitobah Blanket" (last visited 19 August 2020), online: <pendleton.ca> [perma.cc/5MAF-LAPX].

¹⁰¹⁸ Nick Walker, "Artist Christi Belcourt On The Inspiration of Nature", *Canadian Geographic* (1 December 2015), online: <www.pressreader.com/canada/canadian-geographic/20151201/281590944473392>.

¹⁰¹⁹ "Belcourt Gatherer" (last visited 19 August 2020), online: <pendleton.ca> [perma.cc/KC2U-EPUA].

¹⁰²⁰ Christi Belcourt with Flamand & Laura Burnouf with Rose Richardson, *Medicines To Help Us: Traditional Métis Plant Use* (Saskatoon: Gabriel Dumont Institute, 2007).

¹⁰²¹ *Edge*, *supra* note 111 at 136.

process and its benefits within the practice of Family Law” using acrylic paint, dispersion pigments, pouring medium and beadwork on stretched canvas.¹⁰²²



Figure 17: Kelly Duquette's "KAASHKIKWAATA – MEND"¹⁰²³

Her 2017 work "To Reconciliation Wrongs," meanwhile, includes visual art of layered acrylic paint, gold leaf, pouring medium and beadwork on canvas, a written narrative piece exploring questions of Métis participation on juries, and poetry written to accompany the whole.

*He hangs
A community other than his own
Gives birth to his death
Two worldviews exist in a single space
There is only room for one
The dominant one wins
Again
It is still winning.*

- Kelly Duquette¹⁰²⁴

¹⁰²² Kelly Duquette, "Kelly Duquette Art" (last visited 16 August 2020), online: *Art Gallery: Kaashkikwaata- Mend* <kellyduquetteart.com> [perma.cc/8SQP-MJ2T].

¹⁰²³ *Ibid.* Photo credit: Kelly Duquette. Image used with permission.

¹⁰²⁴ *Ibid.*



Figure 18: Kelly Duquette's "To Reconciliation Wrongs"¹⁰²⁵

Duquette's practice also represents a layering of knowledge systems as articulated through her *process*, which frequently involves the physical layering of paint over resin that is later removed to provide depth to the work.¹⁰²⁶ Small elements of incomplete beadwork incorporated into this artwork on canvases, stretched on to wood frames built by the artist, speak to colonial disruption in intergenerational knowledge transfer in Duquette's life.¹⁰²⁷ The inclusion of beads also

¹⁰²⁵ Kelly Duquette, "Kelly Duquette Art" (last visited 16 August 2020), online: *Art Gallery: To Reconciliation Wrongs* <kellyduquetteart.com> [perma.cc/8SQP-MJ2T]. Image used with permission.

¹⁰²⁶ CBC News, "Kelly Duquette Connects to Her Métis Culture Through Art" (16 March 2019), online (video): *YouTube* <www.youtube.com/watch?v=9Mk9cLgkml>.

¹⁰²⁷ *Ibid.*

represents resurgence and hope as Duquette reclaims her cultural identity, and finds her voice as a Métis woman, through art.¹⁰²⁸

In the case of my own beadwork practice, beads have been known to carry knowledge of law, relationships, and community. A recent example can be found in a piece beaded in the winter of 2020, “Ooma moon keur kanawaymisho (Here is my heart, take care).” This piece, beaded from a pattern drawn by Tara Rose McDonald, was created to gift to a newly appointed Supreme Court Justice during a welcome reception held at our Faculty.

Gift-giving is considered by some Indigenous peoples to be a form of ceremony, one intended “to honour and show appreciation for specific individuals.”¹⁰²⁹ Other times gift-giving is an economic practice contributing to a subsistence economy in ways frequently misunderstood by settlers.¹⁰³⁰ Sometimes, gift-giving occurs as a combination of both conceptualizations, or in a different form altogether.

For many years, gift-giving as a form of ceremony was impacted by, and restricted under, provisions of the *Indian Act*,¹⁰³¹ but law and policy were ultimately unable to excise gift-giving practices from the fabric of our various Nations and communities. In my experience, gift-giving often takes the form of food; I personally give and receive food-oriented gifts of traditional and “country” foods¹⁰³² on a regular basis. Dr. Shawn Wilson also shares a teaching about an experience when a group of

¹⁰²⁸ Kelly Duquette, “Kelly Duquette Art” (last visited 16 August 2020), online: *About Me* <kellyduquetteart.com> [perma.cc/MQ2S-CG4W].

¹⁰²⁹ *Prete*, *supra* note 938 at 31.

¹⁰³⁰ *Grey*, *supra* note 965 at 9.

¹⁰³¹ *Prete*, *supra* note 938 at 31.

¹⁰³² *Vowel*, *supra* note 20 at 69–71.

students welcomed him to a conference with gifts of food, explaining that gifts were given on the understanding that he “had to temporarily set other relationships aside in order to build this relationship with them, and this was a way that they could show their appreciation.”¹⁰³³ In the context of education, food gifts are culturally coherent, embodying teachings that sharing a meal allows us to physically ingest what we are learning as we gather in community.



Figure 19: Food gifts, autumn 2019

While the gifting of broadcloth and sacred medicines, such as tobacco, is common and considered traditional in some communities,¹⁰³⁴ beads and beadwork are also frequently given and received as gifts.¹⁰³⁵ Of beadwork artists, Dr. Sherry Farrell Racette shares: “Through collaboration and gift

¹⁰³³ Wilson, *supra* note 14 at 80.

¹⁰³⁴ See generally *Bearhead, Bearhead & Mustooch*, *supra* note 156. (I believe it is inappropriate for me to share the tobacco offering protocols in this forum, but I invite readers to refer to this publication to begin their learning journey).

¹⁰³⁵ This has been my personal experience, and is confirmed as a broader practice that extends well beyond my office in. See *Prete*, *supra* note 938 at 31.

giving, they formed enduring bonds between family members that reached out into the larger community.”¹⁰³⁶

In one remarkable example that I recall seeing images of as a child, Harry Daniels removed his beaded hide jacket and gifted it to Pope John Paul II.¹⁰³⁷ It was not until these many years later in reading the work of Dr. Farrell Racette that I recalled the image of the pope being spontaneously gifted beadwork by a leader of the Métis Nation. Unplanned gifting is so natural in my community that it had never occurred to me that such an act might have been bewildering to some. Though I have personally experienced it from both the perspectives of giver and giftee several times, it was only through exploration of Dr. Farrell Racette’s work that I came to know that this form of gifting, the practice of instinctively offering clothing off one’s own back, is known as “dressing.”¹⁰³⁸

Gift-giving usually engages elements of responsibility and reciprocity, and these elements take on special meaning when certain gifts are offered. This is the case, for example, with the gifts of wampum strings and belts; as Dr. Angela Haas shares, “accepting a gift of wampum meant that the recipient accepted its implied message and responsibility.”¹⁰³⁹ In the case of “Ooma moon keur kanawaymisho (Here is my heart, take care)” the piece was designed and sewn with

¹⁰³⁶ *Supra* note 150 at 297.

¹⁰³⁷ Lawrence Barkwell, “Harry Daniels” (15 August 2012), online (pdf): *Louis Riel Institute* <metismuseum.ca> [perma.cc/HB8D-A8LH].

¹⁰³⁸ *Racette, supra* note 150 at 217.

¹⁰³⁹ *Supra* note 961 at 80.

intention, each stitch carrying a hope that we could build a relationship with the new Justice in a good way, and that he might receive the gift and its teachings with an open heart.



Figure 20: Ooma moon keur kanawaymisho (Here is my heart, take care) pattern

“Ooma moon keur kanawaymisho (Here is my heart, take care).” evokes the multiplicity of legal systems and orders operating on Turtle Island and across the territories collectively referred to as Canada.¹⁰⁴⁰

¹⁰⁴⁰ The descriptor paragraphs are based on or borrowed from the written description of the piece that was framed and gifted to the Justice along with the art in February 2020. These paragraphs were written by me and reviewed by Tara Rose McDonald prior to the gifting. The written word that accompanies the beadwork serves as a pedagogical bridge, helping interpret or translate the beadwork for viewers of the art who may not have access to the oral teachings of the artists. It is with Tara Rose’s permission that I share our legal art here.



Figure 21: Ooma moon keur kanawaymisho (Here is my heart, take care) early development work

(Photo credit: Tara Rose McDonald)

The blue fleur de lys symbolizes the civilian legal systems operating in the province of Québec, while the white trillium reminds us that the common law governs much of the legal landscape in the rest of Canada, including in Ontario where the Supreme Court of Canada resides on unsundered Algonquin territory. Symbols of these two legal systems are surrounded by flowers, plants, and berries native to northern Turtle Island, reminding us that countless Indigenous Laws and Legal Orders have continuously operated on these territories since time immemorial.

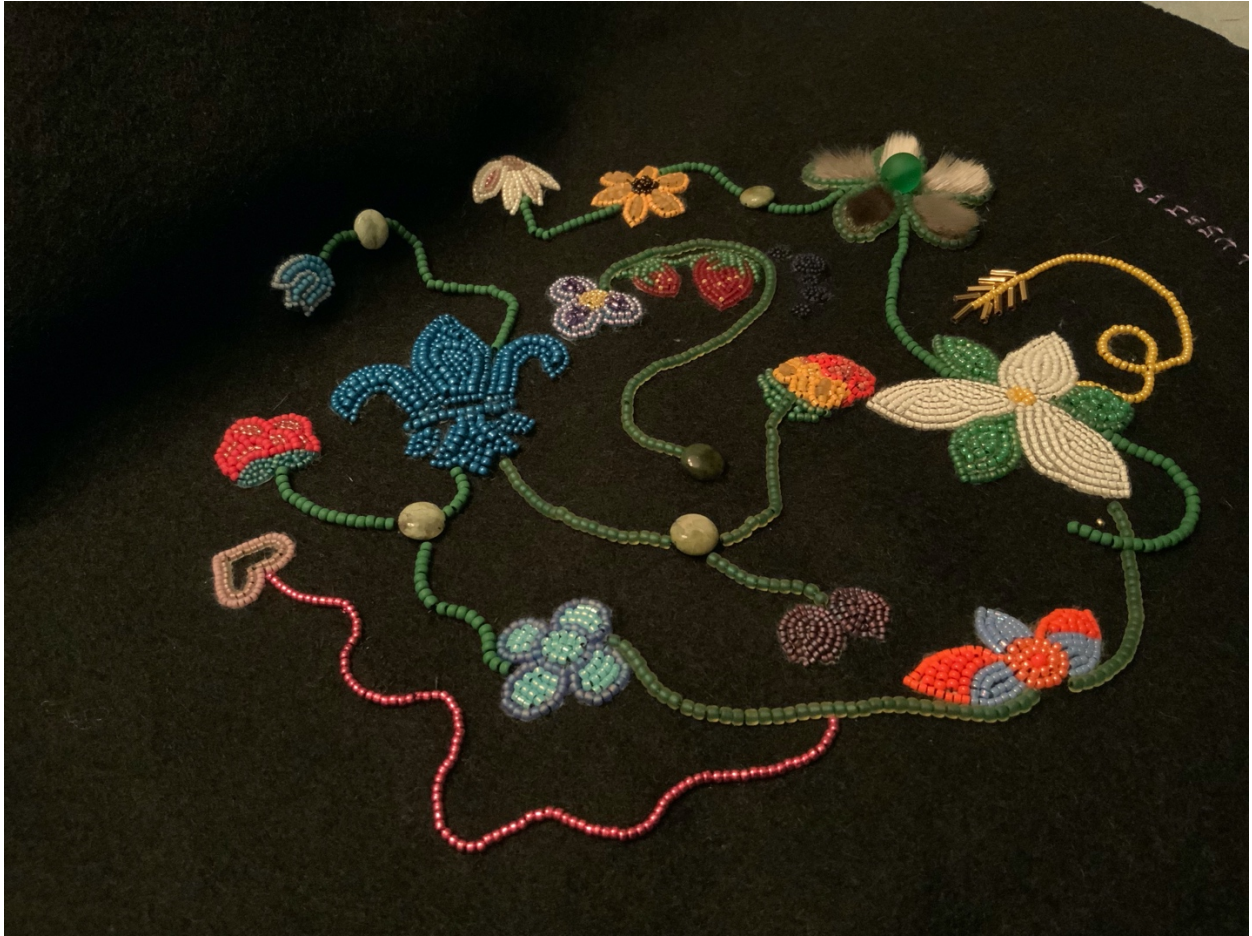


Figure 22: Ooma moon keur kanawaymisho (Here is my heart, take care) detail

In this contemporary interpretation of a Métis vine that will traditionally incorporate seeds, leaves, buds, and flowers, seeds are represented by green opals that punctuate intersections and sometimes denote disruptions in law. Green opals were chosen in honour of my children.

The vine is not rooted in any one place. At the “base” of the round piece, turquoise and purple and orange and blue flowers evoke the final reports of the National Inquiry into Missing and Murdered Indigenous Women and Girls and the Truth and Reconciliation Commission of Canada, respectively. These are, in turn, rooted in Law with Heart and the belief that there is

space for love, community, and respect for fundamental human and inherent rights of Indigenous peoples within a healthy Canadian legal landscape.



Figure 23: Ooma moon keur kanawaymisho (Here is my heart, take care) fleur de lys detail

Our laws govern our relationship to the land, water, and all our relations. Berries play an important role in many communities: harvest is governed by our laws, and ceremony can govern their consumption. Heart berries (strawberries) carry a particular significance for the artists. Berries from across Canada figure prominently in this piece, from heart berries and blueberries to cloudberrries of the North, and saskatoons from Ontario and the west.

In the North, a flower of seal skin gifted by the artist who spent time living in Nunavut on Inuit territory is grounded in green glass beads. Golden wheat emerging from the white trillium speaks to the displacement of many Indigenous peoples who must relocate and reside as visitors on territories that are not their own to access healthcare, secure housing, or to pursue education and employment opportunities.



Figure 24: Ooma moon keur kanawaymisho (Here is my heart, take care) trillium detail

A rosebud serves as a nod not only to the interactions between common law and civilian legal traditions in Québec, but also to the pattern artist, Tara Rose, and Miss R, my eldest daughter.

A bluebell, prairie crocus, and brown-eyed Susan exist alongside a tundra flower, reminding us the wide geographic differences between Indigenous Nations and the breath, depth, and resilience of Indigenous laws that continue to operate and flourish even in the most challenging climates.



Figure 25: Ooma moon keur kanawaymisho (Here is my heart, take care)

“Ooma moon keur kanawaymisho (Here is my heart, take care)” is ultimately a modern take on Métis floral beadwork, designed to embody principles of legal pluralism. In the section that

follows, we will discuss the history of Métis beadwork practice and the emergence of Métis beadwork aesthetic grounded in floral motifs. Intergenerational knowledge transfer, the impact of colonial disruption and epistemicide will be discussed in parallel with conversations about how beadwork travelled and evolved, sometimes serving as part of a cultural economic enterprise that sustained families of the Nation.¹⁰⁴¹ Finally, I will situate beadwork as a meditative and therapeutic community practice.

¹⁰⁴¹ *Battiste, supra* note 1 at 20.

The Flower Beadwork People

Art plays a critical role in story of the Métis Nation,¹⁰⁴² and I would argue that beadwork is one of our most important art forms. So pervasive and recognizable was Métis beadwork that other Indigenous nations bestowed upon us the moniker of the Flower Beadwork People.¹⁰⁴³

Yes, beads are such an integral adornment to the fabric of our Nation that our nickname literally has the word “beadwork” in it.

In this section, discussion of floral themes will be woven throughout the conversation. At times I refer to “our” beadwork, “my” beadwork, or the beadwork of “my Nation.” This is for readability of the chapter. However, to be clear from the outset: my Nation does not hold a monopoly on the creation of floral beadwork. As Dr. Farrell Racette reminds us:

[I]t is clear that Métis and Half-Breed artistic expressions are overwhelmingly, but not exclusively, floral. But I would caution readers to remember that while Métis women created a rich floral aesthetic and played a critical role in its development and diffusion, they were not alone. All floral beadwork is not Métis. I have found no neat linear progressions or rigid boundaries. The distinctions that existed were fluid and always shifting. There is a complex multi-dimensionality that embraces place, time, relationships, movement and trade. There are hints of the collective aesthetic that I have described here, but I have shied away from asserting a more definitive artistic territory.¹⁰⁴⁴

With that disclaimer in mind, I am honoured to share with you a little about our beads.

“I love beads, Mama.
Please quote me in your thesis.”

1045

¹⁰⁴² *Parks Canada (Karen Shmon)*, *supra* note 1010.

¹⁰⁴³ Sherry Farrell Racette, *The Flower Beadwork People*, translated by Norman Fleury (Saskatoon: Gabriel Dumont Institute, 2009) at 13.

¹⁰⁴⁴ *Supra* note 150 at 329.

¹⁰⁴⁵ The tiniest of the Tiny Trio, aged 3 years. July 2020.

While the production of glass seed beads originated in Murano, Italy in the 14th century, the earliest appearance of seed beads on Turtle Island has been dated to the mid 18th century.¹⁰⁴⁶ Larger glass beads and “pony beads” – named for the shipping method, as beads were carried by horses across the plains¹⁰⁴⁷ – were introduced to the prairie through the end of the 18th century, and by approximately 1830 seed beads had become more readily available in the Northwest.¹⁰⁴⁸ By 1885, Czech seed beads began to appear in the North American bead supply.¹⁰⁴⁹

While largely unnecessary for our purposes here, the following description of the production of seed beads is so marvelous I must share it:

“Seed beads” is a term used to refer to small round beads no larger than two millimeters in diameter. Seed beads are produced by drawing a blown bubble of glass attached to the end of a solid iron rod... out into a long hollow tube as much as 150 feet long. The completely cooled cane is then broken into bead-sized segments, in the early days with a sharp instrument, today by the use of a guillotine-like machine which actually “control fractures” the glass. ... The sharp edges of the newly cut beads are rounded by tumbling them cold in a drum of sand and wood ashes to fill in the center holes, heating and stirring them until the edges have softened, then agitating them to sift out the sand and ashes.¹⁰⁵⁰

Seed beads come in a variety of sizes – the larger the number, the smaller the bead.

When I manage to source vintage Venetian beads in size 18 or 20 and I don my headlamp to inspect my treasures, like Karon Shmon I find myself thinking of the ancestors who

¹⁰⁴⁶ *Edge, supra* note 111 at 133–34.

¹⁰⁴⁷ *Racette, supra* note 150 at xi.

¹⁰⁴⁸ *Edge, supra* note 111 at 134.

¹⁰⁴⁹ Michelle Stephanie Tracy, *A Bead Box of My Own: The Beadwork of Métis Artist Philomene Umpherville* (MA Dissertation, University of Alberta, 2003) [perma.cc/AQ5E-3C3V] at 164.

¹⁰⁵⁰ *Ibid* at 164.

would have beaded with these impossibly tiny beads by oil lamp, after full days of demanding labour, and likely without reading glasses.¹⁰⁵¹

Métis beadwork practice emerged along with the Métis Nation through the late 18th and early 19th century, with the practice of creating garments adorned with beadwork, quillwork, and embroidery firmly established by the mid-19th century.¹⁰⁵² Generally speaking, two distinct styles are recognizable within the broader body of historic Métis beadwork: that of Red River Métis, and those works emanating from the Mackenzie River delta and subarctic Métis communities.¹⁰⁵³

With trade in objects, like beads, fabric, and even wallpaper, came trade in ideas.¹⁰⁵⁴ European goods carrying floral motifs arrived on the prairie via traders, which in turn inspired beadwork artists.¹⁰⁵⁵ As Jennine Krauchi shares: “They started getting the French embroidery patterns, seeing what they saw in nature, even telling stories in their beadwork, and so they came up with their own style of beadwork.”¹⁰⁵⁶

Many credit the Grey Nuns with bringing floral embroidery techniques to Red River,¹⁰⁵⁷ building on the teaching practices of the Ursuline Nuns in Montréal beginning in the 17th century.¹⁰⁵⁸ Eurocentric education had an undeniable influence on some of the artists in Red River: while

¹⁰⁵¹ Parks Canada, “The Flower Beadwork People”, online (video): *YouTube* <www.youtube.com/watch?v=54ipBLZJ6L4>.

¹⁰⁵² *Edge*, *supra* note 111 at 130.

¹⁰⁵³ *Ibid* at 127.

¹⁰⁵⁴ *Kelsey*, *supra* note 959 at 10.

¹⁰⁵⁵ *Ibid*.

¹⁰⁵⁶ *Supra* note 1051.

¹⁰⁵⁷ Emily Hearn “Beading Our Identity: “The Flower Beadwork People” (last visited 4 June 2020), online: *Guelph Arts Council* <guelpharts.ca> [perma.cc//REK6-M75Z].

¹⁰⁵⁸ *Edge*, *supra* note 111 at 169.

many girls and women developed their sewing skills through intergenerational knowledge transfer at home, some girls who attended mission schools were taught European techniques based on European floral designs by the Grey Nuns.¹⁰⁵⁹ These practices would have been carried home and shared. Some seem to suggest that the emergence of floral motifs in the local artscape was not always a purely artistic choice, but rather may have represented a manifestation of colonialism through European influence enforced in schools.¹⁰⁶⁰

Dr. Sherry Farrell Racette, however, notes that the earliest examples of Métis floral beadwork predate the arrival of the Grey Nuns in Red River.¹⁰⁶¹ Her research further demonstrates that local community members were employed as educators at mission schools through the 1830s, and thus sewing instruction in schools would not have been the exclusive purview of the Grey Nuns.¹⁰⁶² Dr. Farrell Racette also reminds us that even those children who practiced sewing as part of curriculum at school continued to learn technique at home from mothers and grandmothers.¹⁰⁶³

I often think of this: the first school for girls was established at Red River in 1829, with several mission and Company schools to follow by 1840,¹⁰⁶⁴ just a few years before Edwin Denig, Betsy, and their children settled at White Horse Plain.¹⁰⁶⁵ The historical record seems to indicate that one of the motivating factors for relocating to Red River was that

¹⁰⁵⁹ *Ibid* at 130.

¹⁰⁶⁰ *Kelsey, supra* note 959 at 10.

¹⁰⁶¹ *Supra* note 150 at 226.

¹⁰⁶² *Ibid* at 221–22.

¹⁰⁶³ *Ibid* at 227.

¹⁰⁶⁴ *Ibid* at 225.

¹⁰⁶⁵ *Supra* note 132 at xxv.

his daughters did not have access to schools in “Indian Country.”¹⁰⁶⁶ I wonder if Sarah and her sister ultimately studied in a Hudson’s Bay Company school, or a Roman Catholic mission school.¹⁰⁶⁷ If they did attend school when they made their home under the big sky of modern-day Manitoba, they must have sewn. It was a priority in the curriculum, after all.¹⁰⁶⁸ I wonder if any of their efforts are held in Professor Scofield’s repatriated collection that contains the work of the unknown artists of the Métis Nation.

As we have discussed in earlier chapters, I know very little of the lives of my female ancestors beyond the generations I have known personally. What I do know about the past generations has been filtered through the Eurocentric male gaze. I am not alone in this experience; the roles and lives of Indigenous women was largely subject to erasure or silencing, and this across the board.¹⁰⁶⁹

Further, for many Métis youth today, access to community, kin, and teachings has been limited or disrupted by colonial law and policies.¹⁰⁷⁰ Changes to beadwork practice resulting from colonial disruption and epistemicide are unfortunate but necessary conversations in what I had hoped would be a mostly joyful chapter of this dissertation. One such example of colonial disruption relates to voluntary and involuntary departures from one’s home territory. Indigenous people relocate for all the reasons people move. We are people after all: for family

¹⁰⁶⁶ *Ibid* at xxiii.

¹⁰⁶⁷ *Edge*, *supra* note 111 at 169.

¹⁰⁶⁸ *Ibid* at 169; *Racette*, *supra* note 150 at 221 and following.

¹⁰⁶⁹ See e.g. *Saysewahum (McAdam)*, *supra* note 121 at 81; *Altamirano-Jiménez & Kermoal*, *supra* note 530 at 5; *Kermoal*, *supra* note 348 at 109.

¹⁰⁷⁰ Métis Nation of Ontario, “MNO Youth Testify Before the Standing Committee on Aboriginal Peoples” (22 June 2016) at 00h: 00m: 41s, online (video): <youtube.com> [perma.cc/2FGK-AZCK].

considerations, to pursue educational or employment opportunities, for a change in scenery. This kind of Indigenous mobility, that which could be considered “imbued with agency,” is understood by Dr. Leanne Betasamosake Simpson as an act of resurgence.¹⁰⁷¹

Other times, Indigenous mobility is dictated or transformed by colonial forces.¹⁰⁷² People relocate or are relocated, often to urban centres, due to systemic discrimination entrenched in the law,¹⁰⁷³ or in response to acute failings of law including lack of basic infrastructure impacting access to potable water,¹⁰⁷⁴ housing,¹⁰⁷⁵ or health services.¹⁰⁷⁶

Relocation, whatever the driver, often means disrupted community connections, including limited access to kin and knowledge keepers.¹⁰⁷⁷ As Dr. Leanne Betasamosake Simpson reminds us, “many Indigenous peoples are attached and in love with our homelands regardless of where we live.”¹⁰⁷⁸ We should therefore not underestimate how displacement from our homelands impacts Indigenous peoples. In my personal experience, trauma can occur even in the case of “voluntary” relocation, and sometimes emerges over time.¹⁰⁷⁹ Diasporic and urban communities can be vibrant and strong, but they are different from the communities of grandmothers,

¹⁰⁷¹ *Supra* note 185 at 197.

¹⁰⁷² *Ibid* at 196–97.

¹⁰⁷³ See *Vowel*, *supra* note 20 at 181.

¹⁰⁷⁴ *Ibid* at 213.

¹⁰⁷⁵ See Standing Senate Committee on Aboriginal Peoples, “On-Reserve Housing and Infrastructure: Recommendations for Change”, (June 2015) (Chair: Dennis Glen Patterson).

¹⁰⁷⁶ “Social Determinants of Health: Access to Mental Health Services as a Social Determination of First Nations, Inuit and Métis Health” (2019) at 3, online (pdf): <nccih.ca> [perma.cc/V7GG-SJ26].

¹⁰⁷⁷ See *Vowel*, *supra* note 20 at 191.

¹⁰⁷⁸ *Supra* note 185 at 195.

¹⁰⁷⁹ *Ibid* at 196–97. Simpson speaks to how relationships to place evolve over time.

mothers, and aunties, tied to home territories, where our ancestors would have learned handwork.

For a panoply of reasons, including colonial and geographic disruption, my own practice did not come to me through intergenerational knowledge transfer. Instead, I began my beadwork journey in adulthood, as a direct response to trauma experienced in the Faculty of Law.

My sister,
wearing her auntie hat,
gave me permission to say “fuck” in my thesis.
Multiple times.
Here it is folks: fuck.
I simply cannot explain
in gentle words
my
(fucking)
anger
that not even the
(fucking)
beadwork chapter
can be untouched by
layered
(fucking)
colonial violence.
Okay folks.
I’m okay.

In the previous chapter, I credited my multiple blanket exercise experiences and my subsequent rejection of shame as a teaching pedagogy with prompting me to think seriously about spaces for beadwork in the context of legal education. In reality, I should probably give my blanket exercise experiences far more credit, for it was my second-day-of-work odyssey that started me off on my beadwork journey in the first place.

My practice developed in what many acknowledge to be a very authentic way for me: I decided to bead not a small reasonable sampler or earrings or a set of moccasin vamps, but rather a twenty-four-pocket trilingual advent calendar for my children. Why crawl when you can jig?



Figure 26: First beads.

In fairness to my artistic process, I had long danced around beadwork practice. In childhood, I did basic embroidery, latch hook, and cross-stitch under supervision of my nana. As a southpaw in a right-handed world, knitting was challenging but I persevered, and my nana eventually taught me not only the garter stitch but also casting on and casting off. There are many, many boring but tight-knit scarves in my past. As an adult, I practiced felt work, sometimes experimenting in mixed media with felt and acrylic paint on canvas, other times creating bridal bouquets of feltwork and embroidery. I have dabbled in drum making, with the off-centre handle on my first collaborative attempt still haunting my dreams, and when I pull out sandpaper my children know

to steer clear with a whisper of “let’s go read, mama’s going to paint something.” Long before beads entered my orbit, I included five-petal flowers, a recognized motif of traditional Métis beadwork, in my craft.

As Métis beadwork emerged as a distinctive cultural practice, handwork began to travel beyond Red River. Pieces of beadwork would travel with employees of the Companies, their children, military, and political envoys to find homes around the world.¹⁰⁸⁰ While their beads travelled, our ancestors continued to pass down teachings from grandmother to mother to daughter, from aunties to nieces.¹⁰⁸¹ As previously mentioned, this intergenerational knowledge transfer resulted in distinct beadwork styles evolving in different communities.¹⁰⁸²

In some cases, beadwork accompanied beadworkers as they left Red River to find new homes elsewhere in the Northwest following the Resistances in 1870 and 1885.¹⁰⁸³ Arriving in, or establishing, new communities, Métis beadwork practice could influence aesthetic sensibilities in the new spaces. Dr. Lois Edge, citizen of the Northwest Territories Métis Nation,¹⁰⁸⁴ describes this phenomenon as it manifested in Dene territory, remarking that the Métis artists acted as “as agents of change in the decorative arts of Dene clothing fashions,” influencing not only patterns and motifs, but also artistic technique.¹⁰⁸⁵

¹⁰⁸⁰ Gregory Scofield, “There is a story to this wee c.1850-60’s Cree-Métis child’s “smoking” hat that was found in the UK. It was likely a mother’s gift sent with the little boy of an HBC employee. That it remained in the UK is the story. That it’s so elaborate and beautiful is the important story.” (3 June at 18:20), online: *Twitter* <twitter.com/gregoryscofield/status/1268306522313945088> [perma.cc/FM8C-LL3W].

¹⁰⁸¹ See e.g. *Denig*, *supra* note 145 at 126.

¹⁰⁸² See *Racette*, *supra* note 150.

¹⁰⁸³ *Edge*, *supra* note 111 at 187.

¹⁰⁸⁴ “Lois Edge” (last visited October 9 2020), online: *Edmonton Heritage Council* <edmontonheritage.ca> [perma.cc/D5A5-BCM5].

¹⁰⁸⁵ *Supra* note 111 at 187 and following.

Other times, beadwork would travel without the artists through a vehicle described by some scholars as a “cultural economic enterprise” – traditional or artistic practices sold and traded to bridge economic gaps in Indigenous households.¹⁰⁸⁶ Though often unexamined, undocumented,¹⁰⁸⁷ or undervalued,¹⁰⁸⁸ economic practices form a part of the complex knowledge systems, lived and embodied, held by Indigenous women.¹⁰⁸⁹ The economic enterprise surrounding beadwork commodified creative practice,¹⁰⁹⁰ and this women’s work sustained many Métis families during difficult economic times.¹⁰⁹¹ Beadwork could, for example, be exchanged for goods or credit at Hudson’s Bay Company trading posts.¹⁰⁹² Some beadwork was commissioned,¹⁰⁹³ and other works were expressly created for foreign¹⁰⁹⁴ or local settler markets.¹⁰⁹⁵ Métis Elder Maria Campbell teaches:

Around them the women, who are the nurturers and protectors of the nation. In thinking of all this I am reminded of two things – one of them, as I said earlier, is how hard my mom and aunties worked. I do not remember any of them ever sitting around, and if they did sit, they were beading, embroidering, making baskets, or hooking and braiding rugs, all to be sold to the trader who came from Winnipeg every spring or to local white people. This money supplemented the family’s income, and believe me there were times we would not have made it were it not for this fine work.¹⁰⁹⁶

¹⁰⁸⁶ *Battiste*, *supra* note 1 at 20.

¹⁰⁸⁷ *Edge*, *supra* note 111 at 202.

¹⁰⁸⁸ Kathy L Hodgson-Smith & Nathalie Kermoal, “Community-Based Research and Métis Women’s Knowledge in Northwestern Saskatchewan” in Nathalie Kermoal & Isabel Altamirano-Jiménez, eds, *Living on the Land: Indigenous Women’s Understanding of Place* (Edmonton: Athabasca University Press, 2016) 139 at 164.

¹⁰⁸⁹ *Altamirano-Jiménez & Kermoal*, *supra* note 530 at 10.

¹⁰⁹⁰ *Kermoal*, *supra* note 348 at 128.

¹⁰⁹¹ Maria Campbell, “Charting the Way” in Nicole St-Onge, Carolyn Prochny & Brenda MacDougall, eds, *Contours of a People: Métis Family, Mobility, and History* (Norman: University of Oklahoma Press, 2012) at xxiii.

¹⁰⁹² *Edge*, *supra* note 111 at 130.

¹⁰⁹³ *Ibid.*

¹⁰⁹⁴ *Grey*, *supra* note 965 at 10.

¹⁰⁹⁵ *Campbell*, *supra* note 1091 at xxiii.

¹⁰⁹⁶ *Ibid.*

This is certainly not a historic or defunct practice: beadwork remains an important part of cultural economic enterprise sustaining Indigenous families today. In the case of our Faculty of Law for example, several of my Learners have developed their beadwork practices through circle and, using online and social media platforms, sell their work to help offset the costs of their legal educations.¹⁰⁹⁷

The context of how beadwork travelled through both cultural (gifting or creation for personal family use) and economic (sale or barter) mechanisms is critical in understanding the layered importance of beadwork practice to the health of Métis Nation. Professor Gregory Scofield, Red River Metis scholar of Cree, Scottish and European descent whose ancestry can be traced to the fur trade and to Metis community of Kinosota, Manitoba, works to repatriate Métis beadwork and silk embroidery from private collections around the world, and share stories of how the art travelled, including engaging with difficult questions of ownership and place with the broader community.¹⁰⁹⁸ Mobilizing his academic knowledge production online via social media, Professor Scofield shares the results of his labour and research in an accessible way that contributes to the common pool of knowledge of the Métis Nation. This online mobilization of knowledge speaks to an understanding that Indigenous knowledge should be collectively held for the benefit of the entire community and reflects Dr. Shawn Wilson’s teaching that as Indigenous scholars we

¹⁰⁹⁷ “simple_simon28” (last visited 8 August 2020), online: *Instagram* <www.instagram.com/simple_simon28/?hl=fr-ca>; “beadedbydawn” (last visited 8 August 2020), online: *Instagram* <www.instagram.com/beadedbydawn/?hl=fr-ca?>>; “Daanis & Ogiin Beadz of Thingz” (last visited 8 August 2020), online: *Facebook* <www.facebook.com/Daanis-Ogiin-Beadz-of-Thingz-127424359061720>.

¹⁰⁹⁸ “Gregory Scofield” (last visited August 4 2020), online: *University of Victoria Law* <uvic.ca> [perma.cc/F498-44HZ].

cannot “claim ownership over any information that belongs collectively to Indigenous peoples.”¹⁰⁹⁹

The (incomplete) stories of two pieces of handwork repatriated by Professor Schofield have continued to resonate with me long after I interacted with their visual records online.

The first is the story of the child’s cap.



Figure 27:

Professor Gregory Scofield's
virtual knowledge
mobilization, June 3, 2020.¹¹⁰⁰

“That it remained in
the UK is the story.
That it’s so elaborate
and beautiful
is the
important
story.”

1101

¹⁰⁹⁹ *Supra* note 14 at 131-132.

¹¹⁰⁰ *Supra* note 1080.

¹¹⁰¹ *Ibid.*

Today, as the result of travels such as the journey taken by the child's cap, the art of the women of the Métis Nation can be found around the world – in private collections and in collections on public display. Much of the beadwork on display in public spaces, including the National Gallery of Canada, is identified as 'artist unknown.' Dr. Lois Edge shares:

To the earlier amateur and museum collectors, only a woman's handiwork, not the woman, was of consequence. Those past artisans are nameless and unknown to us... From afar in space and time, we admire the skill and artistry of the anonymous women whose accomplishments are revealed in museum collections to be found throughout North America and Europe.¹¹⁰²

The lack of information about artworks on display results from a convergence of phenomena grounded in colonialism, including the mixed-medium composition of works incorporating hide, furs, beads, silk thread, and quills, challenging assumptions of what qualified as "art" under Eurocentric constructs.¹¹⁰³ The subjugation of Indigenous women's knowledge also contributed to the invisibility of individual artists, as collectors paid little mind to the question of who generated works perceived to be "the product of a communal tradition."¹¹⁰⁴

While it is not unexpected, this erasure of individual artists from the record is a colonial violence. In the modern beadwork artscape interacting with beadworkers in person and now, during times of Covid-19, primarily online, one quickly becomes familiar with the work and style of specific artists. On the basis of photos alone, one can develop an ease in identifying the work of established beadwork artists much in the same way one might recognize the distinctive work of Jean-Paul Riopelle, Norval Morisseau, Kenojuak Ashevak, Lawren Harris, or Alexander Coville. As

¹¹⁰² *Supra* note 111 at 167.

¹¹⁰³ *Tracy*, *supra* note 1049 at 5.

¹¹⁰⁴ *Ibid* at 7.

one modern beader expressed: “Just as we are able to recognize regional variation, in terms of the colours, patterns and designs, I am becoming confident that if one spent enough time that one would be able to recognize the work of an individual at a glance.”¹¹⁰⁵

I agree, and suspect that contemporaries of the most prolific beaders whose work is on display in museums and galleries would have very likely been able to assist curators in matching works to their artists,¹¹⁰⁶ had anyone considered handwork worthy of the name “art.”¹¹⁰⁷ Sadly, beadwork travelled to the far reaches of the globe not necessarily as art, but rather as “curiosities” serving to authenticate travelers’ experiences amongst uncivilized peoples in the New World.¹¹⁰⁸ Further, some researchers suggest that “Indigenous beadwork became popular with non-Indigenous women as it came to represent their own success in colonizing the Indigenous people.”¹¹⁰⁹ The lack of care in preserving the names of individual artists is largely unsurprising, I suppose, given the colonial context.

Following visits to Turtle Island, travellers would sometimes return to Britain with substantial collections of seemingly random objects collected from various Indigenous communities.¹¹¹⁰

Malinda Gray, Ojibway Anishinaabe kwe, Caribou Clan from Lac Seul Band and doctoral candidate at Trent University, elaborates:

The souvenirs that were collected not only reminded the collector of their exotic experiences, but also reaffirmed the stronghold of colonization worldwide. The striking contrast between the styles of art between the two worlds meant that Indigenous

¹¹⁰⁵ *Edge, supra* note 111 at 104.

¹¹⁰⁶ *Hodgson-Smith & Kermoal, supra* note 1088 at 155.

¹¹⁰⁷ *Tracy, supra* note 1049 at 5.

¹¹⁰⁸ *Grey, supra* note 965 at 32.

¹¹⁰⁹ *Prete, supra* note 938 at 10.

¹¹¹⁰ *Edge, supra* note 111 at 119 and following.

artifacts virtually became trophies which reflected the broader experience and mastery of a passage around the world on the part of the traveler.¹¹¹¹

In some cases, tourist collectors donated their private collections to public institutions for preservation and study.¹¹¹² Institutions historically developed such collections of colonial curiosities with a view to conserving them “for future generations as it was assumed that Indigenous cultures would die out.”¹¹¹³ This curatorial assumption was a reasonable one, given that the work of collectors and curators was facilitated and empowered by colonial laws with underlying assimilative objectives.¹¹¹⁴

A significant example of laws that would ultimately “influence the creation, completion, and conveyance of beadwork”¹¹¹⁵ include amendments brought to the *Indian Act* in 1884,¹¹¹⁶ 1895¹¹¹⁷ and 1914¹¹¹⁸ that prohibited participation in ceremony and the wearing of ceremonial regalia off reserve.¹¹¹⁹ Such limits on how regalia, including beadwork, travelled, contributed to epistemicide, which was arguably compounded by how items were identified when they arrived in the hands of museum curators.¹¹²⁰ As items were integrated into museum collections,

¹¹¹¹ *Grey, supra* note 965 at 32.

¹¹¹² “History of the Museum” (last visited 4 August 2020), online: *Pitt Rivers Museum* <prm.ox.ac.uk> [perma.cc/PTV-RZLN].

¹¹¹³ *Edge, supra* note 111 at 224.

¹¹¹⁴ *Prete, supra* note 938 at 33.

¹¹¹⁵ *Ibid* at 31–33.

¹¹¹⁶ *Indian Act*, R.S.C. 1884, c. 27, s. 3

¹¹¹⁷ *Indian Act*, R.S.C. 1895, c. 35, s. 6

¹¹¹⁸ *Indian Act*, R.S.C. 1914, c. 35, s. 8

¹¹¹⁹ *Prete, supra* note 938 at 31–33.

¹¹²⁰ See generally *supra* note 1112. (Museums continue to grapple with how to manage their ongoing colonial histories. The website of the Pitt Rivers Museum at Oxford University, for example, makes note of challenges relating to the violence contained in the labels use to identify items on display in their collections. In a section titled “Why keep the old labels?,” the museum forewarns visitors: “The labels are an important feature of the Museum’s displays. Each object has a tag with basic information about it, including its unique ‘accession’ number to help staff keep track of it in the Museum’s records. The first labels used in the Museum were small, with handwritten information. These have been retained for the glimpses they offer into the mindset of the first Museum staff, as well as into the history of anthropology. Sometimes the labels are hard to read, but if we changed them it would change the feel of the whole Museum. We are, however, conscious that some of the words used on the labels are derogatory and hurtful. We are

meanings are assigned to the works by curators in a process that frequently demonstrated Eurocentric positioning and understandings grounded in belief of white superiority.¹¹²¹

It is worth a moment to pause, for the sake of clarity. I fully acknowledge that the Métis experience of the colonial project was distinct from that of First Nations and Inuit communities in that we were frequently not the primary target of “the worst” laws and policies such as the previously discussed aspects of the Indian Act,¹¹²² or the experience of confinement to reserves and the Pass System.¹¹²³ It is devastatingly ironic that the Métis largely avoided these genocidal schemas because of a different form of colonial violence: denial, erasure, and exclusion. In the words of the Commissioners of the Truth and Reconciliation Commission of Canada, “[i]n the [federal] government’s vision, there was no place for the Métis Nation that proclaimed itself in the Canadian Northwest in the nineteenth century.”¹¹²⁴

While First Nations folks were confined to reserves, the Métis were denied access to land, including that promised under the negotiated treaty that took the form of the *Manitoba Act, 1870*.¹¹²⁵ The history of Métis scrip, “the largest land swindle” in Canadian history,¹¹²⁶ is worthy, and has been the subject, of doctoral dissertations,¹¹²⁷ and the Supreme Court was seized of the

developing a project named “Labelling Matters” that will scope the problem and suggest forums to mediate and highlight the problematic parts of the Museum's and discipline's history”).

¹¹²¹ *Edge*, *supra* note 111 at 220.

¹¹²² *Prete*, *supra* note 938 at 31–33.

¹¹²³ Rob Nestor, “Pass System in Canada” (last modified 13 July 2018), online: *The Canadian Encyclopedia* <thecanadianencyclopedia.ca> [perma.cc/K2PX-B7QC].

¹¹²⁴ Canada, Truth and Reconciliation Commission, *The Final Report of the Truth and Reconciliation Commission of Canada*, vol 3 (Montreal: McGill-Queen’s University Press, 2015).

¹¹²⁵ *Manitoba Act, 1870* (Can), 33 Vict., c 3; *Vermette*, *supra* note 105.

¹¹²⁶ Kyle Muzyka, “What’s Métis Scrip? North America’s ‘Largest Land Swindle’, Says Indigenous Lawyer” (last modified 13 February 2020), online: *CBC* <cbc.ca> [perma.cc/GMT8-SW8H]; See also *Teillet*, *supra* note 15 at 381 and following.

¹¹²⁷ See e.g. *Vermette*, *supra* note 105.

failure of Canada to hold up its end of the bargain under the *Manitoba Act, 1870* in 2013.¹¹²⁸ The wheels of justice, as the Chief Justice of Canada once said of the situation, can sometimes turn slowly.¹¹²⁹ In the meantime, some Métis families and communities were left living on the precarious periphery, whether restricted to living in ditches and on road allowances¹¹³⁰ or living in a continued state of illegal trespass on their homelands, often relegated to the outskirts of settler communities,¹¹³¹ “outcasts in their own country.”¹¹³²

In the case of residential schools, the Federal Government, who long argued such institutions were a benefit for First Nations children, largely denied responsibility towards Métis children on the basis that the assimilation of Métis people was the responsibility of provincial and territorial governments.¹¹³³

The federal government policy on providing schooling to Métis children was conflicted. It viewed the Métis as members of the ‘dangerous classes,’ whom the residential schools were intended to civilize and assimilate. This view led to the adoption of policies that allowed for the admission of Métis children at various times. However, from a jurisdictional perspective, the federal government believed that the responsibility for educating and assimilating Métis people lay with provincial and territorial governments. There was a strong concern that if the federal government began providing funding for the education of some of the children for whom the provinces and territories were responsible, it would find itself having to take responsibility for the rest.¹¹³⁴

¹¹²⁸ *Manitoba Metis Federation Inc. v Canada (Attorney General)*, 2013 SCC 14 [*Manitoba*].

¹¹²⁹ “Meet the Judges: Get to Know Your Supreme Court” (last visited 4 August 2020), online: *Supreme Court of Canada* <scs-csc.ca> [perma.cc/X9RY-TFVR].

¹¹³⁰ See e.g. Maria Campbell, *Halfbreed* (Canada: McClelland & Stewart, 2019) (for an auto-biographical account of living as a Road Allowance Person).

¹¹³¹ See e.g. Evelyn Peters, Matthew Stock & Adrian Werner, *Rooster Town: The History of an Urban Métis Community 1901-1961* (Winnipeg: University of Manitoba Press, 2018).

¹¹³² *Scofield*, *supra* note 11 at 19.

¹¹³³ *Supra* note 1124 at 4.

¹¹³⁴ *Ibid.*

I do not say any of the foregoing to diminish the impact of the colonial laws, policies, and governmental actions that attempted to assimilate, control, or otherwise dismantle our Nation. These were many – I think here of Day Schools,¹¹³⁵ the devastating experience of the Road Allowance people,¹¹³⁶ and the blight that is the history of Métis Scrip.¹¹³⁷ Further, I remember Ste. Madeleine, burned to the ground to force the thirty-five Métis families who called the area home to relocate, facilitating the establishment of a common pasture for settler communities.¹¹³⁸ All of these actions empowered by law and other elements of the colonial project that specifically targeted Métis peoples profoundly affected the Nation. But: the desire of Canada to shirk responsibility towards the Métis Nation ultimately largely spared us from some of its most devastating genocidal laws and policies, including forced attendance at Residential Schools and the burden of the *Indian Act*, both of which had significant impact on the production and dissemination of beadwork.¹¹³⁹

Dear Reader:
are you still here?
great!
we are too.
thank you for your patience.
as always
you are welcome for ours.

Many collections remain out of view, kept in storage facilities half a world from home.¹¹⁴⁰ Held without context and divorced from opportunities for intergenerational knowledge transfer, items

¹¹³⁵ “Federal Indian Day School Class Action” (last visited 4 August 2020), online: *Federal Indian Day School Class Action* <indiandayschools.com> [perma.cc/4KRA-AQW].

¹¹³⁶ Maria Campbell, *Stories of the Road Allowance People*, revised ed (Saskatoon: Gabriel Dumont Institute, 2010).

¹¹³⁷ *Muzyka*, *supra* note 1126.

¹¹³⁸ “MMF Commemorates 80th Anniversary of the Ste. Madeleine Tragedy” (19 July 2019), online: *Manitoba Metis Federation* <mmf.mb.ca> [perma.cc/8NUT-GVBU]; Shane Gibson, “‘We Lost Our Homes’: Museum Exhibit Tells Story of Métis Village’s Displacement”, *CBC News* (24 May 2019), online: <cbc.ca> [perma.cc/TV7U-YNTP].

¹¹³⁹ *Prete*, *supra* note 938 at 31.

¹¹⁴⁰ *Supra* note 111 at 222.

are sometimes misunderstood and consequently not properly cared for. This was the case of the wrap-around moccasins considered in the dissertation of Dr. Lois Edge, who discovered the art of her grandmother improperly folded and tied in a museum conservation box in England.¹¹⁴¹

You see, museums now offer some access to their collections by researchers in an act they consider to “enable communities to deal with the ‘legacy of colonization.’”¹¹⁴² Dr. Lois Edge and Dr. Sherry Farrell Racette both participated in such decolonial projects, and have described their experiences visiting and interacting with beadwork at the Pitt Rivers Museum at Oxford University in the context of their respective doctoral research projects.¹¹⁴³ The Pitt Rivers Museum, known for its typological displays – items sorted by type as opposed to displays organized by geographic or cultural area¹¹⁴⁴ – and with holdings of over half a million items,¹¹⁴⁵ has worked to develop relationships with several Indigenous communities on Turtle Island in the context of such “reconnection” projects.¹¹⁴⁶

For example, the Blackfoot Shirts Project saw five “artifacts” loaned to the Glenbow museum in Lethbridge, Alberta.¹¹⁴⁷ One pedagogical objective included allowing Indigenous community members to reconnect with the items.¹¹⁴⁸ Community gatherings were held, lesson plans were created, quillwork and other aspects of the construction of the garments were studied, and the

¹¹⁴¹ *Ibid* at Preface Story 2 and at 72.

¹¹⁴² *Ibid* at 224.

¹¹⁴³ *Supra* note 111 at 53 and following; *Supra* note 150 at xi.

¹¹⁴⁴ *Supra* note 1112.

¹¹⁴⁵ “Collections” (last visited 4 August 2020), online: Pitt Rivers Museum <pr.museum.ox.ac.uk> [perma.cc/3HJH-DNH6].

¹¹⁴⁶ “Professor Laura Peers” (last visited 20 August 2020), online: *University of Oxford* <isca.ox.ac.uk> [perma.cc/6Y6K-MRRJ].

¹¹⁴⁷ “Kaahsinnooniksi Ao’toksisawooyawa: Reconnections with Historic Blackfoot Shirts” (last visited 4 August 2020), online: *The Pitt Rivers Museum Virtual Collections* <web.prm.ox.ac.uk> [perma.cc/KC2U-28HJ].

¹¹⁴⁸ *Supra* note 1146.

shirts were returned to Oxford.¹¹⁴⁹ The website for the project established to assist with research and knowledge transfer reminds researchers of cultural protocols:

Hairlock, or 'scalplock', shirts are sacred items to Blackfoot people. Sacred items are made and cared for by Blackfoot community members who acquire ceremonial rights to them. While it is considered appropriate to study the construction of the shirts, we ask you to respect Blackfoot cultural traditions by not making hairlock shirts unless you have been transferred the rights to do so.¹¹⁵⁰

One wonders, then, about the appropriateness of such items being held in a museum in Britain. Perhaps I have it wrong, and the Pitt Rivers Museum at Oxford University has Blackfoot knowledge keepers on staff and on site to care for these sacred items? But I digress, this isn't a dissertation about museology, or the ethics of sacred objects being held in colonial institutions.¹¹⁵¹ I strongly encourage anyone who is keen to pursue further reading in this area to read Dr. Lois Edge's *My Grandmother's Moccasins*¹¹⁵² and the writings of former curator of the Americas collection of the Pitt Rivers Museum Professor Laura Peers, including *This Is Our Life: Haida Material Heritage and Changing Museum Practice*¹¹⁵³ which she co-authored with Cara Krmpotich in collaboration with the Haida Repatriation Committee and staff at both the Pitt Rivers and British Museums.

I allude to my private concerns about the ethics of beadwork pieces being held in museum collections, concerns about the ability of institutions to care for items they might misunderstand,

¹¹⁴⁹ *Supra* note 1147.

¹¹⁵⁰ *Ibid.*

¹¹⁵¹ For discussions of the ethics of museums and private collectors holding wampum belts, which is another conversation in law entirely as it arguably engenders implications under the UN Declaration of the Rights of Indigenous Peoples (*United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 295 (II), UNDRIP, 61 Sess, Supp No 53, UN Doc A/61), please see the writings of *Kelsey*, *supra* note 959 at xi and following.

¹¹⁵² *Supra* note 111.

¹¹⁵³ Cara Krmpotich & Laura Peers, *Haida Material and Changing Museum Practice: This is Our Life* (Vancouver: UBC Press, 2013).

and so on to flag the existence of beadwork in museum collections as a double-edged sword. As

Dr. Edge shares, museums can:

...function as bridges across time and across cultures. Museum collections embody the intersecting histories and agendas of collector, institution and source community members: they are rich sources for understanding the nature of relations between peoples at the moment of collecting as well as afterwards, with new meanings assigned to them as museum artefacts and as objects of material heritage...¹¹⁵⁴

We can turn, once again, to the work of Professor Scofield and the recent repatriation of silk-embroidered hide gauntlets that had long been held in a private collection for another perspective on these cross-cultural collaborations:



Figure 28:

Professor Gregory Scofield's virtual knowledge mobilization, August 4, 2020.¹¹⁵⁵

¹¹⁵⁴ *Supra* note 111 at 222.

¹¹⁵⁵ Gregory Scofield, "It's taken me over two years to bring these c.1890-1910 Norway House Cree-Métis silk work gauntlets home. The collector from whom I bought them doesn't like to 'let go' of his pieces. So, I'm incredibly grateful to add them to the Norway House pieces. Breathtakingly beautiful." (4 August 2020 at 18:03), online: <twitter.com/gregoryscofield/status/1290770315480465408>.

As long as bead and silk work remains in private collections and museums, collaboration with, and reliance on, the keepers of the works will remain necessary as the Nation seeks to revitalize laws, artforms, and other practices. While I have noted significant reservations above, I would suggest that these collaborations can hold the potential for acting as beautiful, revitalizing, community-building projects. I think, for example, of the recent exhibition *Beads, they're sewn so tight* mounted at the Textile Museum of Canada in 2018-2019.¹¹⁵⁶ In addition to the exhibition that showcased the bead and quillwork of four Indigenous women, the museum organized a three-day beading symposium, *Manidoominensagemin Toronto (we are beading in Toronto)*, to bring beadwork artists and scholars together and build community.¹¹⁵⁷

One artist featured in this collaborative exhibit was Katie Longboat, a Mohawk and Cree artist from Six Nations of the Grand River.¹¹⁵⁸ The curator explains: “By collecting photographs of her Kokum’s floral designs on various garments beaded throughout her life, Longboat has embarked on a study of her Kokum’s stitches, colour choices, and stories. The materials and techniques reveal her Kokum’s way of working. Having not learned beading from her Kokum, Longboat notices how different her own beadwork is, but also sees surprising similarities in the meticulous approach to their handwork.”¹¹⁵⁹

¹¹⁵⁶ “Beads, They’re Sewn So Tight: Bev Koshi, Katie Longboat, Jean Marshall & Olivia Whetung” (last visited 4 August 2020), online: *Textile Museum of Canada* <textilemuseum.ca> [perma.cc/SY59-9Q3K].

¹¹⁵⁷ Lisa Myers, *Beads, They’re Sewn So Tight* (Toronto: Textile Museum of Canada, 2019) at 8; “Beading Symposium: Manidoo-minen-sagemin Toronto” (last visited 6 August 2020), online (pdf): *Textile Museum of Canada* <textilemuseum.ca> [perma.cc/6K6Q-6EDG].

¹¹⁵⁸ Myers, *supra* note 1157 at 63.

¹¹⁵⁹ *Ibid* at 24.

Longboat's contributions to the showcase included four beaded pieces created using her Kokum's designs, but conceived on canvas in lieu of the moose hide her grandmother used.¹¹⁶⁰ This decision to bead on canvas and surround the work with moose hide-coloured beads was grounded in an acknowledgement of both the materials she did not have access to (hide) and the context in which the pieces would be displayed (in a museum).¹¹⁶¹

disruption.
 context.
 reclaiming.
 reimagining.
 beads on
 borrowed patterns.
 working with
 what
 (little beads)
 we have.

¹¹⁶⁰ *Ibid* at 24–26.

¹¹⁶¹ *Ibid* at 26.

Beadwork Practice and the Heart of the Matter

The beads finally found me that fall, as I struggled with instability in the workplace, sleepless nights after weeping and sweating through the blanket exercise in front of a fifth of the incoming 1L class, and the abrupt departure of the boss who had recruited me to my position. I remembered hearing an artist I had long followed on social media talk about the meditative value of beadwork practice¹¹⁶² and I had a little money in my pocket. A single trip to the local bead store, called “Beaded Dreams” no less, and here we now are at page 323 of my doctoral dissertation that attempts to reframe legal learning through the integration of beads.

I thought to start by using a locally produced “introduction to beadwork” kit; it was earrings, and I only made half of the first one before I grew bored and set it aside. I threw myself into the aspirational project of an Advent calendar, designing patterns for each pocket as I went, taking requests and receiving input from my children. I taught myself single and two-needle techniques using books¹¹⁶³ and videos online in a process largely divorced from traditional knowledge transfer. It was a challenging project in many ways, mostly because of the amount of learning by doing and my lack of access to established beadworkers to help me troubleshoot twisted thread, bent needles, and struggles common with beginner technique. Still, the practice was a healing one and left me calm, grounded, and ready to face the following day in a job that, at that particular moment, I

¹¹⁶² *Parks Canada (Lisa Shepherd)*, *supra* note 1009.

¹¹⁶³ See e.g. Gregory A Scofield & Amy Briley & Sherry Farrell Racette, *Wapikwaniy: A Beginner's Guide to Metis Floral Beadwork* (Saskatoon: Gabriel Dumont Institute, 2011).

sorely regretted taking but desperately needed, having committed to a daycare contract and effectively abandoned my doctoral studies.

“...but she also sees the flowers in beadwork and embroidery
as a metaphor for Métis people
"We are as resilient as a weed.
And as beautiful as a wildflower."
1164

One of my Learners, Miss Natane Allison of Bkejwanong (Walpole Island) First Nation, once described beadwork as a practice that brings “inner peace,”¹¹⁶⁵ and other beadworkers frequently remind us that beadwork is a meditative practice.¹¹⁶⁶ It is a slow and contemplative art, one that cannot be rushed. Lisa Shepherd, Métis Artisan, explains: “There’s no instant gratification in beading. There’s life and there’s a breath in the work that you are doing. And you have to slow down, and your heart rate slows down, and your breathing deepens and there is just this connection that happens.”¹¹⁶⁷

Attempts to rush are often counterproductive and can result in a need to reverse course and come back to one’s practice, starting over from scratch until the beads lay flat.¹¹⁶⁸ Too few beads leaves gaps, too many beads causes the row to buckle; this can sometimes be fixed by snapping a bead with a pair of pliers, but I wish any novice beader luck in not severing their thread in the

¹¹⁶⁴ *Racette*, *supra* note 150 at 276.

¹¹⁶⁵ Tawny Allison, “A particularly hysterical phone call later- & I was able to self-regulate. I’m not kidding. I started beading as I spoke & the inner peace came. If you know, you know... Beading Heals All Wounds. #LawWithHeart (Tashas earrings for inspo!) w/Beanie in the back! @daniellelussier” (10 July 2020 at 20:58), online: *Twitter* <twitter.com/_tawnyallison/status/1281754637205463040>.

¹¹⁶⁶ *Prete*, *supra* note 938 at 52; *Kelsey*, *supra* note 959 at 25; *Edge*, *supra* note 111 at 108; Parks Canada (Janine Krauchi), “The Flower Beadwork People” at 00h:2m:35s, online (video): *YouTube* <www.youtube.com/watch?v=54ipBLZJ6L4>; *Parks Canada (Lisa Shepherd)*, *supra* note 1009.

¹¹⁶⁷ See generally *Supra* note 1051.

¹¹⁶⁸ *Edge*, *supra* note 111 at 121.

process. One of the teachings of beading circle is that of patience.¹¹⁶⁹ Coming back to one's breath, taking one's time.

Professor Peter Oliver taught me the trick with the pliers. He learned it on the internet, and I laughed and looked at him like he had lost his mind when he brought the teaching to beading circle. It turns out it is a common practice amongst beadwork artists.¹¹⁷⁰ That day, our circle included teachings of humility.

An element of the meditative practice of beading involves the artist's relationship to the person for whom they are beading. As an artist beads, they imbue the work with thoughts of care for their beadee. It is frequently said that you should not bead if you are in a bad mood, if you are carrying stress, or if you are otherwise not grounded in your practice, for the work will ultimately carry the energy you put into the thread.¹¹⁷¹ Put another way, beadworkers recognize the need to be of a "good mind" when creating their art.¹¹⁷²

With heart and mind knowledges interrelated and interdependent through understandings of debwewin, I believe one also needs to be of a "good heart" when they engage in beadwork practice. When one sits in quiet mediation and good thoughts of the person for whom they are beading,¹¹⁷³ the slow, meditative work becomes an act of love.

"To speak of love
in relation to teaching
is already to engage a dialogue that is taboo."¹¹⁷⁴

¹¹⁶⁹ *Parks Canada (Lisa Shepherd)*, *supra* note 1009.

¹¹⁷⁰ *Edge*, *supra* note 111 at 121.

¹¹⁷¹ *Prete*, *supra* note 938 at 54.

¹¹⁷² *Ibid* at 55; See also *Grey*, *supra* note 965 at 24. (Malinda Grey reminds us that this is not always possible, in particular when beadwork practice is mobilized as a tool for healing – we will return to this point later in this chapter).

¹¹⁷³ *Parks Canada (Janine Krauchi)*, *supra* note 1166.

¹¹⁷⁴ *hooks*, *supra* note 2 at 127.

Reflecting on our first year of community beadwork practice in the Faculty, one of my bead-ers said “you cannot help but think about the ones you are beading for and send love, whether you know them or not.”¹¹⁷⁵

one of my bead-ers
once said
that beading for someone
is a little like falling
in love
they said it as
a prayer
or perhaps
a word
of caution
“be careful
who you bead for”

This brings us back to Professor Scofield’s virtual teaching about the child’s smoking cap.



Figure 29:

*A return to figure 27 and
Professor Gregory Scofield’s virtual
knowledge mobilization,
June 3, 2020.¹¹⁷⁶*

¹¹⁷⁵ Cinta B Quiroga. “You cannot help but think about the ones you are beading for and send love, whether you know them or not” (12 June 2019 at 20:35), online: *Twitter* <twitter.com/cvquiroga/status/1138968180624363520>.

¹¹⁷⁶ *Supra* note 1080.

Because it is important.
The important story is love.
It all comes back to love.¹¹⁷⁷

It was not by accident that beadwork was immediately removed from children upon their arrival at Residential Schools.¹¹⁷⁸ Women bead their love with each stitch of their beadwork. Babies were/are wrapped in beadwork from infancy in moss bags and cradle boards embellished with beadwork.¹¹⁷⁹ Practices of infant ear piecing facilitated the wearing of beaded earrings later in life.¹¹⁸⁰ Children wearing beadwork carried a physical reminder of care and affection, and it was promptly seized by school administrators who understood it to be a symbolic expression of love.¹¹⁸¹

"You wanted the love of your life to look handsome,
so you would do all this nice work to have him dressed."
- Isabelle Dorion Impey¹¹⁸²

Other scholars teach us that beadwork was also used beyond expressions of maternal affection, as a demonstration of romantic love.¹¹⁸³ In fact, it has been said that women used their "work to inscribe their voices on the canvas of the male body."¹¹⁸⁴ Further, Dr. Racette suggests that "[t]he greater the area of embellishment, the more public the declaration of love and affection."¹¹⁸⁵ Before marriage, women would conceptualize and execute significant beadwork projects for

¹¹⁷⁷ My beloved advisor noted that this image appears twice in the visual record of this dissertation and that I footnote the teaching several more times in this chapter. She suggested that I might be able to tighten up the work and remove the duplicate image. With respect and love, I insist that the visual teaching remain twice. It is possibly one of the most important things I hope that you, Dear Reader, will take away from this work.

¹¹⁷⁸ *Supra* note 331 at 12; Truth and Reconciliation Commission, "The Survivors Speak: A Report of the Truth and Reconciliation Commission of Canada" (2015) at 42, online (pdf): *Truth and Reconciliation Commission* <trc.ca> [perma.cc/XH7G-DV7V].

¹¹⁷⁹ *Racette, supra* note 150 at 195.

¹¹⁸⁰ *Ibid* at 193.

¹¹⁸¹ *Grey, supra* note 965 at 11–13.

¹¹⁸² *Racette, supra* note 150 at 194–95.

¹¹⁸³ *Ibid* at 194.

¹¹⁸⁴ *Ibid* at 329; *Edge, supra* note 111 at 100.

¹¹⁸⁵ *Racette, Ibid* at 194–95.

their beloved, embedding love into their craft that would ultimately serve as a visible reminder to all of the relationship.¹¹⁸⁶ Men, in using the items created by their partners, whether clothing or accessories such as octopus bags, brought honour to the women who beaded for them.¹¹⁸⁷

Real talk:
The men of the Nation
Would flex
Not muscles
But beads
“I have this skilled wife
look at her work.”¹¹⁸⁸

Of course, the objects cannot carry meaning and love without sustained relationships – to people, experiences, or ideas. In other words, “People give objects meaning, but cultural meaning is rarely stable. Objects and clothing that had significance in certain historic contexts are sometimes forgotten, while others endure for generations.”¹¹⁸⁹ When loved ones are no longer with us, beadwork can continue to function as a mnemonic device, carrying not only memories and stories, but also serving to “...embody and preserve expressions of love and regard” across generations.¹¹⁹⁰ As Catherine Orr explains, the “little treasures” left behind can serve as a point of connection to previous generations.¹¹⁹¹

¹¹⁸⁶ *Edge*, *supra* note 111 at 100.

¹¹⁸⁷ *Ibid.*

¹¹⁸⁸ “I have this skilled wife and look at her work” from *Edge*, *supra* note 111 at 100. The wee poem is mine.

¹¹⁸⁹ *Racette*, *supra* note 150 at 217.

¹¹⁹⁰ *Ibid* at 318.

¹¹⁹¹ Catherine Orr, “Something Old, Something New...” (4 February 2020), online (blog): *CVLTVRE BEAD* <cvltvrebead.com> [perma.cc/T22J-2PDQ].

she falls in love
with each person she beads for

you simply cannot sit
(hunched)
in loving contemplation of someone
(loving someone)
anyone

for that long
– it is slow art –
without loving them
(deeply)
by the time you reach the final knot
(the knots are where the love lives)

When I think of community beading circle and our Faculty's practice of creating personalized stoles for Indigenous graduates, I am filled with hope. The hope: wrapping my Learners in a visible symbol of love, one that they can take home to their mothers and aunties and that carries the energy of the community that beaded for them, might bring both a moment of healing closure and the possibility for building beautiful across generations.

Communities of Practice and Therapeutic Care

You have already learned about the anatomy of the stole, so you know that the Beauty of Beaders was born very early on in my own beadwork journey and out of a dual-pronged desire to create safe spaces for healing and community building within the Faculty, and to wrap my Learners in love on their way out the door. What I did not realize at the time was that my individual practice has been suffering from an imbalance. While my practice was grounded in building personal and cultural resiliency,¹¹⁹² it initially missed a critical element: community.

Beading in community, a practice commonly referred to as “beading circles,” is about far more than the beads. Yes, the spaces serve as opportunities for knowledge transfer, which is critical, especially for new beaders. Researchers have found that self-directed learning without the benefit of access to a teacher to ground efforts towards developing skills within a beadwork practice, can result in “slow progress or inability to successfully complete a project” paired with disappointment and frustration.¹¹⁹³ My own experience reflects this finding.

Technique is as technique does,

“[b]ut there was a lot more than technique in our conversation. As we beaded, we visited and I found myself telling her things that I hadn't told her before, teaching her things that I thought I had already taught her. I realized that the context had never been right. Afterwards, I spoke to my mother about sewing together and the way it connects people. The experience of sewing together creates the environment for certain kinds of sharing. The process provides opportunities for teaching values and the 'right way' of doing things. The silent spaces between the stitches invite confidences and stories. I realized that when we sew with our children, we are really passing on generations of accumulated women's knowledge and strengthening the bonds between ourselves.”¹¹⁹⁴

¹¹⁹² *Grey, supra* note 965.

¹¹⁹³ *Edge, supra* note 111 at 122.

¹¹⁹⁴ *Racette, supra* note 150 at 331.

Some teachings suggest that young women would traditionally learn to bead during puberty, beginning on the occurrence of their first moon time.¹¹⁹⁵ On the transition to womanhood, girls would engage in a practice of creating a beading basket, which would be informed by cultural practice and other domestic skills development.¹¹⁹⁶ The initial “puberty seclusion” would be followed by monthly periods of rest during which time young women would develop their embroidery, needlework, fishnet and basketmaking, among other skills that would improve her marriage prospects.¹¹⁹⁷ Some settlers questioned these times of seclusion and learning, deeming them “cruel and unjust,” but accounts indicate that these moments were often welcomed by young women who appreciated the opportunity to rest and focus on improving their skills “without interruption.”¹¹⁹⁸ When I think of this process of learning while transitioning through phases of life, I personally consider it a ceremony within a ceremony.¹¹⁹⁹ Allow me to explain.

I understand beadwork practice as a form of ceremony, with ceremony defined as “a ritual that is meant to enhance our lives. It is a practice that takes us within ourselves so that upon its completion we may act outwardly different.”¹²⁰⁰ Richard Wagamese, Anishinaabe (Ojibwe) of the Wabaseemoong Independent Nations,¹²⁰¹ goes on to share that the storytellers and teachers

¹¹⁹⁵ Ray, *supra* note 35 at 11; Edge, *supra* note 111 at 171–75.

¹¹⁹⁶ *Ibid.*

¹¹⁹⁷ Tracey Lindberg, “My period is ceremony” (2 January 2020 at 12:47), online: *Twitter* <twitter.com/TraceyLindberg/status/1212792575297556483> [perma.cc/D7PQ-64F7].

¹¹⁹⁸ Edge, *supra* note 111 at 171–75.

¹¹⁹⁹ Lindberg, *supra* note 1197.

¹²⁰⁰ Richard Wagamese, *One Drum: Stories and Ceremonies for a Planet* (Madeira Park: Douglas & McIntyre, 2019) at 150.

¹²⁰¹ Jules Lewis, “Richard Wagamese” (last modified 10 December 2018), online: *The Canadian Encyclopedia* <thecanadianencyclopedia.ca> [perma.cc/4AWQ-AM5D].

within each of us are empowered when ceremony is collective, experienced by a group,¹²⁰² and that ceremony is only considered complete when the experiences are shared with others.¹²⁰³

Individual beadwork practice, when shared in a community beading circle, becomes a collective experience. Many writers agree that circles of learning or sharing, as ceremonial or sacred spaces, are also spaces of healing.¹²⁰⁴ Used in academic research, circles can be constructed in a similar way to focus groups, however the method differs in a significant way: in the context of a circle, all present are considered equals as they share in holistic knowledge transfer that includes both intellectual and extra-intellectual components.¹²⁰⁵ In creating space for emotion, opportunities for healing emerge.¹²⁰⁶

In my experience, most beadworkers will insist that their practices carry therapeutic power, both for individual beaders and for communities on the whole.¹²⁰⁷

In her curatorial essay for *The Medicine Project*, Dana Claxton explores Indigenous art conceptualized as “medicine” carrying the possibility of healing to community.¹²⁰⁸ *The Medicine Project* included multiple forms and understandings of art counting performance, writing, and gallery-oriented pieces including the beadwork of Nadia Myre and collaborators titled simply

¹²⁰² *Supra* note 1200 at 103–04.

¹²⁰³ *Ibid* at 100.

¹²⁰⁴ *Lavallée, supra* note 362 at 28–29.

¹²⁰⁵ *Ibid.*

¹²⁰⁶ *Ibid.*

¹²⁰⁷ *Grey, supra* note 965 at 25; *Racette, supra* note 150 at 274; *Kermoal, supra* note 348 at 129; *Allison, supra* note 1165.

¹²⁰⁸ Dana Claxton, “Making Medicine” (last visited 17 August 2020), online (essay): *The Medicine Project* <themedicineproject.com> [perma.cc/8Y68-7KR3].

“Indian Act.”¹²⁰⁹ This work, created in community by over 200 volunteers,¹²¹⁰ was an act of healing and resistance.¹²¹¹ The completed work consisted of fifty-six pages of the Indian Act with white beads replacing the words and the foreground beaded in red, “rendering it null and void” and underlining resistance to destructive colonial law.¹²¹² Curator Dana Claxton explains the layered meanings and impact of the work:

This work transforms the work of Indian women, situating traditional cultural production, often referred to as craft, within a fine arts discourse. In addition, she places the function of beading within the role of traditional gender material-making but politicizes it as an art form...Nadia has taken this imperialistic document, The Indian Act, and covered it by way of the ideals of the two-row wampum. The very nature of the process of collective beading by Indians and non-Indians working and beading together make this work a testament to the principles of co-existence within the same stream or river. The beading sessions took place in Montreal and Winnipeg and became a socio-cultural event with the intent to open up dialogue about the Act. Also, people could work solo and send in their finished pages. Two hundred and thirty people across Canada worked on the project, bringing different people into a shared art-making process that lasted hundreds of hours. Medicine is at work here in several ways: the beaders all gained new knowledge of the extent to which the Indian Act harmed Indian people, the collective practice of working together brought people together, and once the work was installed, the beauty of that experience was visible in final exhibition.¹²¹³

Nadia Myre views her beadwork practice as an act of “silent resistance.”¹²¹⁴ I would argue it is also an act of community healing and a marker of both individual and collective cultural resilience. I am sure Malinda Gray would agree.¹²¹⁵ Dr. Tiffany Prete of the Blood Tribe¹²¹⁶ also frames beadworking as an act of resistance meeting resiliency, defining resiliency in relation to

¹²⁰⁹ *Ibid.*

¹²¹⁰ Nadia Myre, “1867 Indian Act” (last visited 17 August 2020), online: *150ans150oeuvres* <virtualmuseum.ca> [perma.cc/3AM4-G3XT].

¹²¹¹ *Claxton, supra* note 1208.

¹²¹² *Myre, supra* note 1210.

¹²¹³ *Claxton, supra* note 1208.

¹²¹⁴ *Ibid.*

¹²¹⁵ *Supra* note 965.

¹²¹⁶ Tiffany Prete, “About” (last visited October 9 2020), online: *Tiffany D. Prete, PhD* <tiffanyprete.wordpress.com> [perma.cc/JMX3-VKPJ].

adaptability.¹²¹⁷ She explains: “[j]ust as the colonizers brought their beads and ideologies to our homelands hoping to transform us, we did not submit to the colonizers’ will. Indigenous People took the colonizers’ beads and adapted the beads into our culture, making use of the beads in a way that is unique to us.”¹²¹⁸

As demonstrated through Myre’s collaborative work, when the community has experienced significant trauma and the need for healing is acute, individual beaders and smaller communities of practice may gather together in an effort to promote collective healing and resurgence. This was also the case with the Walking With Our Sisters beadwork project that united 1300 artists around the world.¹²¹⁹ These artists contributed to a collective healing art installation in remembrance of Missing and Murdered Indigenous Women and Girls and the children who lost their young lives while attending Residential Schools, with some contributions arriving by mail from artists abroad, and others created by individuals and in circles held across the country.¹²²⁰

The travelling exhibition displayed the collaborative project:

“As a floor installation made up of beaded vamps arranged in a winding path formation on fabric and includes cedar boughs. Viewers remove their shoes to walk on a path of cloth alongside the vamps. Each pair of vamps (or “uppers” as they are also called) represents one missing or murdered Indigenous woman. The unfinished moccasins represent the unfinished lives of the women whose lives were cut short. The children’s vamps are dedicated to children who never returned home from residential schools. Together the installation represents all these women; paying respect to their lives and existence on this earth. They are not forgotten. They are sisters, mothers, aunts, daughters, cousins, grandmothers, wives and partners. They have been cared for, they have been loved, they are missing and they are not forgotten.”¹²²¹

¹²¹⁷ *Prete*, *supra* note 938 at 47.

¹²¹⁸ *Ibid* at 47.

¹²¹⁹ “About” (last visited 17 August 2020), online: *Walking With Our Sisters* <walkingwithoursisters.ca> [perma.cc/3F8X-26Y7].

¹²²⁰ *Ibid*.

¹²²¹ *Ibid*.

This commemorative art project that was displayed across Canada ultimately comprised 1928 pairs of vamps,¹²²² with each set representing the life of woman, girl, or child who perished as a result of colonial genocide.¹²²³ Closing ceremonies for this project that sought to represent, remember, and honour the women through the visual language of beadwork, were held at Batoche in August, 2019 and included the ceremonial burning of the beadwork for those artists who wished it.¹²²⁴

My immediate reaction to learning of the ceremonial burning was a phrase commonly used by my Learners in my office: tobacco down, prayers up. Smudging is a ceremonial practice that some Indigenous people engage in as care for the spirit. Professor Sylvia McAdam describes the ceremony in *Nationhood Interrupted: Revitalizing nêhiyaw Legal Systems*:

Smudging means to light up sweetgrass or sage, allowing the smoke to fill the air. After it's lit, I would move my hands in a forward cupping motion to bring the smoke toward me as if I were washing my face, ears, and eyes. The smoke clears the mind and prayers are carried to the spirit keepers or to the creator. This has been done by my people since time immemorial; every action of sharing knowledge must be smudged and prayed about.¹²²⁵

As we discussed earlier in this chapter, many suggest that a “good mind” and “good heart” are critical to a successful beadwork practice, though it can be challenging to maintain both of these elements, especially when engaging in beadwork as a therapeutic

¹²²² “Walking With Our Sisters” (last visited 17 August 2020), online: *Christi Belcourt* <christibelcourt.com> [perma.cc/99GU-LR2G].

¹²²³ *Supra* note 657, vol 1a (Marion Buller).

¹²²⁴ “Closing Ceremonies” (last visited 14 August 2020), online: *Walking With Our Sisters* <walkingwithoursisters.ca> [perma.cc/YD39-ZGSK].

¹²²⁵ *Supra* note 121 at 11.

or healing exercise.¹²²⁶ Many beadwork artists, therefore, choose to smudge before engaging in their practice, as it “helps us to clear our minds, our ears, our speech, our eyes and our hearts.”¹²²⁷ Smudging one’s hands can take on a particular importance,¹²²⁸ as there is an understanding that whatever emotions we carry while beading will be transferred into the art through our hands.¹²²⁹

Prayer is integral to the practice of some beadworkers,¹²³⁰ and the ceremonial act of burning the wampum looked like a prayer of grief in my mind’s eye. We have previously discussed the relationship of wampum to grief, and the power wampum is understood to hold in relation to clearing “individuals’ ears, eyes, and throats of negativity and to restore the Good Mind.”¹²³¹ These relationships between beadwork and grief extend well beyond Hodinohso:ni communities and wampum, with other communities known to rely on beadwork and sewing as a calming and meditative practice to support healing during grief.¹²³² After beading through grief herself, Christi Belcourt, who assisted in guiding the work of the Walking With Our Sisters project, has said that she now understands beadwork itself to be “...a form of prayer.”¹²³³

¹²²⁶ *Grey, supra* note 965 at 24.

¹²²⁷ *Ray, supra* note 35 at 127; *Grey, supra* note 965 at 24.

¹²²⁸ *Ray, supra* note 35 at 127.

¹²²⁹ *Lavallée, supra* note 362 at 33 and following.

¹²³⁰ *Prete, supra* note 938 at 45–46.

¹²³¹ *Kelsey, supra* note 959 at XIV.

¹²³² *Grey, supra* note 965 at 25.

¹²³³ *Ibid.*

Monday
 they came down the hall
 concerned about the smell
 no, there is no fire
 I was smudging
 smudging is a ceremony
 using sacred medici...

Tuesday
 they came down the hall
 concerned about the smell
 no, there is no fire
 I was smudging
 yes, again

oh, I thought maybe
 you were taking advantage of the new rules
 for page 31 bis

they gestured
 and
 laughed

.

Thursday
 I took a sick day

We shall return to the spiritual care component of beadwork practice when we discuss the mobilization of beadwork practice as a pedagogical practice in the legal classroom.

Another example of community beadwork practice mobilized for community healing is the Memory, Meaning-Making, and Collections initiative. Albeit on a much smaller scale than Walking With Our Sisters, but I am sure no less significant in therapeutic impact for individual

participants, this circle-based community work incorporates the use of existing beadwork as mnemonic devices alongside the creation of new art to aid in rebuilding culturally-based identities of Residential School Survivors in a positive way.¹²³⁴ Through this initiative, Survivors effectively work to unlearn the racism and colonial violence of Forced Assimilative Education through beadwork.

Extending this idea of community beadwork practice as an opportunity for learning and healing into post-secondary classroom spaces: when a circle is employed in classroom settings, the hierarchies between “teacher” and “Learner” are neutralized. Each participant becomes both an educator and a Learner in the circle as they are asked to contribute equally to a learning process grounded in *debwewin* – both cognitive and emotional knowledge. As evidenced by the research and discussion presented in our discussion of the state of the legal profession and legal education in previous chapters, the creation of such spaces where Indigenous Learners and non-Indigenous students can come together to learn and unlearn are critical to begin the process of addressing knowledge gaps resulting from the lived experience of Eurocentric curriculum frameworks. Further, as relationships between participants develop and community ties are strengthened, opportunities for confronting ongoing racism and colonialism in the academy will emerge.

¹²³⁴ *Grey, supra* note 965 at 25; Cara Krmpotich, Heather Howard & Emma Knight, “From Collection to Community to Collections Again: Urban Indigenous Women, Material Culture and Belonging” (2015) 21:3 *J of Material Culture* 343 at 356 and following.

To return to Richard Wagamese,¹²³⁵ “When we do [ceremony] the circle grows stronger and the potential for healing is enormous.”¹²³⁶

As I consider community beadwork practice through the analytical lens of Therapeutic Jurisprudence+, I apply the contextual definition of “therapeutic” proposed in the previous chapter: actions that counteract ongoing colonialism and racism and provide opportunities for learning grounded in a practice of building reciprocal, trust-based relationships to ideas, people, and communities. We will explore this question in more depth in the final chapter of this dissertation, however based on the forgoing discussion, I believe it becomes clear that when beadwork practice occurs in the context of community beading circles and is imbued with ceremonial intention, a multi-layered opportunity for therapeutic outcomes and community healing emerges.

¹²³⁵ See generally *Wilson, supra* note 14 at 32. As Dr. Shawn Wilson explains, readers “filter the story being told through their own experience and will thus adapt the information to make it relevant and specific to their life.” This particular work of Wagamese came to me in a moment of need as I struggled with the implications of provincial education policy decisions for my children’s learning during the pandemic. As such, the work spoke to me at a visceral level, and I return to it frequently as I proceed with my work here.

¹²³⁶ *Wagamese, supra* note 1200 at 104.

Resurgence in Times of Corona: Community, Collegiality, and Care (Online)

Sometimes, we find comfort and care in circles. Other times, we find ourselves in the midst of a global pandemic, unable to hug even our own mothers. I had not intended to consider the implications of Covid-19 on beadwork practice in this work, but as the public health emergency unfolded and the need for community spaces became at once more critical and physically impossible, something remarkable happened.

Despite the need for social distancing and my own personal strict adherence to public health guidelines, even in times of Covid-19 self-isolation I very rarely bead alone. As global lockdowns emerged as a best practice in public health, Indigenous beadworkers rapidly transformed their practices, shifting to online community-based beading practice. Community beading circles, workshops, and interactive events took place via videoconference and across various social media platforms from the earliest days of the pandemic reaching Turtle Island.¹²³⁷

In hindsight, this rapid mobilization is hardly surprising. The use of online platforms to build community and bridge geographic (and other) gaps is nothing new, nor is the practice limited to beadwork artists. In fact, Indigenous peoples and communities have long demonstrated significant and creative uses of emergent technologies to create and mobilize Indigenous knowledge and build communities of practice in a variety of areas. We have already seen examples in the work of Professor Scofield, but there are countless others who regularly contribute to the common pool of knowledge through tremendous and generous work online

¹²³⁷ Christian Allaire, “How Virtual Beading Circles are Empowering Indigenous Women”, *Vogue* (24 March 2020), online: <vogue.com> [perma.cc/W39H-QXZ8].

that spans the gamut from supporting the revitalization of Indigenous languages¹²³⁸ to spaces conceived to gather in community in celebration of traditional music and dance.¹²³⁹ I have long felt these online communities are an understudied and underutilized tool for the revitalization of Indigenous legal orders. While there are many possibilities for research and community engagement that I hope to explore in my future research, for the purposes of this dissertation a high-level introduction to these ideas will suffice.

Online community spaces have the potential to serve Indigenous artists, Learners, scholars, and other knowledge carriers and sharers in a variety of ways. Two obvious examples are visible on social media platforms such as Twitter and Instagram that have developed into spaces that can be curated for knowledge sharing and transfer and effectively allow for the building of virtual communities of practice when individuals are unable, for whatever reason, to connect with others in person.

Chelsea Vowel, a Métis lawyer and author of *Indigenous Writes: A Guide to First Nations, Métis, and Inuit Issues*¹²⁴⁰ from manitow-sâkahikan (Lac Ste. Anne, Alberta), for example, uses her Twitter presence that speaks to over 49 000 followers to share knowledge and educate on a wide range of topics from language revitalization to socio-economic discrimination and the precarious position of Indigenous women in the academy.

¹²³⁸ See e.g. Manitoba Metis Federation, “Michif Word of the Day- August 14, 2020” (14 August 2020), online: *Facebook* <www.facebook.com/ManitobaMetisFederationOfficial/posts/339612677374219>; See generally #CreeSimonSays (4 May 2015), online: *Facebook* <www.facebook.com/groups/380099328844547/> (an interactive online community of more than 17 000 members).

¹²³⁹ “MMF Virtual Concert ‘The Beat Goes On’” (5 April 2020), online: *Métis Nation* <metisnation.ca> [perma.cc/673S-PV9A].

¹²⁴⁰ *Supra* note 20.

Online spaces can also serve to amplify the voices of emerging and junior Indigenous scholars. Erica Violet Lee, a nêhiyaw doctoral candidate at the University of Toronto,¹²⁴¹ uses her significant Twitter following of over twenty thousand to raise awareness of challenges facing Indigenous graduate students in addition to encouraging resurgence within Indigenous communities. In addition to her microblogging via social media, Lee chronicles racism and discrimination faced by Indigenous women within the academy¹²⁴² and society at large,¹²⁴³ while also generating and mobilizing Indigenous knowledge through philosophy and poetry on her website.¹²⁴⁴

So pervasive is the use of social media to build Indigenous community that the academy has begun reflecting on how it might better understand and harness online momentum, channeling it towards efforts of community revitalization and resurgence. For example, considering #NativeTwitter as an opportunity for developing “Indigenous networks of relations and resistance” is the focus of a forthcoming publication due in July 2021 to be edited by Jeffery Ansloos and Ashley Caranto at the University of Toronto in collaboration with David Gaertner at the University of British Columbia. The co-editors seek to “document and make sense of the profound effects of [Twitter] for Indigenous peoples”¹²⁴⁵ and further explain:

¹²⁴¹ Erica Violet Lee, “Moontime Warrior: A Blog by Erica Violet Lee” (last visited 17 August 2020), online (blog): *Moontime Warrior* <moontimewarrior.com> [perma.cc/RL4Y-GHEL].

¹²⁴² *Supra* note 693.

¹²⁴³ Erica Violet Lee, “Indigenous Women on the Prairies Deserve Reproductive Freedom (CBC Indigenous)” (8 January 2018), online (blog): *Moontime Warrior* <moontimewarrior.com> [perma.cc/AP69-V3Y2].

¹²⁴⁴ Erica Violet Lee, “Bones” (9 January 2017), online (blog): *Moontime Warrior* <moontimewarrior.com> [perma.cc/SW3R-5WSA].

¹²⁴⁵ Jeffrey Ansloos, Ashley Caranto Morford & Dave Gaertner, “#NativeTwitter: Indigenous Networks of Relations and Resistance” (last visited 17 August 2020), online (pdf): <drive.google.com/file/d/1cM-CfxFbOYO9EyX5YXh6794ChtIjROc_/view> [perma.cc/8U7R-YHLG].

[P]opularity and proliferation of hashtag networks like #NativeTwitter, the aforementioned #IdleNoMore, and #WetsuwetenStrong illustrate that the socio-political as well as public health and community-engagement purposing of social media are particularly important for Indigenous peoples. Further, like other users, Indigenous peoples share their day-to-day life experiences on Twitter as individuals and throughout networks, configuring it as what Dorothy Kim identifies as “mediated public space.” We seek to more fully comprehend how Twitter is being taken up and implemented by Indigenous peoples as a means of cultural resurgence, language revitalization, community development, collective support, life promotion, and anti-colonial organization and healing...Yet we must also contend with what Loretta Todd (Cree-Métis) recognized in 1996, and what various others have re-iterated since then: to a large extent, the Internet, in its current form, has been developed through Western epistemologies and, thus, is an extension of colonial society.¹²⁴⁶

This last point regarding the potential for replication of colonial frameworks online is not an insignificant concern. Dr. Taima Moeke-Pickering, Māori of the Ngati Pukeko and Tuhoe Tribes from Aotearoa,¹²⁴⁷ in recent research on the role social media might play in supporting Indigenous communities within post-secondary education specifically, notes that while “[d]igital platforms and technology have the potential to disrupt the strong-hold of colonized education,”¹²⁴⁸ it is critical that Indigenous scholars be supported by mentors to assist them in navigating “the dark side to... social media usage,” specifically harassment, traumatic threats, racism, and other forms of colonial violence.¹²⁴⁹

Unfortunately, mentorship can be difficult to come by for Indigenous scholars and professionals. As Professor Monture-Angus frequently shared in her writing, the lived experience of Indigenous scholars can be a lonely one.¹²⁵⁰ Isolation within individual Faculties or across institutions on the

¹²⁴⁶ *Ibid.*

¹²⁴⁷ “Taima Moeke-Pickering” (last visited October 9 2020), online: *Laurentian University* <laurentian.ca> [perma.cc/8BBQ-9LN2].

¹²⁴⁸ *Supra* note 292 at 271.

¹²⁴⁹ *Ibid* at 273.

¹²⁵⁰ See e.g. *Supra* note 386 at 56.

whole is an ongoing reality for many Indigenous academics, even thirty years after Professor Monture-Angus wrote of her experiences as a Faculty member at the University of Ottawa.¹²⁵¹ For example, Dr. Jaris Swidrovich, the first First Nations Doctor of Pharmacy in Canada and now Faculty member at the University of Saskatchewan's College of Pharmacy and Nutrition,¹²⁵² recently shared concerns regarding their isolation in the academy via social media.¹²⁵³

Within the legal profession a lack of mentorship – that is access to individuals who might serve as advocates for and protectors of young lawyers – has been identified as a significant barrier to career advancement.¹²⁵⁴ Echoing concerns relating to a lack of Indigenous mentors for law students raised by research collaborators in the University of Saskatchewan Faculty of Law study completed 25 years ago,¹²⁵⁵ Dr. Swidrovich noted that for want of access to professional mentorship in pharmacy they have been required to seek support from scholars in other disciplines.¹²⁵⁶ Dr. Swidrovich further flagged concerns about the departure of Indigenous scholars from academia as compounding the issue.¹²⁵⁷

Beyond simply increasing the reach of academic research as is encouraged in the academy more generally, I believe that an important aspect of the language of possibility of virtual knowledge sharing and mobilization for Indigenous scholars includes the development of collegial bonds in

¹²⁵¹ See *Supra* note 250.

¹²⁵² “Jaris Swidrovich” (last visited 17 August 2020), online: *University of Saskatchewan: College of Pharmacy and Nutrition* <pharmacy-nutrition.usask.ca> [perma.cc/MEK2-HLGS].

¹²⁵³ Jaris Swidrovich, “Today another fellow #Indigenous colleague of mine on campus announced his departure from his position. Indigenous staff and faculty members (and students!) have been my strongest support system and such wonderful mentors, but the group is wearing thin” (4 August 2020 at 14:59), online: *Twitter* <twitter.com/JarisSwidrovich/status/1290724147488673792>.

¹²⁵⁴ *Nelson*, *supra* note 385 at 128.

¹²⁵⁵ *Lindberg*, *supra* note 72 at 319.

¹²⁵⁶ *Supra* note 1253.

¹²⁵⁷ *Ibid.*

addition to facilitating institutional knowledge sharing. As a result of the long and complicated history of interactions between Indigenous peoples and colonial educational frameworks, “many Indigenous educators distrust the academic policies and systems that are supposedly there to represent them.”¹²⁵⁸ Dr. Moeke-Pickering notes that Indigenous educators turn to online platforms to mitigate these feelings and concerns: “Through social media engagement, they seek support, ideas, and endorsement among their followers.”¹²⁵⁹ If we consider mentorship to be access to those who guide us, advocate for us, and protect us, one might view this investment in online networks as an effort to build alternative support structures and bridge gaps in professional mentorship networks. With additional academic housekeeping burdens and other barriers facing Indigenous scholars as discussed in previous chapters, the need for “mentors who confirm the importance of our academic research, cultural values and traditions, programs and projects, and leadership” is all the more critical.¹²⁶⁰ I believe the move of Indigenous scholars to seek out communities of practice online in the absence of available supports is a mark of our resiliency as Indigenous peoples.

The development of online beading spaces echoes this resiliency and works to build and rebuild communities of practice and knowledge transfer in the face of geographic barriers and disruption in opportunities for intergenerational knowledge transfer. As cited at the outset of this section, online beading circles have played a critical role in supporting communities and individuals through the Covid-19 pandemic, building on previously entrenched online beading communities.

¹²⁵⁸ *Moeke-Pickering, supra* note 292 at 270–71.

¹²⁵⁹ *Ibid.*

¹²⁶⁰ *Ibid* at 274.

Online beading circles allow those in self-isolation and quarantine to remain connected to community in uncertain times, in addition to generating the previously discussed therapeutic and spiritual care opportunities that emerge through beadwork practice and facilitating knowledge transfer relating to the artistic practice.¹²⁶¹

In what my Learners often refer to as the “Beadstagram” universe,¹²⁶² beadworkers on Instagram have developed multiple mechanisms for knowledge transfer to address the colonial disruption in knowledge mobilization within our communities. One such mechanism emerges through “Bead This In Your Style” challenges,¹²⁶³ wherein a different artist shares a beadwork pattern on a monthly basis, with participants sharing their works and artist statements at the end of the month. Artist statements are often quite detailed, sharing knowledge about materials – beads, seal skin, fur, quills, process – but also reviews of mistakes made and lessons learned through the challenge. Some artists further share teachings received from their mothers and grandmothers for the benefit of the community.¹²⁶⁴

¹²⁶¹ Emily Blake, “Online Beading Circle Brings People Together During Time of Isolation” (26 March 2020), online: *CabinRadio* <cabinradio.ca> [perma.cc/MC4R-GEYA]; “Beading, Instagram and An Online Community: How One Artist Has Turned to Social Media to Stay Connected” (last visited 17 August 2020) online (radio): *CBC* <www.cbc.ca/player/play/1716811843954>.

¹²⁶² Personal conversation with Tasha Simon, February 2020.

¹²⁶³ “Bead This In Your Style Challenge” (9 August 2019), online: Facebook <facebook.com> [perma.cc/3QGN-H5C6]; Danielle Lussier, “My team pitched in. We sorted for four days and nights. As we sorted, they pitched ideas. Child 3 was marginally devastated that there was not enough green in the #BeadSoupChallenge bag for me to take on the #BabyYodaBeadThisInYourStyle pattern, but we sorted on” (12 January 2020 at 10:11), online: *Twitter* <twitter.com/daniellelussier/status/1216377256769093632>.

¹²⁶⁴ Beadthisinyourstyle, “Shell Windsor says “Fireweed 🍷 Growing up we spent a lot of our time in the south Chilcotins, in a little log cabin on a lake surrounded by huge mountains and glaciers. We had a long dirt driveway that had towering fireweed on either side that my sisters and I would run through and get lost in.” (12 November 2019), posted on beadthisinyourstyle, online: *Instagram* <www.instagram.com/p/B4x37rDlh3L/>.

When my Learners first convinced me to create an Instagram account by luring me with promises of beads, I promptly purchased three different pairs of earrings from my favourite artists. One Learner laughed and reminded me that Instagram is not Amazon.ca.¹²⁶⁵ In this case I respectfully disagree with the wisdom of youth and suggest that “Beadstagram” absolutely serves to extend the reach of the cultural economic enterprise. This occurs on several levels: connecting artists with consumers and also connecting retailers of beadwork supplies with artists.

As demonstrated through the works of Katie Longboat exhibited at the Textile Museum of Canada and discussed earlier in this chapter, some supplies that were traditionally used in beadwork practice, such as home tanned moose hide, have become difficult to come by for many artists. Limited access to such supplies can arguably be traced back to Forced Assimilative Education policies, as the intergenerational knowledge transfer required to gain the significant skills required to tan a moose hide,¹²⁶⁶ for example, was interrupted.

Limited access to some supplies can also be grounded in geography – mobility and displacement. As a long-term visitor residing on someone else’s territory, for example, I am personally not able to harvest supplies I would have the right to harvest on my own territory. While access to mass-produced tools and equipment may be greater for those living in urban communities, urban beaders’ access to traditional materials – including home tanned hide, antler, quills, and shell – can be challenging.

¹²⁶⁵ Personal conversation with Zachary Thiffault, February 2020.

¹²⁶⁶ *Edge*, *supra* note 111 at 212.

A quiet Learner stopped by my office to say hello, having returned to campus following fall reading week. They sat to visit a while when I insisted they eat something containing vegetables out of the office slow cooker. I had promised their mother I would feed them, after all. In between bites, they asked if I ever used quills in my beadwork practice while casually sliding a bag they had harvested at home across the table. “I had to trim them so they wouldn’t seize them at airport security,” they said.



*Figure 30:
Mary
McPherson's
trimmed and
gifted quills*

My phone rang on a Saturday afternoon. It was a long weekend, sunny but cold. “We found a bead store. What’s our budget?” the Learner asked. Confused, I asked: “I thought you were away for the weekend. Weren’t you planning to propose marriage to your beloved today?” “Oh yes,” they said. “I did that this morning, it was nice, I got some photos. Then we found a bead store. There’s hide here, too. What’s our budget?”



Figure 31: Jason Tremblay's engagement bead haul

Zac Thiffault calls this my “just gifted a Ziploc full of seal skin by a Learner” face.



Figure 32: Unbridled gifted seal skin joy

Online community, however, can serve to bridge gaps in the access to both knowledge and supplies. An Indigenous supplier based on North Bay, Ontario who operates a web-based retail business under the banner of *Cvltrve Bead* facilitates access to traditional materials and knowledge transfer through their Instagram presence. Inspired by similar work done by her grandmother in the 1970s, Catherine Orr established her shop with a view to promoting “Culture Through Craft.”¹²⁶⁷ She and her partner test and demonstrate tools and products online in interactive tutorials, sharing teachings from her community and her mother and grandmother’s

¹²⁶⁷ Catherine Orr, “Something Old, Something New...” (4 February 2020), online (blog): *CVLTVRE BEAD* <cvltrvebead.com> [perma.cc/T22J-2PDQ].

beadwork practices with the broader community.¹²⁶⁸ Further, Catherine Orr creates infographics that describe and distinguish beadwork elements that she shares on the social media platform, also investing time in interactions with users who pose questions in relation to the knowledge she shares.¹²⁶⁹ When traditional materials are considered cost-prohibitive for individual artists, Catherine Orr hosts raffles to both facilitate access to materials by artists and to support the families, often in remote communities, who prepare the hides and materials for sale.¹²⁷⁰

It is clear from the forgoing that the role of beadwork practice in communities is a layered practice that serves to meet several needs, whether they be purely practical in that it protects and clothes the Nation;¹²⁷¹ economic when produced as a commodity for sale in and beyond the community; or symbolic, in allowing us to frame our interactions with others from first glance. Beadwork can serve to “increase social visibility,”¹²⁷² seek attention, or demonstrate wealth.¹²⁷³ Mobilizing this social information and other knowledge through the use of beadwork as a mnemonic device allows beadwork to serve as a tool for intercultural communication. Facing intergenerational, geographic, or pandemic-related community disruption, beadwork practice can serve to generate spaces for gathering, sharing, and building relationships.

¹²⁶⁸ Cvltvrebead, “NEEDLE ROLLS” (4 August 2020), posted on cvltvrebead, online: *Instagram* <<https://www.instagram.com/tv/CDeXKYtIYou/>>.

¹²⁶⁹ Cvltvrebead, “Caribou & Moose Hair Tufting” (1 July 2020), online: *Instagram* <www.instagram.com/p/CCHLeWdl2oq/>; Cvltvrebead, “Needle Types: Glover Needles” (30 May 2020), online: *Instagram* <www.instagram.com/p/CA1J7yelQwR/>; Cvltvrebead, “Hide Fact” (2 March 2020), online: *Instagram* <www.instagram.com/p/B9QazKCIZAN/>.

¹²⁷⁰ Cvltvrebead, “Home Tanned Moose Hide Raffle” (13 August 2020), online: *Instagram* <www.instagram.com/p/CD17IDAF9Q3/> (there is a description of the families she is supporting).

¹²⁷¹ *Racette*, *supra* note 150 at 194.

¹²⁷² *Ibid* at 192. See also *Grey*, *supra* note 965 at 40.

¹²⁷³ *Racette*, *ibid* at 192.

All of these elements are important and interconnected, but I maintain that beadwork practice, in all forms, is primarily a practice grounded in love and built in community. If the practice is understood as a sphere with all parts interrelated, as in Justice Joseph-Flies Away and Chief Justice Carrie Garrow's framework for analyzing practices through the lens of Therapeutic Jurisprudence+,¹²⁷⁴ I believe love emanates from an invisible core. As Dr. Farrell Racette explains: "[s]ewing for and sewing with are the means that we have to 'stitch' ourselves together,"¹²⁷⁵ and this remains true even in unprecedented times of long-term social isolation during a global pandemic through the use of new technologies. The combination of beads, law, and love is a recipe for therapeutic practice and community healing in legal education... even as we prepare to engage with our Learners online.

¹²⁷⁴ *Supra* note 936 at 425 and following.

¹²⁷⁵ *Supra* note 150 at 332.

DECOLONIZING LEGAL EDUCATION: CREATING A SPACE OF LOVE, HOPE, AND HEALING THROUGH
THE USE OF INDIGENOUS LEGAL PEDAGOGIES

“It is a labour of love if you want to advance Indigenous education. How do we transform the world around us so that we maintain a rightful place for Indigenous peoples in the arena of education?”¹²⁷⁶

Every jurisdiction on the planet struggled with how to support the health of its citizenry in unprecedented times, resulting in rapid and profound shifts in law and public policy. The emergence of Covid-19 also resulted in swift and intense shifts in how we deliver legal education and support our students.

Overnight, law schools across Canada embarked on a full-scale reimagining of legal education with little notice, little (or no) budget, and in the midst of what can fairly be described as global chaos.¹²⁷⁷

Suddenly, legal education and the practice of law lived online in ways that many of us never would have thought possible. The Supreme Court and courts in jurisdictions across Canada rapidly mobilized, hosting virtual sittings before summer arrived.¹²⁷⁸ Law school and professional licensing examinations were administered remotely.¹²⁷⁹ The legal academy, profession, and system began engaging in urgent discussions of what constituted the essential and foundational elements of legal practice and what elements we, as a group, were willing or able to dispense

¹²⁷⁶ Moeke-Pickering, *supra* note 292 at 268.

¹²⁷⁷ Eliot Escalona, “Inter Alia Speaks With Dean Dodek On Leading Fauteux Through A Global Pandemic”, *Inter Alia* (24 August 2020), online: <inter-alia.ca> [perma.cc/B778-AXBA].

¹²⁷⁸ Richard Wagner, “The Court’s First-Ever Hearing Fully by Video- Conference” (9 June 2020), online: *Supreme Court of Canada* <scc-csc.ca> [perma.cc/D9CL-LXFY].

¹²⁷⁹ “2020-21 Online Licensing Examinations” (last visited 24 August 2020), online: *Law Society of Ontario* <lso.ca> [perma.cc/L4Q6-RWUZ].

with. While, at the time of writing, we remain in the throes of the crisis, it is already clear that the possible long-term implications for access to justice are hard to understate.

In a difficult time, I see the possibilities as a space of hope. Given the rigid nature of the legal profession, I personally never thought I would see the day that the bar exam would be administered online. That day, now come and gone, reminded me of the potential for transformative change in the face of crisis.

The implications of changes experienced in the “Covid context” on the decolonization and indigenization of the legal academy are also profound. Suddenly, objections that may have been raised about the feasibility of teaching and learning outside the four walls of the law school can only be considered moot. Limits on how we can engage across borders are changing as online platforms evolve. I believe that, like many things, neither legal education nor the profession will return to a pre-Covid status quo; students and community members will simply not stand for it. Pick your idiom: the train has left the station, the horses are out of the barn, resistance is futile.

If the window of opportunity for transformative change and reimagining legal education is open, you had better be sure I am climbing through it during the golden hour, carrying my needle roll.

Pedagogy

As established in previous chapters, a common vocabulary is critical to moving forward in a good way, especially in contexts of cross-cultural communication where we might understand concepts in different ways.¹²⁸⁰ While this may seem simplistic, it is worth taking a moment to define the core concept explored in this section: pedagogy.

For the purposes of this section, I use the term “pedagogy” in its most basic sense, referring simply to “[t]he art, science, or profession of teaching.”¹²⁸¹

The art of teaching.

As with other artistic practices, I do not understand pedagogy to be a static concept, but rather one that evolves over time. In the same way that not all art forms are appropriate for all spaces – no, I do not need a giant spider in my living room, but I can appreciate *Maman* on a street corner¹²⁸² – pedagogical practices can and should vary depending on audience, context, and location. Further, I agree with Paulo Freire’s position that “...teaching is not the pure mechanical transfer of the contour of a content from the teacher to passive, docile students.”¹²⁸³

In her 1995 piece *But That’s Just Good Teaching! The Case for Culturally Relevant Pedagogy*, Dr. Gloria Ladson-Billings argued in favour of the development of pedagogies that would support not

¹²⁸⁰ *Wilson, supra* note 14 at 6.

¹²⁸¹ “Pedagogy” (last visited 8 August 2020), online: *Merriam-Webster* <merriam-webster.com> [perma.cc/WV9N-JBX6].

¹²⁸² “Louise Bourgeois: Maman” (last visited 8 August 2020), online: *National Gallery of Canada* <gallery.ca> [perma.cc/QEV2-6ZT8].

¹²⁸³ *Supra* note 281 at 59–60.

only academic success and the development or maintenance of cultural competence, but also the development of “critical consciousness through which [students] challenge the status quo of the current social order.”¹²⁸⁴ This could be achieved, she suggested, through a variety of means, ranging from valuing and incorporating knowledge from community experts into the classroom experience through to engaging in cultural practice or using music as a bridge between “school learning” and other ways of knowing.¹²⁸⁵

Building on Dr. Ladson-Billings’ theory of Culturally Relevant Pedagogy, Sina J. Fakoyede and Femi S. Otulaja’s 2019 study explored the mobilization of beads and beadwork as “cultural artifacts” to support learning in a science classroom setting in South Africa.¹²⁸⁶ The researchers conceptualized beads and beadwork through Bourdieu’s lens of “embodied cultural capital” – beadwork was understood to hold cultural significance for the Learners, and the study explored the impact of incorporating these cultural tools into the classroom on learning.¹²⁸⁷

Fakoyede and Otulaja found that employing beads as a pedagogical tool had multiple positive outcomes for both Learners and the educator engaged in the classroom setting. For example, despite limited experience with the pedagogical practice grounded in principles of “learning by doing,”¹²⁸⁸ the classroom instructor saw their classroom “transformed...into a place-based

¹²⁸⁴ Gloria Ladson-Billings, “But That’s Just Good Teaching! The Case for Culturally Relevant Pedagogy” (1995) 34:3 *Culturally Relevant Teaching* 159 at 160–62.

¹²⁸⁵ *Ibid* at 161.

¹²⁸⁶ Sina J Fakoyede & Femi S Otulaja, “Beads and Beadwork as Cultural Artifacts Used in Mediating Learners’ Agentic Constructs in Science Classrooms: A Case for Place-Based Learning” (2020) 15:2 *Cultural Studies of Science Education* 193.

¹²⁸⁷ *Ibid* at 5.

¹²⁸⁸ *Ibid* at 12.

classroom.”¹²⁸⁹ Researchers noted that partway through the experience of engaging with the beads, “learners’ demeanor changed... and they began the process of expressing self-efficacy.”¹²⁹⁰ Learners began to engage with the curriculum content posing questions and, at times, embodying the role of teacher within their work groups.¹²⁹¹ In short, empowered by the use of culturally-relevant materials, Learners demonstrated and exercised agency in the classroom in ways in which they had not before.¹²⁹²

Fakoyede and Otulaja’s research findings are an encouraging example of how incorporating culturally relevant materials and pedagogical practices into the classroom environment holds tremendous transformative possibilities. Even in the context of this study, where the “embodied cultural capital” mobilized in the classroom was largely divorced from the curriculum content, remarkable changes in Learner and educator behaviours and engagement were observed. Though this study could be distinguished in a dozen ways from the use of Métis Beadwork Practice as a pedagogical approach in legal education that I will propose in this chapter, I share it here as a marker of hope. If beads can empower science Learners in Africa and inspire passion for learning about molecular structures,¹²⁹³ just imagine what transformative power they might hold for legal education on Turtle Island – where beads already legitimately carry law.

Dr. Ladson-Billings conceptualization of pedagogy as a bridge between worlds, as mobilized in the research of Fakoyede and Otulaja, echos the previously discussed work of Indigenous scholars

¹²⁸⁹ *Ibid* at 16.

¹²⁹⁰ *Ibid* at 13.

¹²⁹¹ *Ibid* at 8–10.

¹²⁹² *Ibid* at 8–10.

¹²⁹³ *Ibid* at 9–14.

and their allies such as Dr. Marie Battiste,¹²⁹⁴ Dr. Val Napoleon, and Dr. Hadley Friedland.¹²⁹⁵

While not grounded in Indigenous worldview, much of Dr. Ladson-Billings research speaks back to, and sometimes expressly informs, the work of Indigenous scholars who engage with questions of pedagogy as a tool for challenging Eurocentric constructs in the classroom.

¹²⁹⁴ *Supra* note 1 at 103 and following.

¹²⁹⁵ *Supra* note 48 at 734.

Indigenous Pedagogies

To effect reform, educators need to make conscious decisions to nurture Indigenous knowledge, dignity, identity, and integrity by making a direct change in school philosophy, pedagogy, and practice. They need to develop missions and purposes that carve out time and space to connect with the wisdom and traditions of Indigenous knowledge. They need to teach holistic and humanistic connections to local and collective relationships. They need to generate educational space that allows them to be challenging, caring, inspiring, and alert to their students' intellectual travails and attuned to their inner conditions.¹²⁹⁶

In considering the work of Dr. Ladson-Billings, Métis scholar Bryanna Rae Scott agreed that acknowledgement and validation of Indigenous Learners' knowledge systems and their lived experience of education is essential before educators can "authentically engage students in their learning."¹²⁹⁷

I personally understand this as building trust-based relationships in the classroom, a process which should be grounded in reciprocity. As bell hooks posits: "[c]reating trust usually means finding out what we have in common as well as what separates us and makes us different."¹²⁹⁸

In her research, Dr. Ladson-Billings confirmed that the nature of the relationships between educators who employed culturally relevant pedagogies and their students were grounded in equity, with an understanding that the educators would sometimes take on the role of Learner, and Learners could act as teachers.¹²⁹⁹ Further, she found that these relationships were not

¹²⁹⁶ Battiste, *supra* note 1 at 66.

¹²⁹⁷ Bryanna Rae Scott, "Reconciliation Through Métissage" in Sheila Cote-Meek & Taima Moeke-Pickering, eds, *Decolonizing and Indigenizing Education in Canada* (Toronto: Canadian Scholars, 2020) 31 at 42.

¹²⁹⁸ *Supra* note 2 at 109.

¹²⁹⁹ *Supra* note 1284 at 163.

limited to school hours, with educators insisting on the creation of a “community of learners” beyond the four walls of the classroom and in the broader community.¹³⁰⁰

This idea of fluid, trust-based, and reciprocal relationships that exist beyond the classroom is one that resonates with me as both an Indigenous educator and Learner, and I concur with Dr. Shawn Wilson when he reminds readers that “It is not possible for [Indigenous people] to compartmentalize the relationships that we are building apart from the other relations that make us who we are.”¹³⁰¹ This borderless fluidity, when considered in the context of teaching, stands in direct opposition to most Eurocentric conceptualizations that continue to prevail in post-secondary education, where knowledge is generally shared in a top-down way and hierarchies abound.¹³⁰²

“Embedded in my own
and the collective consciousness of most American Indians
is the memory of school as a site of cultural genocide and,
as an American Indian scholar,
I feel overwhelmed
by the project of working to re-imagine school as a site of revolutionary struggle.
Nevertheless,
I rally
onward
compelled
by my desires
for the sovereignty and self-determination
of all Indigenous peoples.”

1303

¹³⁰⁰ *Ibid.*

¹³⁰¹ *Supra* note 14 at 92.

¹³⁰² See e.g. *Kennedy*, *supra* note 346.

¹³⁰³ Sandy Grande, “American Indian identity and intellectualism: The quest for a new red pedagogy” (2000) 13:4 *Intl J of Qualitative Studies in Education* 343 at 343.

Decolonizing the legal academy will take time, and the process will be imperfect; however, we must try. This is the duty owed to the generations who follow.¹³⁰⁴ Citing Elder Brenda Ireland and Elder Stan Wilson, Dr. Sylvia Moore reminds us that, when considering the decolonization of education, all we can do at any given time is our best.¹³⁰⁵ Given our starting point, the act of setting out down a good road of learning together can, in and of itself, be a remarkable achievement.¹³⁰⁶ Developing and implementing innovative pedagogical practices can smooth the path.

Dr. Marie Battiste suggests that it is not only possible but necessary for educators to engage in reflection on how pedagogical practice might occupy the spaces in between Indigenous and Western worldviews.¹³⁰⁷ She advocates for educators to work to “respectfully blend Indigenous epistemology and pedagogy with Euro-Canadian epistemology and pedagogy to create an innovative ethical, trans-systemic Canadian educational system.”¹³⁰⁸ The pedagogical hurdle educators must clear when engaging in trans-systemic methods, Dr. Battiste argues, is “not just reducing the distance between Eurocentric thinking and Aboriginal ways of knowing but engaging decolonized minds and hearts.”¹³⁰⁹

For me, espousing or developing Indigenous (legal) pedagogy is an act of decolonial resistance and love wherein we move beyond the simple transfer of knowledge and work to foster “a sense of collective agency, both to curb the excess of dominant power and to revitalize Indigenous

¹³⁰⁴ Lindberg, *supra* note 72 at 326.

¹³⁰⁵ *Supra* note 971 at 89–90.

¹³⁰⁶ *Ibid.*

¹³⁰⁷ *Supra* note 1 at 103.

¹³⁰⁸ *Ibid* at 168.

¹³⁰⁹ *Ibid.*

communities.”¹³¹⁰ While I do not believe that any one particular pedagogical practice can be a magic elixir that will instantly repair the hearts and minds of individuals and communities devastated by centuries of colonial interactions, I do understand pedagogy as a powerful decolonial tool that can serve to support the development of relationships necessary to move forward in a good way.

Discussions surrounding the use and development of Indigenous pedagogies usually begin with, or eventually return to, “Red Pedagogy.” Originally articulated and refined by Quechua scholar Dr. Sandy Grande, Red Pedagogy is situated in a “space of engagement” at “the crossroads of Western theory and Indigenous knowledge.”¹³¹¹

Red Pedagogy is effectively a counter-hegemonic effort to occupy the space in between Western and Indigenous knowledge while centring Indigenous worldview in learning and teaching.¹³¹² The interrelatedness of all things – including politics, culture, spirit, intellect, and place – is a core tenant of Red Pedagogy,¹³¹³ as is an understanding that Indigenous scholars generally consider sovereignty and self-determination to be critical conversations in spheres of education.¹³¹⁴

One might describe Red Pedagogy as walking in two worlds, encouraging all community members, through the use of “community-based power,”¹³¹⁵ to engage deeply with questions of both colonialism and decolonization.¹³¹⁶ We meet, Dr. Grande suggests, in the “liminal and

¹³¹⁰ *Cote-Meek, supra* note 33 at 31.

¹³¹¹ Sandy Grande, “Red Pedagogy” (2010) 356 *Counterpoints* 199 at 203.

¹³¹² *Cote-Meek, supra* note 33 at 158 and following.

¹³¹³ *Grande, supra* note 1311 at 204.

¹³¹⁴ *Grande, supra* note 1303 at 356; *Cote-Meek, supra* note 33 at 159 and following.

¹³¹⁵ *Grande, supra* note 1311 at 205.

¹³¹⁶ *Ibid* at 204.

intellectual borderlands...working to remember, redefine, and reverse the devastation of the original colonist 'encounter.'"¹³¹⁷

Dr. Shelia Cote-Meek suggests that a "sense of collectivity" is born from this act of engaging parties from all positions within the colonial encounter.¹³¹⁸ The idea of working in solidarity towards a common goal of resisting colonization is one Grande herself describes as replacing "to each his own" with "we are all related."¹³¹⁹

Like other scholars before me, I find Dr. Grande's Red Pedagogy to be both a source of hope¹³²⁰ and a source of encouragement.¹³²¹ For the sake of clarity, however, it is worth expressly stating that my own work in the development of Indigenous Legal Pedagogies, while grounded in many of the same understandings of knowledge and interrelatedness of all things, differs from Dr. Grande's work in a significant way. Specifically, Dr. Grande situates her pedagogy in the sphere of intellectualism and foundational theory (thinking) rather than practical pedagogies for teaching, learning, and knowledge mobilization (doing). Dr. Grande states:

Red Pedagogy is not a methodology but rather a consciousness and way of being in/reading the world. As such, it is not something that can be "done" by teachers or "to" students, nor is it a technique that can be lifted, decontextualized, and applied. It is rather a way of thinking about knowledge and the processes of teaching and learning as it emerges within and through relationships - between students, teachers, communities, and places.¹³²²

¹³¹⁷ *Ibid* at 203.

¹³¹⁸ *Supra* note 33 at 160.

¹³¹⁹ *Supra* note 1311 at 206.

¹³²⁰ *Cote-Meek, supra* note 33 at 160.

¹³²¹ *Purton, Styres & Kempf, supra* note 695 at 187.

¹³²² *Supra* note 1311 at 204–05.

In other words, if we return to the dictionary definition of “pedagogy” offered at the beginning of this chapter, Dr. Grande appears to position Red Pedagogy in the sphere of the “science of teaching,” whereas I conceptualize my own work in the category of the “art of teaching.” In this way, Dr. Grande’s theory of Red Pedagogy serves as a framework to ground and inform some of the theoretical and intellectual elements of my own practice-based pedagogical practice. The two approaches are not in opposition, but rather at two different points on the (circular) continuum of theory to practice.

In the years that followed the emergence of Red Pedagogy, many scholars working in spheres of Indigenous education advocated for pedagogical approaches that support learning in each of the four spheres of understanding: cognitive/intellectual, emotional, physical, and spiritual.¹³²³ This holistic¹³²⁴ conceptualization of teaching aims to normalize the incorporation of Indigenous knowledge systems and promote “intellectual self-determination,”¹³²⁵ maintain balance,¹³²⁶ and promote healing.¹³²⁷

Centring Indigenous knowledge systems and asserting intellectual self-determination are, in my view, inherently decolonial acts, as is insisting on healing as a foundational tenant of my own teaching practice. I concur with bell hooks, citing Parker Palmer: “[e]ducation is about healing and wholeness. It is about empowerment, liberation, transcendence, about renewing the vitality of life. It is about finding and claiming ourselves and our place in the world.”¹³²⁸

¹³²³ See e.g. *Saysewahum (McAdam)*, *supra* note 121 at 129; *Prete*, *supra* note 938 at 35; *Tanaka*, *supra* note 874 at 133.

¹³²⁴ *Battiste*, *supra* note 1 at 66; *Cote-Meek*, *supra* note 33 at 162.

¹³²⁵ *Ray & Cormier*, *supra* note 677 at 168.

¹³²⁶ *Saysewahum (McAdam)*, *supra* note 121 at 29.

¹³²⁷ *Cote-Meek*, *supra* note 33 at 32-34.

¹³²⁸ *hooks*, *supra* note 2 at 43.

Unfortunately, under colonial education frameworks, Indigenous Learners are encouraged, if not required, to bifurcate their understandings and knowledge systems in the name of objectivity¹³²⁹ and through the use of Western pedagogies.¹³³⁰ Emotion and heart-knowledge is not only excluded from the classroom setting but, in cases where it finds entry through the side door, professors are encouraged to restore the Eurocentric status quo of exclusion by referring students to supports, such as counselling, outside the classroom.¹³³¹

Rapidly referring Learners to resources outside the classroom has a multi-layered impact¹³³² on the classroom experience and learning process. First, it allows educators to avoid having to address ongoing colonialism and racism in the classroom.¹³³³ Further, by prioritizing intellectual knowledge transfer to the exclusion of emotion and other ways of knowing, the experience of Indigenous Learners is rendered invisible. The specific exclusion of emotion from the classroom problematizes the individual Learner and absolves the collective from any responsibility of addressing underlying and systemic discrimination.¹³³⁴ A related consequence of this silencing and erasure is that non-Indigenous students are denied the opportunity to confront their own positions of privilege and examine their preestablished, colonial constructions of law.¹³³⁵ The impact of this twofold failure to support non-Indigenous and Indigenous Learners should not be

¹³²⁹ *Wilson, supra* note 14 at 56.

¹³³⁰ *Cote-Meek, supra* note 33 at 40.

¹³³¹ *Ibid* at 39–41.

¹³³² I purposely insert this grammatical error, inserting “impact” where “effect” would be a more appropriate use of English, to underline the crater left behind by the devastating impact of excluding holistic pedagogical practice from classrooms.

¹³³³ *Cote-Meek, supra* note 33 at 39–41.

¹³³⁴ *Ibid* at 39; *hooks, supra* note 2 at 87; *Battiste, supra* note 1 at 33.

¹³³⁵ Dr. Darcy Lindberg suggests that non-Indigenous student resistance to the incorporation of Indigenous laws in the law school environment is grounded in discomfort that emerges when teachings challenge these pre-held conceptualizations of law. *Lindberg, supra* note 170 at 52.

underestimated. By denying the collective the opportunity to learn together, the ability of the community to move beyond colonial understandings of law is limited.

Second, the focus on cognitive learning to the exclusion of emotion and other ways of knowing propagates colonial understandings of knowledge and serves to exclude and devalue Indigenous knowledge systems in the classroom. As we have previously discussed, Indigenous knowledge systems generally acknowledge that all things are interrelated, and one cannot consider one aspect of life, law, or social orders without considering context.¹³³⁶ Exclusively espousing Western pedagogies can therefore result in consequences for not only individual Indigenous and non-Indigenous Learners who are effectively denied the opportunity to learn in safe enough spaces, but also for Indigenous knowledge systems. One can imagine this resulting in heavy consequences for communities, some of whom are in early moments of resurgence and revitalization of their legal orders.

Dr. Shawn Wilson's work, while focused primarily on academic research and not necessarily the classroom experience, supports a vision of holistic approaches to learning when he argues that the more ways in which we can build relationships to ideas, the more profound our understandings of those ideas will be.¹³³⁷ To properly build relationships to ideas requires an examination of relational context which, generally speaking, is not a primary focus of Eurocentric pedagogies.¹³³⁸

¹³³⁶ *Ray & Cormier, supra* note 677 at 169.

¹³³⁷ *Supra* note 14 at 78.

¹³³⁸ *Ray & Cormier, supra* note 677 at 166.

A front-of-mind example in the case of legal education is when the focus centres on learning legal principles, the *ratios* and the *obiters* and the *stare decisis*, with lesser emphasis on the facts underlying the case. While the facts of the case may be surveyed, often for the purposes of allowing one to distinguish cases and avoid or encourage the application of legal principles to their own “fact patterns,” in my experience the after-effects of decisions on individual parties were very rarely considered in a systemic way as part of the classroom learning experience.

The real-world outcomes for the parties involved in precedent-setting cases are often divorced from the learning and practice of law. This can cause cognitive dissonance for Indigenous Learners, who often understand knowledge sharing as a relational process. As Dr. Lana Ray and Dr. Paul Cormier, Wolf Clan from Lake Helen First Nation, remind us, “while knowledge is accessed through the mind, body, heart, and spirit, mental knowledge is better understood not just through the mind, but instead through active partnership with the heart.”¹³³⁹ It can be challenging to engage the heart when learning is distilled to rules and divorced from context. In short, “[n]on-relational knowledge is problematic because it does not allow for a holistic understanding of the knowledge to emerge.”¹³⁴⁰

Alternatively put, pedagogies that centre non-relational knowledge, that teach from western spaces focused on a cognitive understanding unconnected from other ways of knowing, do not serve as culturally relevant mechanisms of knowledge transfer for some Indigenous Learners.¹³⁴¹

Returning to the work of Dr. Ladson-Billings, then, one might consider her argument that, in

¹³³⁹ *Ibid* at 169.

¹³⁴⁰ *Ibid* at 167.

¹³⁴¹ *Cote-Meek, supra* note 33 at 40.

mobilizing Learners' own cultures to facilitate knowledge transfer, culturally relevant pedagogy could support not only individual learning, but also collective empowerment.¹³⁴²

This conceptualization of learning as a tool for collective empowerment is arguably all the more critical in the context of learning and unlearning as a decolonizing practice in law schools, given the long history of the law in supporting the colonial project and the reality of post-secondary institutions as sites of racism and ongoing colonialism. Dr. Angelina Weenie reminds us that “[l]iving in a racist society creates woundedness. Therefore, we do need to find ways to counter the racism and colonial practices we are subjected to.”¹³⁴³ In my opinion, to begin to address anti-Indigenous racism and ongoing colonialism in the classroom will require empowering the collective through the use of culturally appropriate pedagogies that make space for the four spheres of knowing – cognitive, emotional, physical, and spiritual. Decolonization of spaces should not, and cannot, be the responsibility of Indigenous people alone. As bell hooks reminds us, “the process of ending racism in thought and action is always a mutual enterprise. All our power lies in understanding when we should teach and when we should learn.”¹³⁴⁴

“Progressive education, education as the practice of freedom, enables us to confront feelings of loss and restore our sense of connection. It teaches us how to create community.”¹³⁴⁵

¹³⁴² *Supra* note 1284 at 160.

¹³⁴³ *Supra* note 119 at 11.

¹³⁴⁴ *hooks, supra* note 2 at 78.

¹³⁴⁵ *Ibid* at xv.

Indigenous *Legal Pedagogies*

Based on the forgoing discussion, if we understand “pedagogy” as the art of teaching, I would suggest that “Indigenous pedagogy” is the art of Whole Learner teaching (body, mind, heart, and spirit) for community empowerment. Further, I would submit that the development and use of holistic Indigenous pedagogies should serve not only Indigenous Learners in the classroom but the full cohort of students who form part of the law school community.

Albeit in very different ways, colonial disruption is experienced by all who engage with educational systems in Canada. The process of (un)learning and healing must engage the entire community. Healing is, after all, a lifelong journey that “is not...confined to particular spaces.”¹³⁴⁶ While many would prefer to exclude it from classroom spaces under Eurocentric models of education,¹³⁴⁷ I believe that making space for healing is critical to the larger project of decolonizing the legal academy as all of our community members must heal from the damage done.

And “Indigenous *Legal Pedagogy*”?
Distilled to a hashtag
#LawWithHeart

Community empowerment and collective learning is an aspect that underpins most Indigenous Legal Pedagogies, established and emergent, currently in use in law schools across Canada. For example, in an earlier chapter that set the stage for the discussions that will follow here, I briefly discussed the Indigenous Legal Pedagogy of land-based learning. This pedagogical approach to

¹³⁴⁶ *Cote-Meek, supra* note 33 at 40.

¹³⁴⁷ *Ibid.*

teaching and learning Indigenous laws and legal orders is often spoken of as something of a “gold standard” of Indigenous Legal Pedagogy. Land-based learning as a process engages all four spheres required for balance in learning: students are physically engaged in hands-on practices while bodily situated on the land (physical), learning and teaching law (cognitive) in a group setting that allows for the exploration of one’s own relationships to law, people, and land (emotion), while engaging with community members in ceremony and learning throughout the process (spiritual).

The programs that have been developed at various law schools, briefly examined during our discussion of decolonizing education, are incredible examples of efforts to decolonize the teaching of law and incorporate Indigenous laws, legal orders, and ways of knowing into legal education. Further, scholars such as Dr. Tracey Lindberg are thinking aloud about land-based learning in urban settings, and how established and tested pedagogical practices might be mobilized in different spaces to support learning while empowering communities.¹³⁴⁸ Dr. Gaudry and Danielle Lorenz would most certainly categorize the development of land-based learning programs as efforts towards “decolonial indigenization [which] envisions the wholesale overhaul of the academy to fundamentally reorient knowledge production based on balancing power relations between Indigenous peoples and Canadians, transforming the academy into something dynamic and new.”¹³⁴⁹

¹³⁴⁸ Tracey Lindberg, “Engaging Indigenous Legal Knowledge in Canadian Legal Institutions: Four Stories, Four Teachings, Four Tips, and Four Lessons About Indigenous Peoples in the Legal Academy” (2019) 50:3 Ottawa L Rev 119 at 127.

¹³⁴⁹ *Supra* note 275 at 218–19.

Educators are also working to integrate Indigenous Legal Pedagogies in a spirit of decolonial indigenization in a panoply of other ways at law schools across Canada. Building relationships is a key element to most, if not all, of these teaching practices. For example, many Indigenous legal scholars engage in pedagogical practice that valorizes the “transformative capacity of intergenerational relationships, mediated by Elders, for the restoration, renewal, and resurgence of Indigenous languages, knowledges, and practice.”¹³⁵⁰ This emphasis on building community and valorizing Indigenous knowledge keepers and systems can, and frequently does, emerge in several contexts within the legal academy including classrooms, lectures, and community events.

Further, individual educators are developing targeted Indigenous Legal Pedagogies to support specific lines of inquiry in their research. Professor Jeffery Hewitt of Osgoode Hall Law School at York University, for example, integrates the study of art and extra-intellectual Indigenous knowledge into his teaching and research practice. An illustration of this practice appears in a 2017 study co-authored with Dr. Ruth Buchanan, wherein they explore the law carried in both a handwritten treaty document and on a painted drum, analyzing soundscapes and principles of acoustic jurisprudence alongside the western law of contracts, modern international law, and Indigenous legal orders – to name but a few elements canvassed in their study.¹³⁵¹

As Dr. Buchanan and Professor Hewitt explain, “Reading the treaty and drum together points us in the direction of a different kind of relationality. They demonstrate that there is more than one way to perform and derive meaning from law.”¹³⁵² Heart knowledge is engaged in the research

¹³⁵⁰ *Galla & Holmes, supra* note 434 at 53.

¹³⁵¹ *Supra* note 192.

¹³⁵² *Ibid* at 302.

through the juxtaposition of the Treaty and the drum, which requires a recentring of knowledge systems and prompts reflection on how the reader understands their relationship to colonial legal objects.¹³⁵³

Beyond engaging Learners at cognitive and emotional levels, a workshop delivered in the context of the research also included physical elements – visiting the drum in a museum environment and developing new objects participants could take away from the workshop that reflected “the essence” of the object.¹³⁵⁴ Dr. Buchanan and Professor Hewitt explain:

“As the drum was originally a British military drum painted with Anishinaabe cosmological representations – an intersocietal object – we opted to represent it with British-sourced glass jam jars with tin lids, in which a handful of wild rice grown in Anishinaabe territory was contained. Though the drum was on display behind glass and therefore unable to be sounded, when our trace was shaken, the rice against the tin lid sounded like the snare of the drum, thus allowing participants to collectively imagine (and reproduce) the soundscape of the drum itself. Though somewhat restrained, the distribution of jars at the event did provoke a smattering of soundings in the museum and, we hope, afterwards, as participants took the ‘trace’ with them to their homes and offices.”¹³⁵⁵

In my understanding of the world, this act of physically carrying the trace of the learning home following an arm’s length encounter with objects held in a colonial institution engages one’s spirit. I can personally attest to spiritual considerations when engaging with the research, even in absence of participation in the workshop. For me, discussions of Anishnaabe worldview as they relate to law-scapes and the silencing of the drum as a legal object held in a museum collection

¹³⁵³ *Ibid.*

¹³⁵⁴ *Ibid* at 295.

¹³⁵⁵ *Ibid* at 295.

behind glass in Britain,¹³⁵⁶ for example, spoke to a level of learning and understanding beyond both mind and heart knowledge.

This holistic practice and unpacking of law, both Indigenous and colonial, embedded in art viewed as “legal objects”¹³⁵⁷ is a critical example of the language of possibility offered through the use of Indigenous Legal Pedagogies.

For his part, Dr. Darcy Lindberg explores academic and professional processes, including a focus on “technical efficiency,” that have resulted in a simultaneous elevation of black letter law within hierarchies of legal knowledge and delegitimization of Indigenous laws and legal orders in *Miyo Nêhiyâwiwin (Beautiful Creeness): Ceremonial Aesthetics and Nêhiyaw Legal Pedagogy*.¹³⁵⁸

Proposing an Indigenous Legal Pedagogy grounded in Cree worldview, Dr. Darcy Lindberg argues for the integration of Indigenous knowledge systems and making space for holistic learning process that engage “aesthetics” – “the spectrum of sensory experience, ranging from the limited sensuality of black letter law to full sensory experiences like the sweat lodge ceremony” – in legal education.¹³⁵⁹

“Just sharing ourselves
in a beautiful way is an inherently political act...
But I’ve also come to know
most people have a sense
of justice
and want to know what it’s like to be the other.”

1360

¹³⁵⁶ *Ibid* at 298.

¹³⁵⁷ *Ibid* at 299.

¹³⁵⁸ *Supra* note 170 at 53 and following.

¹³⁵⁹ *Ibid* at 55.

¹³⁶⁰ Jordan Darville, “Jeremy Dutcher: ‘The Days of Internalised Colonialism are Done!’”, *The Guardian* (26 March 2019), online: <theguardian.com> [perma.cc/SVZ7-CDLW].

Dr. Darcy Lindberg argues that *persuasive aesthetics*, learning and practicing Indigenous law in a beautiful way, can serve multiple purposes. First, he reminds us that “Nêhiyaw law is often meant to be practiced beautifully in order to convey its persuasive authority.”¹³⁶¹ The use of holistic pedagogies can therefore serve to honour the spirit and authority of Indigenous legal orders while also challenging the status quo of the prioritization of the written word over other legal knowledge in legal education.¹³⁶²

Second, he argues that beautiful aesthetic experiences can assist students in engaging with Indigenous law as they can “draw individuals towards the sensory experience.”¹³⁶³ Drawing on his own experiences as an undergraduate law Learner at the University of Victoria’s Faculty of Law, Dr. Darcy Lindberg describes a moment when he witnessed active resistance to engaging with Indigenous laws and legal orders on the part of his peers.¹³⁶⁴ He suggests that such pushback can emerge as a defense mechanism when students’ preestablished, colonial understandings of law are challenged in the classroom.¹³⁶⁵ He argues that the use of Indigenous legal epistemologies in education, such as facilitating aesthetic interactions with Indigenous laws, can encourage students to move beyond a defensive intellectual space where engaging with Indigenous laws is limited to a process of questioning their legitimacy.¹³⁶⁶

While the manifestation of the art of teaching described in *Miyo Nêhiyâwiwin* carries significant possibilities for legal education, Dr. Darcy Lindberg cautions that to engage with Indigenous laws

¹³⁶¹ Lindberg, *supra* note 170 at 55.

¹³⁶² *Ibid* at 54.

¹³⁶³ *Ibid* at 55.

¹³⁶⁴ *Ibid* at 52.

¹³⁶⁵ *Ibid*.

¹³⁶⁶ *Ibid* at 58.

through aesthetic experiences in a meaningful way requires clear structures of reciprocity and accountability.¹³⁶⁷ Without thoughtful consideration and mutual investment in the learning process, there is a risk of pedagogy grounded in aesthetic experience being valued for its surface beauty alone, and not for its transformative learning potential.¹³⁶⁸ I understand this risk to be one of “window dressing,”¹³⁶⁹ wherein the beautiful processes are only valued, and are sometimes fetishized, for their output while the underlying law and pedagogy are dismissed or diminished through what are ultimately “racist tactics.”¹³⁷⁰ A concrete example Dr. Darcy Lindberg offers is that of inviting Indigenous guests to give words of welcome at events without thoughtful engagement before, after, or during the event, which effectively turns the exercise into a performative aesthetic practice.¹³⁷¹ In my experience, this risks prompting further colonial interactions wherein Indigenous knowledge systems are diminished and further subjugated.

These risks, however, can be mitigated. Building community and investing in reciprocal relationships is but one way in which these risks can be managed. In my view, it is worth the effort. As Dr. Darcy Lindberg reminds us, the integration of innovative Indigenous practices in legal education that serve to “propel our legal pedagogies towards a greater understanding that celebrative gratitude, in all its playfulness and colour, is serious. If we let it be in all its many forms, law can be beautiful.”¹³⁷²

¹³⁶⁷ *Ibid* at 62–64.

¹³⁶⁸ *Ibid* at 64.

¹³⁶⁹ *Ibid* at 64.

¹³⁷⁰ *Cote-Meek, supra* note 33 at 156.

¹³⁷¹ *Supra* note 170 at 64.

¹³⁷² *Ibid* at 65.

MÉTIS BEADWORK PRACTICE AS INDIGENOUS LEGAL PEDAGOGY

Please Keep Loving Reflections on Unlivability

*“Desirous of a beautiful life I get out of bed,
but it’s Monday morning
and I’m in the throes of genocide.
I make a cup of coffee and pick up a poetry collection,
both of which I attend to at my living room window;
for a few minutes,
I think of nothing besides coffee, poetry, and windows,
which feels like a small rebellion.”¹³⁷³*

Teaching and Learning as a Therapeutic Act of Resistance, Healing, and Decolonial Love

For many years, I was blind to the beautiful potential of law. Through a Eurocentric lens, my vision was clouded, and I was unable to see past the colonialism collision. It was only when I made peace with the reality that legal education was not designed by Indigenous people or with Indigenous Learners and communities in mind that I was able to catch glimpses of celebrative gratitude, playfulness, community, and joy through the fog. Interacting with the work of Indigenous scholars who refuse to succumb to pressure to perpetually justify our laws and legal orders in relation to colonial law but who choose, rather, to recentre conversations through the use of Indigenous voice, worldview, and pedagogy transformed my vision of what legal education could be.

¹³⁷³ *Belcourt, supra* note 3 at 129.

“If Indigenous scholars
are to be freed
from the need to
constantly justify
our research
and
knowledge systems
from a dominant systems perspective,
it may be necessary for us to be clearer in our articulation
of exactly what our own paradigm entails.”¹³⁷⁴

Exploration of the transformative potential for Métis beadwork to act as a vehicle for legal knowledge mobilization on par with the written word in legitimacy and power as briefly alluded to in our prior conversations about “Ooma moon keur kanawaymisho (Here is my heart, take care),” will follow in the final pages of this dissertation. First, however, as we near the end of our work together, the time has come to explicitly unpack Métis Beadwork Practice as a practical, practice-based teaching pedagogy.

In this section, I will set out how Métis Beadwork Practice can be employed in legal education as a holistic Indigenous Legal Pedagogy. Exploring the pedagogy in the context of all four spheres required for a balanced lived experience – intellectual, emotional, physical, and spiritual¹³⁷⁵ – I will discuss the therapeutic aspects of the practice and the potential for community healing within the legal academy.

In our previous discussions of Therapeutic Jurisprudence and Therapeutic Jurisprudence+, I offered the following definition to guide our conversation: a pedagogical practice can be considered therapeutic if it serves to counteract ongoing

¹³⁷⁴ *Wilson, supra* note 14 at 12.

¹³⁷⁵ *Lavallée, supra* note 362 at 24.

colonialism and racism in the classroom. Put another way, “anti-therapeutic” can be understood as actions supporting the status quo, reinforcing colonial structures and understandings of law, and failing to confront ongoing colonialism and racism in the academy. When considering therapeutic impact through the holistic lens of Therapeutic Jurisprudence+, I suggest that providing opportunities for learning grounded in a practice of building reciprocal, trust-based relationships to ideas, people, and communities is also critical.

When espousing an Indigenous research paradigm, Dr. Shawn Wilson encourages researchers to reflect on the following questions during all phases of their research:

- How do my methods help to build respectful relationships between the topic that I am studying and myself as a researcher (on multiple levels)?
- How do my methods help to build respectful relationships between myself and the other research participants?
- How can I relate respectfully to other participants involved in this research so that together we can form a stronger relationship with the idea that we will share?
- What is my role as researcher in this relationship, and what are my responsibilities?
- Am I being responsible in fulfilling my role and obligations to the other participants, to the topic, and to all of my relations?
- What am I contributing or giving back to the relationship? Is the sharing, growth, and learning that is taking place reciprocal?¹³⁷⁶

If we replace “researcher” with “educator” and “participants” with “Learners” each of these questions is equally relevant to the development of Indigenous pedagogies. In the discussion that follows, as we consider the transformative potential of Métis Beadwork Practice as an Indigenous Legal Pedagogy, these questions will quietly guide the conversation. I consider this practice to be a necessary return to the heart-check process I engaged in at the outset of this dissertation.

¹³⁷⁶ *Wilson, supra* note 14 at 77.

Whole Learner Education

When as teachers we teach with love, combining care, commitment, knowledge, responsibility, respect and trust, we are often able to enter the classroom and go straight to the heart of the matter.¹³⁷⁷

Through the pedagogical practice described herein, beadwork operates in a few different ways beyond the most basic level of knowledge mobilization where beadwork functions as both artistic expression and as a mnemonic device. We will return to those elements in the final chapter of this thesis. In the “learning by doing” aspects of the pedagogy, Beadwork Practice is used to encourage students to engage with course content in different ways and build intellectual, emotional, physical, and spiritual bridges between themselves and colonial and Indigenous laws. Integrated into the law school classroom as part of a holistic teaching practice involving reading, writing, and artistic expression, in this participatory, inclusive, and circle-based practice¹³⁷⁸ Learners and the lead educator learn together and are empowered to build both relationships and cognitive bridges between knowledge systems.

A few general comments before we proceed, for the sake of clarity. First, as I am sure is clear by now, I am writing this dissertation for multiple audiences. I write for my family, for my Learners and students, for my colleagues, for the generations that follow. I also write for the Western academy. The following sections may read, to some, as a “how to” guide for my personal pedagogical practice. Unfortunately, this is necessary to demonstrate academic rigour and legitimize the practice within the academy. By detailing

¹³⁷⁷ *hooks, supra* note 2 at 134.

¹³⁷⁸ *Wilson, supra* note 14 at 103–04.

various elements of the practice, I am working to demonstrate the complex knowledge systems and pedagogical objectives involved when Beadwork Practice is incorporated into the classroom experience.

This need to justify and validate our ways of knowing and learning is but one of the many additional burdens placed on the shoulders of Indigenous scholars and is what non-Indigenous readers should be taking away from this chapter.

Nothing in this thesis should be read by non-Indigenous scholars as an invitation to adopt, adapt, or employ Beadwork Practice as a pedagogy in their own classrooms as their core teaching practice. While I personally believe it could be appropriate for non-Indigenous scholars to engage with Indigenous artists and knowledge keepers to incorporate beadwork practice into their learning plans as defined and guided learning experiences, it would be both inappropriate and appropriative for non-Indigenous scholars to read what I have written here and employ it into their own classrooms as their foundational pedagogy. What I describe below is not a checklist for how to engage in persuasive legal aesthetics. It is a peek behind the curtain to a layered process of supporting Indigenous and non-Indigenous Learners intellectual and emotional development and building relationships and community around law learning.

At the risk of repeating myself: I have written this so that you may begin to understand the depth of the academic and extra-intellectual work that I engage in. It is not for you to use.

Speaking now to my Indigenous colleagues and Learners: the following should not be read as prescriptive or limiting. I do not intend for this work to be understood as a definitive guide or a set of requirements for incorporation of my/our cultural practice(s) into learning environments. There is no one-size-fits all approach to the mobilization of beadwork as a tool for learning and sharing in legal education. I humbly offer some suggestions below based on years of thinking and learning by doing. My hope is that you may hold this work up as a shield against colonial visions of what is appropriate, legitimate, and possible in legal education. More importantly, I hope it might inspire you to imagine possibilities for educating in full, joyful, and loving colour.

Spaces

This pedagogy is best employed through a circle format, which positions all participants as equal in the learning process and encourages sharing of both intellectual and extra-intellectual knowledge.

Citing Lewis Cardinal, Dr. Shawn Wilson reminds us “[t]he circle is found throughout Indigenous societies and their architecture and how they make governmental decisions. The circle is like a foundational platform... It’s egalitarian, it’s relational, it’s a structure that supports inclusion, a wholeness.”¹³⁷⁹ In other words, circles articulate an Indigenous understanding of relationality.¹³⁸⁰

¹³⁷⁹ *Supra* note 14 at 92.

¹³⁸⁰ *Ibid.*

Discussing the use of sharing circles in the context of academic research, Dr. Lynn Lavallée positions circles as a culturally appropriate method for sharing knowledge:

“Sharing circles are used to capture people’s experiences. They are comparable to focus groups in qualitative research where researchers gather information on a particular topic through group discussion (Berg, 1995). How they differ from focus groups is the sacred meaning they have in many Indigenous cultures and in the growth and transformation bases for the participants. Sharing circles use a healing method in which all participants (including the facilitator) are viewed as equal and information, spirituality, and emotionality are shared, a method that is familiar and comforting for some Aboriginal participants...”¹³⁸¹

Describing sharing circles used at the close of land-based learning experiences, Dr. John Borrows notes that the breadth and depth what participants shared and the manners in which they did so exceeded the sharing that takes place in classroom settings.¹³⁸² Other educators have observed similar phenomena, remarking on the development of relationships between participants “at a depth uncommon in the Western educational context.”¹³⁸³

As participants build relationships to one another and to ideas, the collective is transformed.¹³⁸⁴ I believe this is attributable to the energy generated in circle through the development of trust-based relationships and the process of active listening participants engage in while learning from each other.¹³⁸⁵ Further, circle-based classroom practice makes space for all community members to find their voice, not only who are “loudest,

¹³⁸¹ *Supra* note 362 at 28–29.

¹³⁸² *Supra* note 737 at 21.

¹³⁸³ *Moore, supra* note 971 at 35.

¹³⁸⁴ *Steinhauer et al., supra* note 362 at 84, quoting Mark Higgins.

¹³⁸⁵ *Lavallée, supra* note 362 at 29.

most persuasive or most charismatic.”¹³⁸⁶ In requiring Learners to “[put] down the notepad,” circle-based learning disrupts colonial learning structures,¹³⁸⁷ and makes space for other ways of knowing. This fundamentally alters the classroom experience.¹³⁸⁸

It is clear from the research cited above that circle-based pedagogy serves to support each of the spheres of learning: physical spaces are reconfigured, bringing all Learners and educators into equal and supported physical spaces. Within the circle, Learners and educators engage in respectful sharing through exchange of spiritual, emotional, and intellectual ideas. Echoing Lewis Cardinal and Dr. Shawn Wilson, Dr. Sylvia Moore states the heart of the matter quite plainly: “[i]n the learning circles we were connected through our relationships and we were whole.”¹³⁸⁹

Beyond the academy, beadworkers also remark on the sense of wholeness born in beading circles:

“I have always left the beading circle feeling centered and balanced, much, much better, on many different levels—physically, emotionally and psychologically... I always feel leaving the same way. I feel calm, I feel relaxed, I feel balanced, I feel somewhat fulfilled because I have sat with women. Always does that for me. It fills me up. It's a part of my wellness; a very important part of my wellness is to sit with women. For different reasons, I leave here feeling whole and healthier and balanced and in more harmony, which is what I seek, and is probably what we all seek.”¹³⁹⁰

¹³⁸⁶ Ray, *supra* note 35 at 237.

¹³⁸⁷ Tanaka, *supra* note 874 at 62.

¹³⁸⁸ *Ibid* at 67.

¹³⁸⁹ Moore, *supra* note 971 at 35.

¹³⁹⁰ Edge, *supra* note 111 at 108–09.

Espousing a circle-based framework for this Indigenous Legal Pedagogy makes sense on several levels. At the most basic level, in addition to all of the reasons set out above, beadwork has traditionally been done in the home and around tables in shared spaces.¹³⁹¹

This format, however, has implications on the physical spaces required to best engage with the pedagogical practice. To mobilize the pedagogy described herein, the ideal classroom space would see Learners and the lead educator seated around a round table in a space with natural light and adequate task lighting, with a common supply of materials in the centre of the table. For those educators who choose to offer smudging opportunities as part of their teaching, discussed further below, the ideal classroom will have windows that open or adequate ventilation.

As we learn through “spirit bead” teachings, however, nothing in life is perfect.¹³⁹² That is okay. As educators and lifelong Learners, we have all had the experience of teaching and learning in less-than-ideal physical spaces from time to time. A prime example experienced by all in this year of Covid-19 was the unanticipated and urgent shift to online leaning.

Physical spaces should not serve as a barrier to mobilizing this pedagogy. Less than perfect temporary solutions are okay: desks and tables can be rearranged so that Learners can face each other. While we shelter at home and live and learn in online

¹³⁹¹ *Grey, supra* note 965 at 35.

¹³⁹² There are many spirit bead teachings, many of which relate to the idea that nothing in life can, or should, be perfect. To learn more, please seek out a knowledge holder in a community near you.

spaces, tools such as the “boardroom” function on the Microsoft Teams platform, which allows the host to “seat” participants around a virtual conference table and help ease the visual strain and disconnect of “gallery” view. When all is said and done, the critical piece is the feeling generated in the room when all participants are actively listening and engaged in learning and sharing in a supportive space. The pedagogy can most certainly be used in auditoriums and classrooms with fixed seating while we support the institutions we operate within to build physical spaces that properly support Indigenous Legal Pedagogies.¹³⁹³



Figure 33: Working with what we have, making spaces work

¹³⁹³ See for example: “National Centre for Indigenous Laws gets major funding boost”, *uVic* (3 September 2020), online: <uVic.ca> [perma.cc/SXX2-68UK] and “University of Victoria to house national Indigenous law centre: \$27-million expansion builds on school’s current Indigenous law program”, *CBC British Columbia* (3 September 2020), online: <cbc.ca> [perma.cc/T9J6-ENYY].

Supplies

*Mrs. Umpherville keeps all her beads and her patterns in commercial cookie tins, which are generically referred to as bead boxes. This appears to be the preferred method of storage for most serious beaders.*¹³⁹⁴

*To begin, you should have a cloth upon which you place whatever it is you are sewing with, you keep everything together in a little box. You will see a lot of women, they will use whatever tins they can get a hold of, cans for chocolates, for cookies, those kinds of things. It is worthwhile buying these so you have a nice little container to keep your beadwork stuff.*¹³⁹⁵

Learning begins, and relationships are born, through the creation of each Learner's beading box. There are a few ways in which to approach this phase of the work, the choice of which will depend on several factors including the timing of the course during the academic year, the geographic location of the law school, the availability of funding, the number of students in the course, the relationship of the Faculty to the bookstore and law library, and the specific pedagogical objectives of the lead educator.

It is, for example, possible that educators themselves choose to assemble entry-level beading kits with the necessary materials for distribution to Learners. Others might prefer to build relationships with Indigenous suppliers, in person or online, to create course packs available for purchase by Learners in lieu, or in supplement, of textbooks. Some might choose to provide Learners a list of required items and suggested suppliers and ask them to engage in their own research before purchasing their supplies.

¹³⁹⁴ Tracy, *supra* note 1049 at 165.

¹³⁹⁵ Edge, *supra* note 111 at 98.

While slightly more onerous for the lead educator, my personal preference is a combination of all of the above. First, the creation of some preassembled supply kits is a non-negotiable, as lead educators should ensure that kits are put on reserve in the law library for use by Learners who prefer to access their course materials through the library. This serves a few different pedagogical objectives, including ensuring accessibility of the course materials to those who find textbooks and supplies cost-prohibitive, and institutionally valorizing the materials on the same level as legal textbooks.



Figure 34: Sample Course pack.

Sample course pack: needle roll with smoked moose hide wrap by Catherine Orr's kokom; nylon beading thread; needles; selection of beads; drawing pencil; beadwork graphing paper; stabilized beading felt; and, hide.

Working with Indigenous suppliers fosters building relationships with local community members and, if there is a brick-and-mortar store in the community, encouraging Learners to begin developing their own relationships with Indigenous suppliers. Offering the option of premade course packs can support hesitant Learners by taking the

guesswork out of their initial engagement with beadwork supplies, mitigating the initial barrier of fear of making mistakes that many law students face when engaging with Indigenous peoples and laws. Finally, engaging with the cultural economic enterprise of beadwork and supporting Indigenous entrepreneurs honours the multi-layered value of beadwork practice in Indigenous communities and reinvests dollars into communities.

Providing a suggested materials list and empowering Learners to build their own beading box can offer some agency and freedom to those Learners who may already engage in beadwork practice, or who have artistic, brand, or supplier preferences. This option requires the highest level of engagement for Learners, but it also offers the best opportunity for Learners to begin building their community circle of practice.

Technique

Transferring knowledge of physical beadwork practice and anchoring artistic techniques for each Learner represents a significant opportunity for engaging with members of the broader community. This meets several community needs and pedagogical objectives.

Lead educators who have already established their own practices might wish to personally facilitate knowledge transfer in the classroom in collaboration with local beadwork artists and knowledge keepers. In-person learning and hands-on support, or curated online spaces focused on the development of artistic technique, afford opportunities for relationship building between educators and their students and is non-negotiable in this pedagogical practice. Speaking of legal principles shared during ceremony in a sweat lodge, Dr. Darcy Lindberg reminds us that legal knowledge

transferred through writing alone would hold knowledge keepers to a lesser standard of knowledge. Legal knowledge transferred through physical ceremonial experiences, however, requires knowledge seekers to take responsibility for the embodiment process.¹³⁹⁶ The same principles apply to beadwork practice: the embodiment process carries weight in each of the spheres of learning, and is foundational to the mobilization of the pedagogy.

As we continue to live and learn in online environments due to the global public health crisis, this knowledge sharing process becomes more complex, but is certainly not impossible. In online learning environments, for example, through the use of multiple cameras educators can focus on the details of handwork techniques. The use of “screen sharing” functions can be employed to share teachings pre-recorded by educators or publicly available technique-oriented videos. Narrated slide decks can incorporate still images and infographics. The whole can be supplemented by oral teachings, and so on.¹³⁹⁷

In a decolonized academy this would go without saying, but today I will state it explicitly: when community members, artists, and knowledge keepers are invited into classroom spaces to support learning and contribute to knowledge transfer, there must be an element of reciprocity in the relationship. It is critical that lead educators ask what this means for each individual knowledge holder. In some cases, it might mean an opportunity to sit with Learners

¹³⁹⁶ Lindberg, *supra* note 170 at 60–61.

¹³⁹⁷ The paralysis I faced when tasked with reimagining my pedagogical practice for online learning environments was tremendous. I owe a debt of gratitude to Dr. Florian Martin-Bariteau for his encouragement and for “meeting” me on various platforms to test drive PowerPoints and features in the wee small hours after panicked phone calls that, on reflection, were probably not about the PowerPoints at all. Also, for his constant reminders that I am used to doing things that are challenging, and his reassurance that anything is possible... with the right tech.

and share a meal following the knowledge exchange. Other times, these educators may prefer the exchange of medicines, cloth, or beading supplies. Sometimes an honourarium is preferred. When payment is made in cash, it is critical that these knowledge holders are compensated commensurate with their knowledge and experience, and that their expertise is valued in the same ways that the legal academy values other invited guest lecturers and speakers. Indigenous knowledge systems have been subjugated through Eurocentric understandings of knowledge, and those individuals who carry knowledge and law on behalf of the community have been undervalued for too long. This is ongoing, and often emerges in situations where an expectation that Indigenous knowledge keepers will share their expertise for free or for insultingly inadequate stipends, demonstrating that the academy still does not consider Indigenous knowledge on par with western academic knowledge.

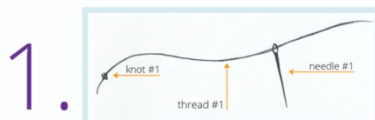
In-person circlework should be supplemented by the use of written technique guides¹³⁹⁸ and online videos and tutorials¹³⁹⁹ to ensure that the process is as inclusive as possible. Offering a variety of formats of support for the development of technique is important when considering questions of Universal Design – we shall return to this discussion below.

¹³⁹⁸ For example, *Scofield, Briley & Racette, supra* note 1163.

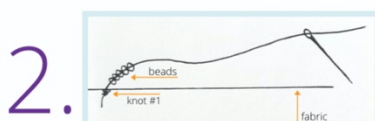
¹³⁹⁹ See, for example: Mona C., “1 needle & 2 needle flat stitch beading techniques” (19 September 2017) online (video): *Youtube* <www.youtube.com/watch?v=smrfuN-fBT4> [perma.cc/W6X4-G5MW] and Renee Bedard, “Beading 101 Technique Series, Beading Needle Style #2” (8 July 2014) online (video): *Youtube* <www.youtube.com/watch?v=q9lhLRBs3Xw> [<https://perma.cc/AGH2-N7VN>].

Two Needle Technique

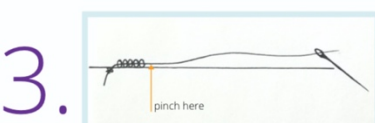
The Two Needle Technique uses two needles and two threads at once. One needle holds a piece of thread that is used to hold the beads down on the fabric. The other needle holds a different piece of thread used to tack down your beads.



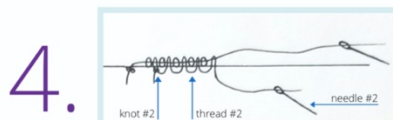
Cut two arms length pieces of thread. On each piece of thread, tie multiple knots at one end of the pieces of thread. Thread two different needles using the other ends. You should have 2 pieces of thread that look like the picture above.



Push your needle through the fabric, so that the knot is anchored on the back of the fabric. Using your needle, place beads on your thread.



Using your finger, hold beads tight to the fabric.



Push the second needle up between bead 1 and 2. The knot of the second thread should anchor between bead 1 and 2. Use the second needle to tack the first piece of thread down between every bead. For tacking instructions, see step 5 on the previous page.



Repeat! Using the first needle, pick up more beads. Using the second needle, tack down the first piece of thread between every bead.

Figure 35: Sample infographic.

Infographic developed by uOttawa JD Learner Tara Rose McDonald demonstrating the two-needle stitch technique¹⁴⁰⁰

As educators develop communities of practice within their law schools, there will eventually be a cohort of alumni who may wish to return to engage with current Learners. Offering opportunities for relationship building with former Learners supports wellbeing while also serving to support the development of critical professional connections. As we discussed in a previous chapter, a significant barrier to academic and professional

¹⁴⁰⁰ Faculty resource entitled “Welcome to Beading Circle – September 2020” [unpublished].

success in law is a severe lack of mentorship for Indigenous Learners and lawyers. Facilitating connections between Learners, alumni, and practitioners can begin to bridge these critical gaps and better support Learners as they transition into professional roles.

Inclusivity and Universal Design in Learning

I am preoccupied, especially following my own humbling learning experience in planning the staff retreat that included a physical Métis art workshop discussed in an earlier chapter, by the question of inclusivity in the learning environments I am responsible for curating. I have been learning by doing and, full transparency: learning the art of teaching has a steep curve.

In times of online teaching during the Covid-19 pandemic, these conversations are sometimes framed as consideration of principals of “Universal Design.”¹⁴⁰¹ Article 2 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) defines “Universal Design” as “the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.”¹⁴⁰²

¹⁴⁰¹ For those interested in exploring Universal Design specifically in the context of online learning in post-secondary environments, see: Angela Michelle Piper, *Universal Design in Higher Education* (PhD, University of West Florida, 2014, ProQuest Dissertations & Theses Global (1534553140)) online: < search-proquest-com.proxy.bib.uottawa.ca/docview/1534553140?accountid=14701>.

¹⁴⁰² *United Nations Convention on the Rights of Persons with Disabilities*, A Res 61 (106), UNCRPD, 61 Sess, Supp No 49, UN Doc A/RES/61/106 (Of particular interest to this discussion is Article 2).

While principles of Universal Design were initially conceptualized in the context of accessibility and design of physical spaces,¹⁴⁰³ “Universal Design in Learning” (UDL) has emerged as a specialized subdiscipline focused on accessibility and inclusion in education.¹⁴⁰⁴ At the most basic level, principles of Universal Design in Learning call on educators to provide “multiple, flexible methods” of presentation, expression, apprenticeship, and engagement in the classroom, with a view to providing a “richer cognitive learning environment for all students.”¹⁴⁰⁵ The deeper I dove into readings on Universal Design in Learning,¹⁴⁰⁶ the more I began to feel an intellectual kinship to the theory and its accompanying practices. To use the language of Indigenist research, I came to understand Universal Design in Learning as seeking to support all Learners by offering multiple opportunities to build relationships to ideas. My own efforts to develop Indigenous Legal Pedagogy for use in legal education are, of course, also grounded in similar attempts to encourage holistic approaches to education and better support multiple ways of knowing.

While I am by no means an expert in this important area of law or education policy, I am alive to the important implications of principles of Universal Design for Learning on the classroom environment. While the incorporation of Beadwork Practice into the classroom environment offers what I believe to be a significant language of possibility

¹⁴⁰³ National Disability Authority, “History of UD”, *Centre for Excellence in Universal Design*, online: <universaldesign.ie> [perma.cc/3M2J-M8AZ] and Sonia Woodward, “Universal Design 101”, *Rick Hansen Foundation* (26 February 2017), online: <RickHansen.com> [perma.cc/76ZA-JL2K].

¹⁴⁰⁴ See, for example: David Gordon, Anne Meyer, and David Rose, *Universal Design for Learning* (Wakefield: CAST Professional Publishing, 2016).

¹⁴⁰⁵ David Rose, “Universal Design for Learning” (2001) 16:2 *Journal of Special Education Technology* 66 at 67.

¹⁴⁰⁶ Seán Bracken & Katie Novak, eds, *Transforming Higher Education Through Universal Design for Learning: An International Perspective* (New York: Routledge, 2019).

for reshaping and decolonizing legal education, when considering the pedagogy through the lens of Universal Design in Learning some barriers to full participation are immediately obvious. For example, to cut and sew hide requires a certain level of manual dexterity. To manipulate small beads and thread needles requires visual acuity. To sit long hours developing one's practice requires a certain level of physical health and stamina.

Undeterred, I continued to reflect on how Beadwork Practice could be mobilized in a classroom setting through the lens of Universal Design in Learning, turning my mind to questions of how the pedagogy might be employed in a more inclusive way. Again, I am not an expert in this area, but I recall the teaching of Elders Ireland and Wilson that all we can do at any given moment is our best.¹⁴⁰⁷ I humbly offer a few approaches that I believe can support a more inclusive classroom experience when employing Beadwork Practice as an Indigenous Legal Pedagogy.

*Dans ses écrits, un sage Italien
Dit que le mieux est l'ennemi du bien.*¹⁴⁰⁸

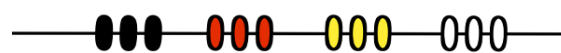
One pedagogical objective of the use of Beadwork Practice in the classroom is to recentre and value Indigenous knowledge systems while building bridges between Western and Indigenous understandings of law. To meet this pedagogical objective, Learners do not necessarily need to engage in handwork. In reality, there are several

¹⁴⁰⁷ Moore, *supra* note 971 at 89–90.

¹⁴⁰⁸ Roughly translated: the perfect is the enemy of the good. Voltaire, *Contes en Vers – Œuvres complètes de Voltaire* (Paris : Garnier, 1877). Tome 10 at 50–56.

ways to meet this objective without ever touching or seeing beads. One strategy that comes immediately to mind is offering Learners their choice of several assignment options, with the completion of handwork being but one of several, or where handwork can be replaced by the creation of patterns alone. Smaller assignments that do not require the production of beadwork involving research and development of practice support resources, such as the creation of written “how to” guides, videos, or infographics relating to various beadwork techniques or elements of practice, would certainly valorize the knowledge system and could serve to support the revitalization of practice where intergenerational knowledge transfer has been disrupted without having to produce beadwork.

If we return to our previous discussion regarding online communities of practice, we frequently see examples of such knowledge creation and mobilization on both Twitter and Instagram. Catherine Orr’s work in this area, for example, could serve as an inspiration for Learners seeking to develop tools for online knowledge mobilization.



Seed Bead Finishes:

Transparent: Clear, coloured glass that allows light to pass through, use coloured thread for a different effect.

Colour-lined: Transparent beads with an opaque coloured lining on the inside.

Matte: Usually the surface is etched, resulting in a frosted appearance.

Figure 36: Example of a Cvltvre Bead teaching graphic¹⁴⁰⁹

¹⁴⁰⁹ Used with permission of Catherine Orr.

Where Learners struggle with reduced visual acuity, the use of alternate beadwork elements and instruments can be useful tools. “Golden eye” and “collapsible eye” needles, for example, are more easily threaded. Incorporating larger beads, such as pony beads or seed beads in sizes 6 and 8, allow for the use of larger needles, including needles large enough to accommodate the use of a needle threader. In addition to the possibility of using larger beads, it is possible to source “white heart” beads that, while maintaining rich colours on the outside, are lined with contrasting white glass making them easier to manipulate.

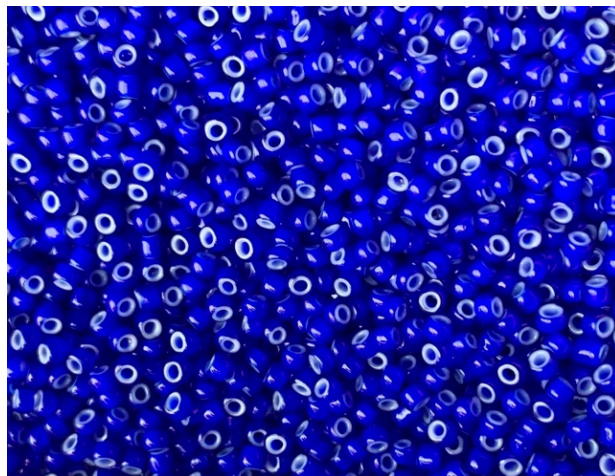


Figure 37: Vintage White Heart beads

A collaborative classroom approach to the preparation of hides and fabrics can also serve to support those who may not be physically able to bend over a cutting mat or apply enough pressure on a rotary cutter to pierce hide. For Learners who lack of physical dexterity to sew through hide, the use of beading foundation (a stiff felted material), melton (a wool-polyester blend), or wool trade cloth can be more accessible choices that support beadwork well.

As discussed earlier in this section, Learners who live with visual impairment or physical limitations that make sewing an impossibility might prefer to engage in other aspects of the practice such as pattern research and development. The use of beadwork graphing paper can facilitate the creation of patterns, and several beadwork pattern making programs for use on desktop and laptop computers¹⁴¹⁰ and applications for use on cellphones and tablet computers¹⁴¹¹ are available as an additional method for interacting with beadwork practice, even in cases where physically engaging with beads is an impossibility.

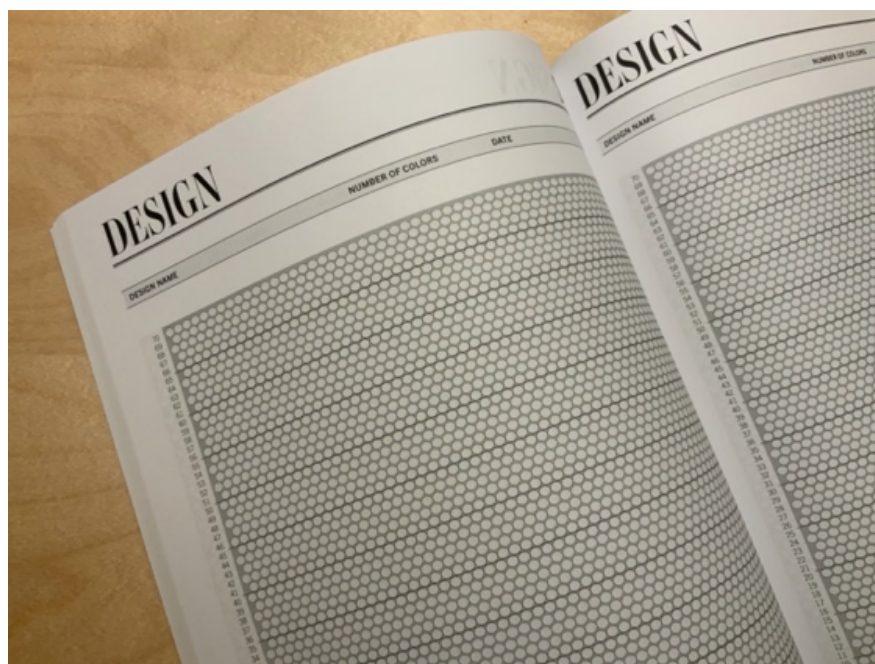


Figure 38: Pattern paper detail

¹⁴¹⁰See e.g. “Bead Pattern Design Software” (last visited 24 August 2020), online: <beadcreator.com> [perma.cc/84S9-FS39] and “BeadTool4” (last visited 24 August 2020), online: <www.beadtool.net/>.

¹⁴¹¹ See e.g. “Bead & Button Magazine” (last visited 24 August 2020), online: *App Store* <apps.apple.com> [perma.cc/U7AR-NUPC] and “Bead It! HD” (last visited 24 August 2020), online: *App Store* <apps.apple.com> [perma.cc/3223-Y73T].

The overall nature of the pedagogy is one of curated community-oriented learning. It would, therefore, be a natural extension of circle-based classroom learning to encourage collaboration and mutual support for the physical component of the beadwork practice. Should the lead educator prefer not to offer a variety of assignment options, the use of group assignments requiring collaboration to complete the physical beadwork component could engage groups of students as a variation of the pedagogical practice that would support an inclusive learning environment.

While originally conceptualized as a circle-based pedagogy where each Learner engages in both collective learning and sharing and an individual beadwork practice, there is nothing to prevent a teams-based approach to learning under this pedagogical framework. Working in groups, Learners could collaborate to design and execute a single piece of beadwork, with members working on different elements of the practice. From research and pattern making to sewing, weaving, and drafting written work that supports the physical expression and interprets the mnemonic device, group members could select elements of the process that allow them to participate in the most comfortable way for them. This echoes the approach our Faculty uses in our community beading circle, where various community members engage in different moments of the stole creation process, in the ways they feel most comfortable.

This idea of comfort, physical and emotional, is the final consideration I will discuss here. As previously discussed, many beaders note the meditative and calming aspects of beadwork practice. I am not unaware, however, of challenges that might arise for some

Learners should they attempt to bring their beadwork practice into their home environments.¹⁴¹² To ensure inclusivity in the learning experience, it is important that adequate classroom time is devoted to the practice to allow Learners to bring their projects to completion, should they not wish to bead outside the classroom. This can be accomplished a few different ways, depending on course scheduling – for example by devoting one of two weekly lectures to physical art in parallel to talking circles, by allowing or encouraging Learners to bead throughout lectures, or by structuring weekly office hours in such a way that Learners have additional time to gather in circle should they desire or require it.

In the end, “[e]ducation is about healing and wholeness. It is about empowerment, liberation, transcendence, about renewing the vitality of life. It is about finding and claiming ourselves and our place in the world.”¹⁴¹³ With a little creative thinking and collaboration, the healing benefits of this pedagogical practice can be accessible to all.

¹⁴¹² I do not need to betray any confidences here, but rather can remind readers of the incident on The Bad Day where beaders were asked to cease beading in public as the practice was deemed by an administrator to be disrespectful as an example of how some might react to Learners beading outside the classroom.

¹⁴¹³ *hooks, supra* note 2 at 43.

Spheres of Learning

We will now unpack this holistic Indigenous Legal Pedagogy through the lens of each of the four spheres of learning – cognitive, emotional, physical, and spiritual – as attention to each of these elements is critical to ensure that the learning experience is balanced. It is important to remind you, dear reader, that each of these elements are interrelated. This exercise in deconstructing the pedagogy and attempting to present the component parts in a linear fashion is, in fact, in direct opposition to the Indigenist research paradigm I described at the beginning of this thesis. My attempt to do so here is, once again, an exercise of hopeful resistance. In engaging with teaching practice that supports the whole Learner, I resist Western education frameworks that exclude layered Indigenous knowledge systems. The act is grounded in the hope that those who engage with my work will begin their journeys to understanding the complexity and depth of culturally-informed pedagogies employed by Indigenous scholars.

Intellectual

The vision of Beadwork Practice as an Indigenous Legal Pedagogy is one in which the pedagogical practice serves as a bridge between Western and Indigenous knowledges and law. I will not dwell too long on this sphere of learning, as I doubt anyone could disagree that in any act of learning is an intellectual event; the mind is engaged as students are exposed to new ideas. As we have previously discussed, in the legal academy learning is generally reserved exclusively to this sphere.

In the classroom, Beadwork Practice compliments the examination of all forms of academic materials relevant to the course being taught. As with readings on any syllabus, these materials could range from legal doctrine and jurisprudence to Treaties, legislation, through to interdisciplinary works in history, sociology, and anthropology. Depending on the course on offer, extra-intellectual works such as works of literature, written or recorded stories and narrative accounts, or videos may be included. The incorporation of Beadwork Practice into the classroom experience facilitates interactions with the law in new ways, allowing Learners to forge deeper relationships to ideas.

A Learner in a constitutional law course, for example, may choose to engage in Beadwork Practice to bead a sparrow.¹⁴¹⁴ Throughout the meditative practice, the Learner sits with the ideas of s.35¹⁴¹⁵ case law and produces a mnemonic device that can serve to deepen their own understandings of the law and also transfer knowledge to others. In sharing knowledge through their beadwork, the Learner is held to a higher standard of learning – that of being able to explain – aurally, orally, or both – and unpack the teachings carried in their work.

The therapeutic aspect of the integration of Beadwork Practice into this sphere of learning is found in deconstructing Eurocentric understandings of learning. Recentring Indigenous perspectives in the classroom, the use of this pedagogy encourages Learners to reframe how to read the world and understand law. Considering extra-intellectual

¹⁴¹⁴ *R v Sparrow*, [1990] 1 SCR 1075, 70 DLR (4th) 385.

¹⁴¹⁵ *Constitution Act, 1982*, s 35, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

knowledge through an academic lens as Dr. Buchanan and Professor Hewitt did in reading the painted drum alongside the handwritten treaty,¹⁴¹⁶ Learners are required to confront the historic and ongoing erasure of Indigenous voices and understandings in the classroom. They must ultimately grapple with how the subjugation of that knowledge has altered the soundscapes and their own comprehension and learning of law in society.

Emotional

Contrary to the notion that love in the classroom makes teachers less objective, when we teach with love we are better able to respond to the unique concerns of individual students while simultaneously integrating those of the classroom community. When teachers work to affirm the emotional well-being of students we are doing the work of love.¹⁴¹⁷

Considering law at the intellectual level through this broadened decolonial lens quickly engages emotion as students begin to contemplate their own role in the broader colonial project and how they may be contributing to the ongoing colonization of Indigenous peoples. We have already engaged in significant discussions about the damage resulting from the exclusion of emotion from the classroom experience. Without revisiting the conversation on the whole, we can take a moment now to gather the threads loosely woven in previous chapters and sections.

“Teachers are no therapists. However, there are times when conscious teaching – teaching with love – brings us the insight that we will not be able to have a meaningful experience in the classroom without reading the emotional climate of our students and attending it.”¹⁴¹⁸

¹⁴¹⁶ *Supra* note 192.

¹⁴¹⁷ *hooks*, *supra* note 2 at 133.

¹⁴¹⁸ *Ibid.*

The circle framework serves to support students and Learners as they experience the shifts in understanding that come with the integration of Indigenous ways of knowing into the classroom setting. In a learning circle, all participants are encouraged to unpack their thoughts and understandings in a holistic way that remains cognizant of *debwewin* and the relationships between heart and mind knowledge. As Dr. Sylvia Moore shared in *Trickster Chases the Tale of Education*, “[i]n the reciprocity of telling and listening, there is an acknowledgement that begins the healing or the repairing and strengthening of relationship threads.”¹⁴¹⁹

Dr. Keri Cheechoo suggests that “[e]thical relationality, or the act of being responsible for what we bring into any space with us, is critical [to the classroom experience]. It is also critical to remember that as educators we have agency to leave life’s stressors at the school doors, but our students cannot help but carry their traumas into classrooms with them.”¹⁴²⁰ In her understanding, ethical relationality “means recognizing that you are in a space with people who are unlike you and respecting those dissimilarities enough to meet halfway, and learn from each other in the space where you meet.”¹⁴²¹

This idea of ethical relationality as articulated by Dr. Cheechoo is a core tenet of my pedagogical practice. In integrating beadwork practice into the classroom experience, we are attempting to generate spaces of community and shared learning in between two worldviews and grounded in an act of persuasive legal aesthetics. In honouring and

¹⁴¹⁹ *Supra* note 971 at 145.

¹⁴²⁰ *Supra* note 177 at 263.

¹⁴²¹ *Ibid* at 258.

making space for emotion and *debwewin* in the classroom, Indigenous ways of knowing are centred in the learning process, counteracting the ongoing colonial understandings of knowledge that continue to function within post-secondary education. In creating opportunities for Learners and students to learn from each other and build relationships, we begin to redefine and redistribute power that has long been unbalanced within the academy. The therapeutic elements of the emotional sphere of the practice are, in fact, innumerable.

Physical

This called with Second Sight. And with second sight she pushes, sitting close to light falling through a window, glancing down a needle, along a thread, to the centre of a bright bead, is her belief, in petal, stem and leaf. She directs a long thin needle, picks one tiny seed bead, after seed bead, after seed, from a saucer, until she has drawn a long white string with her fingers at the end of a needle. Her fingers nudge their seeds, side by side, looping their weight into a petal, laid flat against the fabric nap, each bead pressed against the cloth, by the thumb and finger of her left hand, while the thumb and forefinger of her right, plumb the unseen side of the fabric, with another needle and thread. And with second sight she pushes, the needle and thread, up precisely, where her eye wants to meet it, on the surface of the fabric. Then down between each bead, by seed bead, seed, over and over, repeated, this gesture, petal; takes patient shape.¹⁴²²

Beyond the physical arrangement of the classroom space and the use of the circle-based learning strategies that underpin this pedagogy as discussed earlier in this chapter, the practice of beadwork itself also serves to engage the physical sphere of learning. For example, many beadworkers report physical changes when engaging in the artistic practice, including a slowing of the heart rate and breathing and a calming of the physical

¹⁴²² *Edge*, *supra* note 111 at 82-83.

manifestations of anxiety.¹⁴²³ Further, interacting with beads and beadwork as legal objects, Learners engage all of their physical senses in a multisensory experience that shatters the norm for a western classroom experience.

“[Understanding]... often requires hand-on
or experiential ways of knowing
that are difficult to relate in words.”¹⁴²⁴

Touch and sight should require no further elaboration, and listening is likely readily understood. Beyond auditory learning in the context of circle, however, there are other soundscapes associated with Beadwork Practice. As Lisa Shepherd, Métis artisan, explains: “There’s life and there’s a breath in the work that you are doing... I love the sound of the thread being pulled up through the fabric, through the hide. There’s just something so alive about it.”¹⁴²⁵

In my classroom, music also plays a role in circle. Learners contribute suggestions to collective playlists that serve as a soundtrack for the community to use in moments reserved for practicing technique. My own contributions to the playlist feature contemporary Indigenous artists alongside traditional Métis jigs and reels, which serve as an entrée into conversations about lived Indigenous experience in Canada. In working collaboratively to develop the soundscape, students and Learners can each integrate touchstones that bring them comfort, inspire them, or keep them grounded in their practices. Playlists are also accessible online for Learners to use during the impromptu

¹⁴²³ *Supra* our previous discussion at page 328 and following.

¹⁴²⁴ *Wilson, supra* note 14 at 123.

¹⁴²⁵ *Supra* note 1009.

beading circles that inevitably emerge beyond the walls of the classroom, or to surround them with the soundtrack of their new community as they work on their projects alone.

Dr. Lois Edge describes not only the soundscape from the moments when she held moccasins sewn by her grandmother in the researcher room of a museum in Britain,¹⁴²⁶ but also her instinct to lean over and smell the beadwork, seeking the scent of comfort that she recalled from her childhood¹⁴²⁷ spent sitting at her grandmother's kitchen table while she beaded.¹⁴²⁸ In fact, artists will often smell supplies as part of the beadwork process to determine what elements to use,¹⁴²⁹ a fact unsurprising to anyone who has ever had the privilege of inhaling the scent of home-tanned smoked moose hide.

*Dear Reader:
If we ever meet in person,
feel free to ask me
about that time
I spontaneously held out my wrist,
wrapped in a cuff
beaded
(and tufted)
on home-tanned smoked moose hide,
and asked a Supreme Court Justice
to smell it.

(they did,
and then offered me
cookies)*

A Learner once gifted me a travel cup featuring “the Child,” which is another set of stories entirely. The relevance to our conversation here is that the cup was inscribed with the words “protect, attack, snack,” and the Learner laughed when they told me they bought

¹⁴²⁶ *Supra* note 111 at 73.

¹⁴²⁷ *Ibid* at 72.

¹⁴²⁸ *Ibid* at 3.

¹⁴²⁹ *Racette, supra* note 150 at 250.

it as a visual reminder of my job description. Snacking or, put more eloquently, sharing a meal in community, is an important cultural practice for many Indigenous peoples. It also carries pedagogical weight as some Nations understand the acts of eating and learning to be closely related. We ingest the knowledge that is shared around the table along with the food we are consuming to nourish our bodies.¹⁴³⁰

Integrating the final physical sense, taste, via nourishment in the circle is a part of my own classroom practice. Were you to ask them, my Learners would probably report that I am quite militant about handwashing and keeping the food away from the beadwork, but there is always food and drink on offer in the spaces I curate. Morning sessions may include breakfast at the outset, soup and bannock emerges mid-day. While offering full meals will not be feasible for all educators or in all learning contexts, it is undeniable that the act of eating together strengthens community bonds. Further, as many of our students face tremendous financial pressures during their pursuit of legal credentials, sharing physical nourishment also demonstrates care for the individuals in the classroom. The offer of bannock or an apple on the way out the door goes a long way towards building trust-based relationships.

As in the sphere of emotional learning, the therapeutic possibilities in this sphere are many. Making space for a multisensory classroom experience that supports all of the physical senses readily disrupts the status quo of Eurocentric classroom models. Employing a circle-based physical arrangement in the classroom minimizes the societal

¹⁴³⁰ This teaching has come to me at several different moments in my life, generally from Cree folks.

hierarchies that influence structures within the legal academy. Meanwhile, incorporating opportunities to build relationships both to Beadwork Practice itself and to others in the learning circle into the pedagogical practice serves to support community healing while simultaneously valorizing Indigenous knowledge systems.

Finally, engaging in Beadwork Practice can offer a calming physical effect for those struggling with stress,¹⁴³¹ something often experienced by Indigenous Learners as they maneuver through post-secondary education.¹⁴³² These meditative side effects of the mobilization of this Indigenous Legal Pedagogy are also relevant to our exploration of the final sphere, spirituality.

Spiritual

But as she shifts to light falling on her beadwork, her thoughts turn to stem, how it attaches to petal and leaf, slim stem, bloodline to root and back to leaf; and she, the link, like stem from rich root to sprouting leaf, her children. She, this link, holds each bead berry, a thought, each bead berry a word in prayer, for her son, for her daughter, for her grandchild. She considers blue beads as holding a piece of the sky, reflected in berries. Her same fingers gather saskatoons draped from branches, bent blue with fruit, and releases them to the lard pail tied to her waist; their dropping, the sound of small drumming in the pail. Her same fingers scoop saskatoons, the fruit of feast, from a bowl in the sweat, that place of gathering self, and others, back to womb. That bulb of life in her mother, each bead, a birth, she senses, as light grows faint as thread. Each bead, a birth, she sees, her eyesight fine as thread. Each bead, a birth, she listens. Each bead sewn down, a word, in prayer.¹⁴³³

Dr. Marie Battiste maintains that engaging with the spiritual can be understood as a “pedagogical challenge.”¹⁴³⁴ I believe this is particularly true when teaching and learning

¹⁴³¹ *Racette, supra* note 150 at 274 (for the story of Gary Johnson).

¹⁴³² As discussed, for example, in *Battiste, supra* note 1 at 137 and *Cote-Meek, supra* note 33 at 27.

¹⁴³³ *Edge, supra* note 111 at 83.

¹⁴³⁴ *Supra* note 1 at 184.

happens in the context of secular western educational institutions. The conversation is further complicated by difficulties in distinguishing the idea of spiritual care from religion, as the two are often conflated. Given the long and fraught relationship between Indigenous education and various Churches who were engaged in the Forced Assimilative Education of Indigenous children through their leadership roles in the Residential School project,¹⁴³⁵ it is not difficult to understand why some might shy away from conversations about care of the spirit integrated into pedagogical practice. While these conversations can be challenging, they are critical to understanding the transformative potential of Beadwork Practice as an Indigenous Legal Pedagogy.

Throughout this dissertation I have frequently returned to the work of Dr. Shawn Wilson in *Research Is Ceremony: Indigenous Research Methods*,¹⁴³⁶ a monograph that represented an intellectual turning point in the context of my own doctoral research. Focusing on the decolonization of approaches to knowledge production, Dr. Wilson draw parallels between ceremonial practices and academic research. He sets the stage with general discussions of Indigenous understandings of ceremony, reminding readers that “purpose of any ceremony is to build stronger relationships or bridge the distance between aspects of our cosmos and ourselves”¹⁴³⁷ before ultimately concluding that the act of research is, in and of itself, a ceremonial practice.¹⁴³⁸

¹⁴³⁵ Once again, I invite readers who are unfamiliar with the colonial and genocidal project of Indian Residential Schools in Canada to consult the Final Report of the Truth and Reconciliation Commission of Canada. *Supra* note 241.

¹⁴³⁶ *Wilson, supra* note 14 at 133.

¹⁴³⁷ *Ibid* at 11.

¹⁴³⁸ *Ibid* at 69.

Dr. Wilson teaches:

*Something that has become apparent to me is that for Indigenous people, research is a ceremony. In our cultures an integral part of any ceremony is setting the stage properly. When ceremonies take place, everyone who is participating needs to be ready to step beyond the everyday and to accept a raised state of consciousness. You could say that the specific rituals that make up the ceremony are designed to get the participants into a state of mind that will allow for the extraordinary to take place.*¹⁴³⁹

The importance of consistently working to build healthy relationships, with an emphasis on the process and preparation required in order to be in a position to hear and understand what is being shared, is a theme woven into the fabric of Dr. Wilson's research.¹⁴⁴⁰ The culmination of the research ceremony, he suggests, is the moment when the researcher, having dedicated themselves to building relationships to people and ideas, gathers the threads and makes connections between them.¹⁴⁴¹

This understanding of academic research as ceremony is grounded in understandings of the interconnectedness of all things: "[i]f we take this way of looking at spirituality as connection to the cosmos, then any exercise that increases connection or builds relations is spiritual or ceremonial in nature."¹⁴⁴² Beadwork, for many, is one such opportunity to build relationships, and thus engages the sacred and the spiritual. For example, some beadworkers choose to engage in ceremonial practices such as smudging before beading to ensure that their hearts and minds are clear before engaging with their work.¹⁴⁴³ In the case of convocation stoles to be presented to graduates at the

¹⁴³⁹ *Ibid* at 69.

¹⁴⁴⁰ See e.g. *Ibid* at 60, 89 and following.

¹⁴⁴¹ *Ibid* at 89 and following.

¹⁴⁴² *Ibid* at 91.

¹⁴⁴³ *Grey, supra* note 965 at page 24.

Faculty of Law, pieces are smudged in community before they are gifted to ensure that the energy in the stoles is clear, loving, and intentional. This echoes the use of ceremonial practices such as smudging to open and/or close sharing and learning circles, an act that brings an additional element of spirituality into the learning process.¹⁴⁴⁴

As discussed in the previous chapter and as articulated in the quote set out at the opening of this section, some beadwork artists consider beadwork itself to be a form of prayer¹⁴⁴⁵ and many understand beadwork practice as an act of meditation and spiritual care.¹⁴⁴⁶ Others still consider beadwork to be a form of medicine, a practice that grounds us in our spirituality and culture as Indigenous people and holds the potential for healing.¹⁴⁴⁷

Many have argued, and I agree, that Indigenous pedagogies should seek to support the whole Learner, including the spirit.¹⁴⁴⁸ Beadwork Practice, employed as an Indigenous Legal Pedagogy, presents an opportunity to honour the need to attend to the spirit and encourage whole learning experiences in the classroom. For the sake of clarity, I firmly believe in freedom of religion, expression, and fundamental human rights. Further, I believe that each person is on their own journey. I would never purport to enforce mandatory prayer or spirituality as part of a teaching pedagogy within a secular institution such as a university.

¹⁴⁴⁴ See e.g. *Steinhauer et al.*, *supra* note 362 at 73, citing Patsy Steinhauer.

¹⁴⁴⁵ Christi Belcourt, cited in *Grey*, *supra* note 965 at 25.

¹⁴⁴⁶ See e.g. *Prete*, *supra* note 938 at 44–45.

¹⁴⁴⁷ Kimberly Robertson & Jenell Navarro, *Beading as Medicine – Volume 1* (January 2020) and Kimberly Robertson & Jenell Navarro, *Beading as Medicine – Volume 2* (June 2020).

¹⁴⁴⁸ See e.g. *Saysewahum (McAdam)*, *supra* note 121 at 29; *Tanaka*, *supra* note 874 at 80; *Lavallée*, *supra* note 362 at 24.

That said, the role of spirituality and prayer in the Beadwork Practice of those who wish to engage in it fills a significant need for some Indigenous Learners. Offering opportunities to those who wish to incorporate ceremonial elements into their learning is an act of decolonial love that changes the lived experience of law school for Indigenous peoples. Opening up these opportunities and spaces for discussion of holistic approaches to learning and understanding law also arguably holds the potential to change the ways in which all within the faculty understand Indigenous knowledge systems and conceptualize legal education.

If we understand all things to be interconnected, offering opportunities for care for the spiritual sphere is critical for an Indigenous Legal Pedagogy to be balanced and complete. In its potential to act as a ceremonial or spiritual practice, Beadwork Practice as an Indigenous Legal Pedagogy can assist in creating a therapeutic community of care for those who wish or require it within the law school.

MOBILIZING INDIGENOUS LEGAL KNOWLEDGE THROUGH MÉTIS BEADWORK PRACTICE

Sharing (Taashkinikayen)

In the Métis way, sharing your gifts and abundance with others was a vital part of living. Children were taught to give from the heart without reservation. It was believed that the more you gave from the heart the more you will receive. It was understood that when you gave in a good way, the good would come back to you fourfold.¹⁴⁴⁹

In these final pages, the moment of climax of the research ceremony where we should gather all the threads together and weave them into a tidy sash with gold and green arrows pointing other Métis scholars forward towards claiming their rightful places in the academy,¹⁴⁵⁰ I am walking away from the loom. Thinking back to the words of Senator Sinclair that have reverberated through my research: it took us generations to get into this mess. Now, it is time for education to catch up, to help us change the warp and the weft.

I am filled with gratitude for readers who have made it this far, navigating the discomfort of the preceding chapters in which I have challenged you to reconsider your own relationships to education, law, and Indigenous peoples, communities, and knowledge systems. As you have probably surmised by now, the chaos was curated, and the non-linear progression was by design. It will probably not come as any surprise, then, when I say that I will not be offering you, dear reader, any closure as we come to the end of our

¹⁴⁴⁹ *Dorion, supra* note 274.

¹⁴⁵⁰ In the Métis sash, a traditional garment worn by many citizens of the Métis Nation, some consider the green and gold arrows to signify the need to “move forward and reclaim our rightful place in Canadian history.” “The Sash,” online: *Manitoba Metis Federation* <mmf.mb.ca> [perma.cc/M492-TA5R].

time together. It would be artificial to end a document that is an exercise in creative reimagining written to serve as a departure point with any sort of conclusion at all. Any attempt to do so would be disrespectful to the relationships I am attempting to build with the complex ideas contained herein. A conclusion would be, pedagogically, inappropriate.

Speaking of something entirely different, a friend once said that simple questions sometimes require complicated answers. In this work, I set out to answer a research question, distilled and simplified, posed to satisfy the requirements of my doctoral program: How can Métis Beadwork Practice be mobilized as an Indigenous Legal Pedagogy in legal education?

I had originally planned to answer this question by doing - by using beadwork to demonstrate how it can be mobilized as a mnemonic device, how it could be used to carry and illustrate law. It was a simple question, by design, after all.

When confronted with systems designed to maintain the status quo, subjugate Indigenous knowledge systems, and assimilate Indigenous peoples, it is hardly surprising that offering context took on a life of its own. This tremendous effort, undertaken so as to leave no hint of a shadow of a doubt as to the need for the decolonization of the legal academy, offers a glimpse into some of the challenges facing Indigenous Learners and scholars but is by no means comprehensive. Neither is the introduction to wampum that glosses over centuries of law entrenched in beads in twenty pages. Discussions of Métis beadwork only begin to scratch the surface of historic and contemporary practice, with all the beautiful colour of lists of bead inventory at American Fur Company trading posts

and how that may have informed patterns and palettes left on the cutting room floor beside an analysis of the purchases made by Edwin Denig, lists of which are held in American museums from Missouri to Washington, D.C.

Some research was omitted as I worried about the ethics of speaking about the laws of other Nations. Some was lost for want of time but will serve to underpin future research and writing. Other elements were removed because, if we are speaking from a place of truth, the Faculty as it currently exists has not earned the right to my debwewin. Nor, in fact, has it earned the privilege of my beadwork and all of the nuanced knowledge it embodies.

This work remains messy and unfinished, but not without hope.

But now it's just another show
 And you leave 'em laughing when you go
 And if you care, don't let them know
 Don't give yourself away
 I've looked at love from both sides now
 From give and take and still somehow
 It's love's illusions that I recall
 I really don't know love
 Really don't know love at all

Tears and fears and feeling proud
 To say, "I love you" right out loud
 Dreams and schemes and circus crowds
 I've looked at life that way

Oh, but now old friends they're acting strange
 And they shake their heads, they say I've changed
 Well something's lost, but something's gained
 In living every day

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¹⁴⁵¹ Joni Mitchell, "Both Sides Now," MP3 (Los Angeles: Reprise Records, 1969).

A friend once suggested to Dr. Shawn Wilson that “[i]f research doesn’t change you as a person, then you are not doing it right.”¹⁴⁵² Drs. Zinga and Styres, meanwhile, suggest that “personal growth is an important end product” of research.¹⁴⁵³ Dr. Wilson’s father, Elder Dr. Stan Wilson, challenged his son to reflect on how the research ceremony changed him as a person, prompting him to engage with questions of relational accountability near the end of his ground-breaking doctoral work.¹⁴⁵⁴ In doing so, Dr. Wilson noted a shift in his understanding of relational accountability, originally conceptualized in terms of the collective. Over the course of his research, his perspective broadened to also include responsibilities of relational accountability to oneself.¹⁴⁵⁵

Dr. Wilson suggests that reflecting on one’s own growth is integral to the research process as it represents the act of “honouring the lessons you’ve learned through saying that they have become a part of who you are.”¹⁴⁵⁶ I personally find it challenging to speak to the strengths of my own work. It does not feel humble to engage in contemplative introspection and say, for example, look how much I have grown! I have come so far! I am proud of my work!

Though none of the Seven Grandfather Teachings¹⁴⁵⁷ should be prioritized over any other as they are all equally important and necessary to living the Good Life, I do have a

¹⁴⁵² *Supra* note 14 at 83.

¹⁴⁵³ *Supra* note 783 at 36.

¹⁴⁵⁴ *supra* note 14 at 123.

¹⁴⁵⁵ *Ibid.*

¹⁴⁵⁶ *Ibid.*

¹⁴⁵⁷ The 7 Grandfather Teachings, which form part of the body of law of many Indigenous Nations, include: humility, courage, truth (debwewin), wisdom, respect, honesty, and love. I invite readers interested in an introduction to these teachings to consult the seven book series by Katherena Vermette: Katherena Vermette, *Kode’s Quest(ion): A Story of Respect*, illustrated by Irene Kuziw (Winnipeg- Treaty 1 Territory and the homeland of the Métis Nation: Highwater

particular relationship to humility. My relationship to humility is influenced by lessons earned through my lived experience and is grounded in an awareness of my own limitations, born in mistakes. Having personally made significant mistakes in the past, grounded in misunderstandings of my ethical responsibilities of relational accountability, I try to err on the side of listening more and amplifying the voices of others wherever possible.

The more ways in which we engage with ideas, the more likely we are to begin to understand them.¹⁴⁵⁸ The longer I sat with Dr. Wilson's expanded view of relational accountability that extends to oneself as a member of one's own community, the more I came to understand that this final step of honouring the learning and growth that has occurred over the course of this writing through moments of introspection are critical to demonstrate self-respect and to honour the investments of time, energy, and spirit we have put into the work, as well as sacrifices made by ourselves and others as we worked through the process.

Returning to the ideas of relational accountability articulated at the outset of the work, including accountability to ourselves, requires that we recommit to the idea of consenting

Press, 2014); Katherena Vermette, *What is Truth? A Story of Truth*, illustrated by Irene Kuziw (Winnipeg- Treaty 1 Territory and the homeland of the Métis Nation: Highwater Press, 2014); Katherena Vermette, *The Just Right Gift: A Story of Love*, illustrated by Irene Kuziw (Winnipeg- Treaty 1 Territory and the homeland of the Métis Nation: Highwater Press, 2014); Katherena Vermette, *Misaabe's Stories: A Story of Honesty*, illustrated by Irene Kuziw (Winnipeg- Treaty 1 Territory and the homeland of the Métis Nation: Highwater Press, 2014); Katherena Vermette, *Amik Loves School: A Story of Wisdom*, illustrated by Irene Kuziw (Winnipeg- Treaty 1 Territory and the homeland of the Métis Nation: Highwater Press, 2014); Katherena Vermette, *Singing Sisters: A Story of Humility*, illustrated by Irene Kuziw (Winnipeg- Treaty 1 Territory and the homeland of the Métis Nation: Highwater Press, 2014); Katherena Vermette, *The First Day: A Story of Courage*, illustrated by Irene Kuziw (Winnipeg Treaty 1 Territory and the homeland of the Métis Nation: Highwater Press, 2014).

¹⁴⁵⁸ *Wilson, supra* note 14 at 133.

to learn in public. I own all mistakes contained in this writing, and I am sure that twenty years from now I will look back on this work and shake my head at some of the ideas I have advanced herein. But, in this time and space, I am ultimately proud of this piece of scholarship. I have grown as a scholar during this process.

I believe Beadwork Practice as an Indigenous Legal Pedagogy can be mobilized by Indigenous educators in classrooms and has the potential to change the lived experience of Indigenous law Learners and improve learning outcomes for all law students. Use of the pedagogical practice offers students an opportunity to engage with Indigenous laws and legal orders in new/old and different ways, help to build pedagogical bridges¹⁴⁵⁹ and, most importantly, develop reciprocal relationships between knowledge sharers and knowledge Learners. Relationships and community. Love.

In a recent think piece on the work of supporting reconciliation in post-secondary education, Dr. Sheila Cote-Meek reflected on the idea of transformation within the academy. Citing Duffy and Reigeluth's 2008 research, she suggests that there are six elements required for transformative change to be considered systemic: "changing the institutional culture, changing the entire institution, change that is intentional and occurs over time, change that creates a system that continually pursues an idealized future for itself, and change that is significant."¹⁴⁶⁰ My own pedagogical practice that integrates Beadwork Practice and building the community into education has been called

¹⁴⁵⁹ *Friedland & Napoleon, supra* note 48 at 734.

¹⁴⁶⁰ *Cote-Meek, supra* note 445 at xvi–xvii.

“transformative” by the Deans of both the Common Law and Civil Law Sections of the Faculty of Law at the University of Ottawa, though I personally remain unconvinced that the changes can yet be considered “systemic.”

Dr. Cote-Meek characterizes the process of transformative change as fundamentally “disruptive” to the institution.¹⁴⁶¹ Having worked at senior leadership level within several post-secondary institutions over the course of her career, Dr. Cote-Meek suggests “that deep systemic and transformative changes are needed in the post-secondary system if we are ever to achieve reconciliation. This requires nothing less than transformation of the educational systems and structures. It also begs the question of what might constitute an appropriate pedagogical and institutional response that would move post-secondary institutions toward sustained transformative change.”¹⁴⁶² My work here, setting out the wherefores and the whys of decolonizing legal education and generating a proposal for the creative mobilization of Métis Beadwork Practice as a teaching practice, was undertaken in a spirit of love, and with hopes of prompting transformative change.

It was also a painful and violent experience, and I honour that pain in acknowledging it here. Putting pen to paper on many of these issues leaves me open and vulnerable, and I did so on the understanding that some will consider this act not as one of bravery in service of community, but rather as one of betrayal. I am sorry that some will experience

¹⁴⁶¹ *Ibid.*

¹⁴⁶² *Ibid.*

it that way. I do hope that in time and following quiet moments of introspection, you will see things differently. In the meantime, and over the course of writing these truths of my own experience, I have made a tenuous peace with the reality that some people I care about will feel hurt.

The writing was driven by what I experience as an urgent need to imagine, develop, and mobilize pedagogical practices that will prompt system-wide reflection on the needs of all students and scholars in the academy. I hope that the work offers some support to the community as it evolves in the face of necessary and disruptive instability. I believe in the transformative potential of Beadwork Practice as an Indigenous Legal Pedagogy, supporting not only Indigenous Learners who labour in spaces of ongoing colonial and racist struggle, but also those who may have an impoverished view of the law¹⁴⁶³ and who have frequently been systematically denied¹⁴⁶⁴ the opportunity to learn about Indigenous peoples and our laws and legal orders.

Mobilizing Beadwork Practice as a pedagogical practice can, I believe, act as a bridge, creating those spaces conceptualized by Dr. Sandy Grande as existing in the intellectual borderlands.¹⁴⁶⁵ In these safe-enough spaces, around a table of beads, Learners can come together in a spirit of building reciprocal relationships and imagine possibilities for decolonizing law together.

¹⁴⁶³ *Lindberg, supra* note 170 at 53.

¹⁴⁶⁴ *Pete, supra* note 700.

¹⁴⁶⁵ *Grande, supra* note 1311 at 203.

Figure 39: Many hands make light (bead)work, with love

(Photo credit: Fallon Benson)



Métis Senator of Canada Yvonne Boyer¹⁴⁶⁶ once said that I was holding the Learner community within our faculty together with hugs. I responded that I was doing it with nylon beading thread and soup. The truth is probably somewhere in between. All joking aside, I believe that Senator Boyer’s comment speaks to the idea of making space for love and care within the academy. As we near the end of our time together, I have been thinking a lot about this idea of radically reconceptualizing spaces to include decolonized understandings of learning and community, and the consequences that come to bear on the people in the room when we make attempts at reimagination and reform. The weight of the process is undeniably oppressive for Indigenous Learners, staff, and scholars, but I struggle to imagine new ways of maneuvering that do not ultimately result in processes that function as experiments on those who are currently engaged with the institutions and systems we seek to reform.

¹⁴⁶⁶ “Yvonne Boyer” (last visited October 9 2020), online: *Senate of Canada* <sencanada.ca> [https://perma.cc/L7J8-8SF8].

I also struggle with how to best support those who experience shame and paralysis when confronted with the realities of Indigenous lived experience within the legal profession and in post-secondary education. I suspect, for example, that some may be sitting with significant feelings – of anger, shame, frustration – after reading this work. It can be challenging to read reflections on colonialism, racism, and institutional violence, in particular for those of us operating within the structures examined.

Confronting one's own privilege and complicity is uncomfortable but necessary, even for those of us who actively labour towards ideals of decolonial indigenization. I hope that some of the work we have done herein has prompted moments of reflection on how we each contribute to systems of colonialism and oppression. I do not believe that reckoning with one's privilege and investment in existing power structures is an achievement we can unlock; rather, it requires an ongoing commitment to what is sure to be a lifelong process of introspection and action. Speaking of the position of Black scholars within education systems, bell hooks shares teachings that engaged both my heart and mind knowledge as an Indigenous scholar:

Every black person and person of color colludes with the existing system in small ways every day, even those among us who see ourselves as anti-racist radicals. This collusion happens simply because we are all products of the culture we live within and have all been subjected to the forms of socialization and acculturation that are deemed normal in our society. Through the cultivation of awareness, through the decolonization of our minds, we have the tools to break with the dominator model of human social engagement and the will to imagine new and different ways that people might come together.¹⁴⁶⁷

¹⁴⁶⁷ *Supra* note 2 at 35.

In the end, it all comes down to relationships built on reciprocity and respect and requires consistent and ongoing commitment to consenting to learn in public. Respect must be first articulated as an acknowledgement of historic and ongoing violence against Indigenous peoples, followed by investments of heart (emotion) and mind (intellectual) knowledge, time (physical), and energy (spirit) into building a new path forward. It is the path forward that interests me most, as I am deeply invested in creating a more loving and ethical space in which to learn for my children and their children who will come after them.

It is in this spirit of “walking together, in the same direction, in respect of one another”¹⁴⁶⁸ that I refuse to offer closure in this thesis. Instead, I end at a beginning, offering the words that follow, written in fotonovella form,¹⁴⁶⁹ to my children and Learners.

While most graduate level work that includes beadwork components incorporates photographs,¹⁴⁷⁰ the fotonovella approach first adopted in doctoral research by Dr. Lois Edge differs from the simple inclusion of figures in important ways. The fotonovella as presented by Dr. Edge layers photography and written works to weave a story and transfer knowledge, allowing the reader to build relationships with ideas in new ways.

Dr. Edge incorporates a fotonovella at the *outset* of her dissertation, setting the tone for the reader and grounding her research in holistic Indigenous ways of knowing.¹⁴⁷¹ In my

¹⁴⁶⁸ These words were gifted to the Indigenous Learner community at the University of Ottawa’s Faculty of Law in February 2019 by Eva Ottawa, atikamekw nehirowisiw professor of law, in a handwritten note she added to the first beading pattern for Àbimi.

¹⁴⁶⁹ *Edge, supra* note 111 at 6.

¹⁴⁷⁰ See e.g. *Grey, supra* note 965.

¹⁴⁷¹ *Supra* note 111.

own non-linear work, I am choosing to offer this extra-intellectual knowledge in the final pages. I write this forward-looking piece of scholarship as a tool of intergenerational knowledge transfer and to prepare the academic space, in love and hope, for future work where beadwork can be considered on its own merits as a vehicle for legal knowledge mobilization in the legal academy and beyond. In the fotonovella below, I suggest future lines of inquiry and possibilities for research, mobilizing some of the Indigenous legal knowledge embodied in the originally proposed beaded honour shawl that I turned away from in the earliest chapters of my dissertation. It is a heavy burden I am putting upon my children as I ask them to return to this work in the years to come if they are willing or able, but I do hope they will forgive me. As strong Métis people, my hope is that when the time comes, I will have raised them well enough that they understand the duties they owe to the seven generations who will follow them.

As Professor Monture-Angus once said, "...if one person understood it, it was worth that last ounce of energy."¹⁴⁷² For those who have made it this far in our learning journey together, my hope is that this final chapter will concretize the discussions we have engaged in and spark creative and joyful reimagining of legal education by presenting you possibilities for mobilizing law in full, loving colour.

¹⁴⁷² *Supra* note 376 at 21.

A Legal Love Letter to My Children: If These Beads Could Talk

September 10, 2020

Dear Trio of Tiny Métis,

They have a lot of say, but not many are ready to hear them. And so, they whisper to you in the hopes that one day, amongst the three of you, you might find the time and space to help the beads find their voice. If you feel worried and I am not here to help you, find Uncle Zac and Auntie Tara and others from the generation in between. They can bridge the gaps.

When you reach university, if you chose to attend, I hope that you find spaces that are not just indigenized, decolonized, and safe, but rather vibrant and rich with our ways of knowing. My girls, I hope your voices are heard and carry far enough forward and back to honour the voices of our ancestors who were erased from the narrative for generations.

If things had been different when I pursued my PhD, it wouldn't have been necessary to spend so many pages explaining all the ways in which the legal academy has hurt us as individuals and damaged our communities. I wouldn't have spent years writing over a thousand footnotes to demonstrate the value of our ways of knowing, justifying at a granular level the most basic tenets of our right to intellectual self-determination.

My hope for you is that you have found spaces where you can safely exist and where our ways of knowing and being are valued. If you have found these spaces, I have a favour to ask you. It is a lot of ask but perhaps amongst you, in quiet moments I hope you will still spend together even as adults, you might find some time to help our beads find a voice.

You see, if things had been different, my PhD would have been this piece of beadwork. You've seen it before.



Figure 40: The Law with Heart Honour Shawl

Shawls will forever be associated with Métis women in my mind's eye. While it can hardly be claimed that our women were the exclusive wearers of such garments, shawls in all their forms find place in the photographic record of our Nation. Dr. Sherry Farrell Racette, who has done research in the archives at home, describes photos of women in small shawls that cover only as far as the upper arm, others adorned with ribbons or fringe, some in contrasting colours and others that match the skirts of the wearer.¹⁴⁷³ Embroidered shawls, woolen shawls, and oh – the plaid and tartan. I love a good plaid, and it seems I come by this honestly – Dr. Racette notes that some of the ladies would even wear outfits comprised of multiple contrasting plaids.¹⁴⁷⁴



Figure 41: Lining.

¹⁴⁷³ *Supra* note 150 at 117.

¹⁴⁷⁴ *Ibid.*

I think I was perhaps born 160 years too late, because nothing sounds better than the idea of multiple, contrasting plaids in a single outfit. The lining of the shawl, in turquoise, blue, and purple plaid is a nod to these ladies, fashion icons of the plains. The fabric is a wool-silk blend. I am second-generation urban, after all.

Some of the ladies captured in the visual record are frozen in time wearing lengths of broadcloth in lieu of shawls,¹⁴⁷⁵ which also feels just about right. Broadcloth was sold at the trading posts across the prairie alongside the HBC blankets, highly coveted, that mean something different for us than they do for some in the East.¹⁴⁷⁶ Trade cloth, generally in navy blue, was popular for it was warm, helped keep moisture away from the skin, and supported beadwork well.¹⁴⁷⁷ The Cree called it “manitou wayan” or “spirit cloth,”¹⁴⁷⁸ “because of the physical properties that enabled it to wick moisture and dry without warping or hardening.”¹⁴⁷⁹

The women of our Nation work with what we have. This is as true today as it was in the 19th century,¹⁴⁸⁰ and I am not just speaking of sewing supplies. While it would have been preferable to nod in the direction of our ancestors by beading on spirit cloth, when I sat down to birth this shawl it was in the early days of the Covid-19 pandemic on Turtle Island. Interprovincial borders were closed, as were most businesses. Shortages in nylon beading thread emerged in the early days of the first stage of pandemic isolation, postal

¹⁴⁷⁵ *Ibid* at 122.

¹⁴⁷⁶ *Vowel*, *supra* note 617.

¹⁴⁷⁷ *Grey*, *supra* note 965 at 10.

¹⁴⁷⁸ Christi Belcourt, cited in *Ibid* at 10.

¹⁴⁷⁹ *Racette*, *supra* note 150 at 86.

¹⁴⁸⁰ *Ibid* at 22.

delays were significant, and sourcing supplies became challenging if not impossible. I felt a deep kinship to the ladies who would place orders for beads at the trading post and who then had to wait several years for their supplies to arrive.¹⁴⁸¹

I had no navy blue melton in the suitcase I had spirited away from my office on the last afternoon of the days Before, but through a series of fortuitous events I *did* have purple. Why I had purple is another story entirely. You can ask Uncle Zac to show you the tiny purple stole the next time we are visiting Georgian Bay and remind me to tell you about the time I beaded on the train to Big Smoke and ended up prompting a decolonial awakening in the man in the seat next to me somewhere between the Loyalist Township water tower and Union Station.



Figure 42: Beading on a Train.

Beadwork using a pattern from the “Bead This in Your Style” knowledge sharing and revitalization project on Instagram. A modern take on a Métis vine, this compressed pattern includes all of the traditional elements of the vine: seed, leaf, bud, and flower.

Long story short, the shawl may not be made of spirit cloth, but the purple cloth carries spirit, and silent stories of our community.

¹⁴⁸¹ *Edge, supra* note 111 at 171.

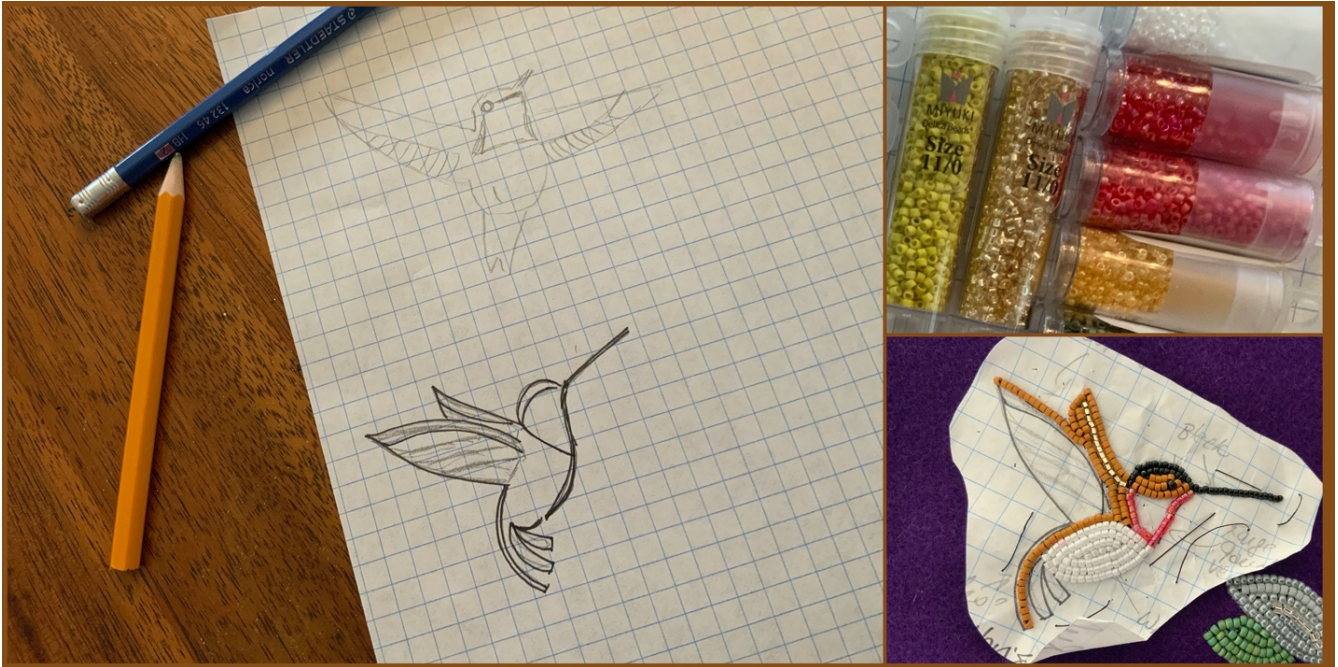


Figure 43: Colibris

If things had been different and these beads could talk, the rufous hummingbird might have shared a teaching from Jeff Hewitt that came to me through Angela Cameron, the lady who used to turn up at the end of our driveway with sweetgrass and tobacco seedlings because Mama cannot be trusted to keep the little guys alive until Angela has brought them along from seed for a while. The story, as it goes, is that if we think about ourselves as hummingbirds and the work of reconciliation within the academy as a giant forest fire, we will lose our nerve. We must focus on what we can do, and what we can do is fill our beaks with as much water as we can carry and spit it on the fire, as frequently as our wings and beaks will allow.



Figure 44: Rufous Hummingbird

Our tiny rufous also carries knowledge about prairie pollinators and the laws of our Nation relating to conservation and the harvest. This, of course, carries law relating to our inherent rights to self-determination, questions of sovereignty over our lands, and other whispers I hope may grow louder as you grow older. If you listen closely, our wee bird might tell you about the red and yellow hummingbird feeder Nana II had outside her kitchen window during those years she and Papa II lived in Pinewa, so that she could watch the birds while she did the dishes. She would put bay leaf in her spaghetti sauce and knew how to cut the tops off of heartberries just so, so that none of the red flesh was lost to the kitchen knife.



Figure 45: Buffaloberries

Decolonization may not be a metaphor,¹⁴⁸² but these buffaloberries are. The beads of the buffaloberries might have told you about how, sometimes used to make pemmican, these berries are bitter – but grow well in poor soil and can help sustain our bodies.¹⁴⁸³ They might have spoken to you about how our people have eaten them to stay healthy and alive since time immemorial,¹⁴⁸⁴ and how settlers continue to claim discovery of our old knowledge as if it were new.¹⁴⁸⁵

¹⁴⁸² Tuck & Yang, *supra* note 713.

¹⁴⁸³ “Canada Buffaloberry” (last access October 9, 2020), online: *MPG North* <mpgnorth.com> [perma.cc/7UP9-JZQ9].

¹⁴⁸⁴ *Ibid.*

¹⁴⁸⁵ Dina Spector, “This Tiny Berry is Being Called the Next Superfruit”, *Business Insider* (15 November 2013), online: <businessinsider.com> [perma.cc/7JEL-GMAX]; Ken Reidl et al., “Variation in Lycopene and Lycopenoates, Antioxidant Capacity, and Fruit Quality of Buffaloberry (*Shepherdia argentea* [Pursh]Nutt)” (2013) 78:11 *J of Food Science* 1673.

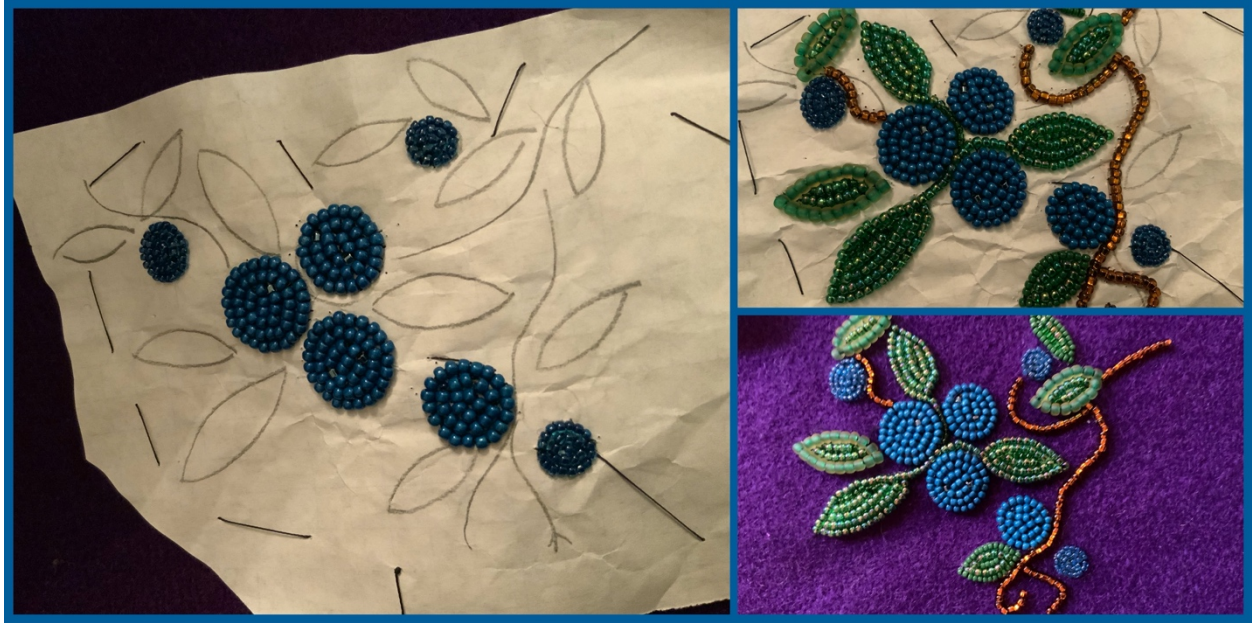


Figure 46: Blueberries

The seven *lii belwê* carry Indigenous knowledge from time immemorial, having served roles of medicine and sustenance for thousands of years.¹⁴⁸⁶ They number seven, alongside the seven buffaloberries and the seven heart berries to remind you of the seven grandfather teachings. The teachings are echoed on the shawl three times, once for each of you. When you are ready, you can unpack the law in the foundational gifts of wisdom, truth, honesty, courage, respect, humility, and love.¹⁴⁸⁷

¹⁴⁸⁶ Belcourt, Flamand & Burnouf, *supra* note 1020.

¹⁴⁸⁷ Vermette, *supra* note 1457.



Figure 47: Wild blueberries

Harvested by Angel Larkman

One of our ancestors once said that settlers really wouldn't believe how many berries our people can consume until they see it with their own eyes.¹⁴⁸⁸ You know how seriously we take the harvest and consumption of berries – and I know the worries you have, my girls, about the prospect of the thirteen moons of berry fasting in your future.¹⁴⁸⁹ It is okay to be uncertain. Growing, and growing up, is difficult and painful work.

Thankfully, generations of women have walked these paths before you, like I am doing now. If the path is sufficiently smooth, you can help the blueberries tell the stories of how Nana Il knew where to pull over the car, year after year, in the same spot to harvest the wild blueberries she would use to make the syrup we would put on vanilla ice cream, bought in round four-litre plastic tubs at Safeway. You can tell the stories Nana told you about leaving the city on weekends and exploring the bushes with Auntie Jocelyne,

¹⁴⁸⁸ *Denig, supra* note 132 at 12.

¹⁴⁸⁹ *Edge, supra* note 111 at 282.

harvesting saskatoons as they went. Have the berries speak the laws of harvest of the Métis Nation in Manitoba.¹⁴⁹⁰ As when the time comes to light the fires after your berry fasts, your brother will help you tell these stories as you work through this ceremony.



Figure 48: Saskatoons

You can speak of the walk down Loretta Street to harvest the saskatoons outside the office buildings on Champagne every day in July of the year the world stood still, taking only what we needed for the day in the hopes we would be back tomorrow, and laying tobacco down while sending prayers up for the trees and the world.

¹⁴⁹⁰ “Metis Laws of the Harvest: Guide to Metis Hunting, Fishing, Trapping and Gathering” (last visited 10 October 2020), online (pdf): *Manitoba Metis Federation* <mmf.mb.ca> [perma.cc/5QWJ-2A3Q].



Figure 49: Saskatoons in a basket, toes in mocs from Batoche

You can tell the stories of the second class of citizenship you held as children, growing up Métis as a visitor on Algonquin Territory, and what that meant for learning the laws, protocols, and limits of *we-pah-zoo-kah*¹⁴⁹¹ harvest. Tell of the time Mama harvested the saskatoons growing outside the law school after seeking advice from an Algonquin knowledge keeper, and how she and her Learners baked them into scones to distribute around the Faculty with a side of law. They might not have known it as they ingested the ideas with the pastry, but those were resistance scones.

¹⁴⁹¹ Saskatoon berries in Assiniboine, written phonetically by our ancestor, *Denig*, *supra* note 145 at 196.

While you are at it, you can take a detour to talk about how this cluster holds 16 berries in various stages of ripeness, a nod to the Battle of Frog Plain on June 19, 1816, the emergence of the Nation over time, and the resurgence of the Nation after generations of attempts to silence and assimilate us.¹⁴⁹² You can talk about how this cluster takes pride of place over the heart on the shawl as women's medicine that cared for the caregivers, and as nourishment for the body of the Nation when used in pemmican.¹⁴⁹³



Figure 50: Heart berries

I hope that, by the time the time comes, you will know exactly what to say about the heart berries.

¹⁴⁹² Teillet, *supra* note 15.

¹⁴⁹³ "Saskatoon" in Belcourt, Flamand & Burnouf, *supra* note 1020.

“Eat currents in current season,
 strawberries in strawberry season,
 raspberries in raspberry season,
 and so forth.
 If, during the season,
 the yield is abundant
 give to the poor, namely to those
 who are prone to drafting up
 a weakened constitution.”¹⁴⁹⁴

“Women also stress the healing and therapeutic power of beadwork. Through their own healing, and by choosing in some instances to bead plants and flowers that have curing powers, they are transferring the medicine on to the clothing.”¹⁴⁹⁵ The medicine, the governance, conservation, and stewardship of the land by Indigenous women as articulated through berry harvest protocols,¹⁴⁹⁶ the transference of women’s knowledge through layered stories,¹⁴⁹⁷ the law.

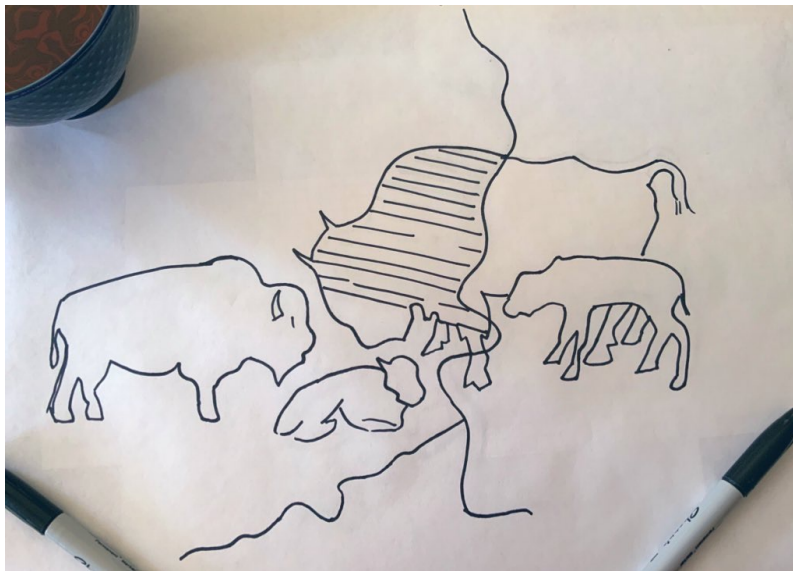


Figure 51: Bison herd pattern development

¹⁴⁹⁴ Scofield, *supra* note 186 at 57.

¹⁴⁹⁵ Kermoal, *supra* note 348 at 129.

¹⁴⁹⁶ *Ibid* at 119–20.

¹⁴⁹⁷ Jobin, *supra* note 187 at 54–55.

If these beads could talk, the Bison might hum the Teardrop Waltz.¹⁴⁹⁸

When you read the herd, please read her from west to east, following the road we have walked as a family. You can start with the story of choosing the colours of the bison that represent you. I hope that story includes memories of the bright sun on the cold day as we sat together on the floor, quarantined in the earliest days of the fight whose scope would escape us for days and months to come, listening to the beads and choosing the colours of your hearts.

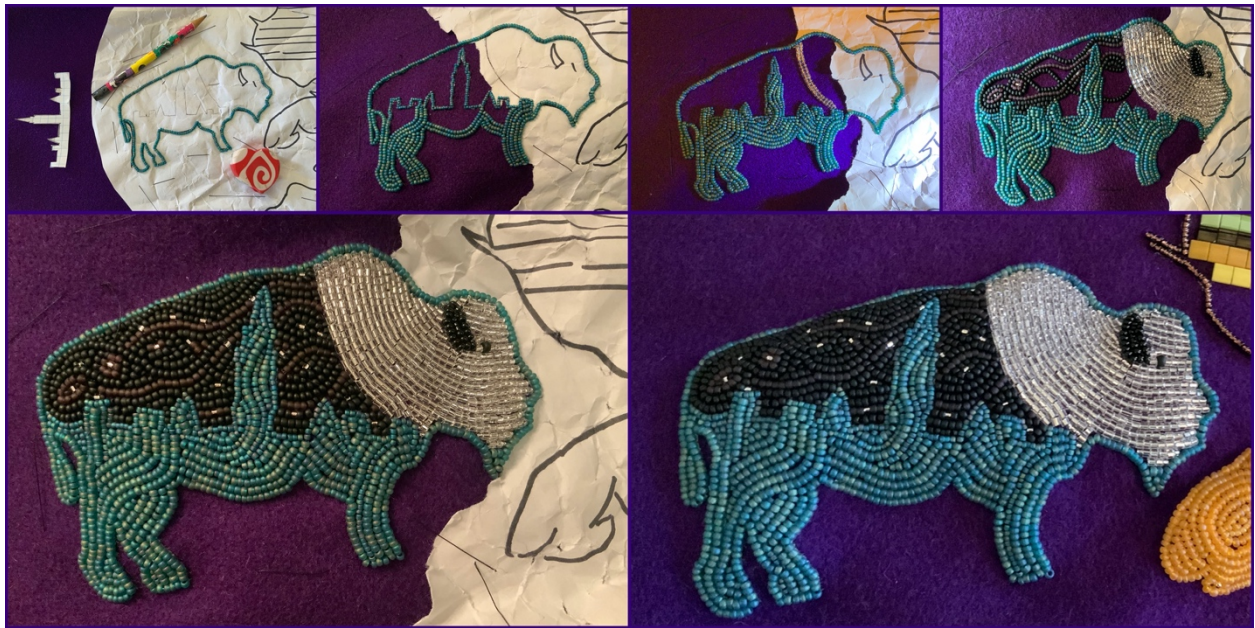


Figure 52: Juvenile bison pattern development

When you speak of the juvenile, please talk about how the pattern changed as I laid down the outline of beads, when we realized he needed a heartbeat: a skyline for my linear, architecture-loving, growing-up-urban-as-a-visitor 7-year-old. When you chose “the

¹⁴⁹⁸ If my soul was a song, it would be the Teardrop Waltz.

most iconic building in Ottawa,” I had complicated feelings about your request that this bison carry the Canadian parliament in his heart, but I always do my best to honour the requests of children. Perhaps it can be read as reminder of the negotiations of entry into confederation, the Treaty that remains but also never was.¹⁴⁹⁹ That this young bison faces the matriarch who carries the lion’s share of this law on her back, while carrying the weight of nation-to-nation relationships on his own feels balanced from the perspective of debwewin.



Figure 53: Juvenile bison

¹⁴⁹⁹ Vermette, *supra* note 105.

What you may not know about the story of these beads is that, as I beaded, I reflected on a story of the great act of Métis resistance in Ottawa, when Louis Riel arrived in disguise to be sworn in as a member of parliament despite a bounty on his head and fear of death. I thought about the weight that urban Indigenous children carry, members of diaspora communities, away from their home territories. I thought about Métis self-government and self-determination, and the rights of our nations to determine our own citizenship laws. I hope that when the beads find their voices, the Memoranda of Understanding¹⁵⁰⁰ are a footnote in the history of a respected Nation of *Otipemisiwak*,¹⁵⁰¹ people who own themselves.

You may not remember, but once the skyline was sketched you suggested a starry night sky on his back, which necessarily required a Grandmother moon. It was a dark time, those early days of beading the shawl, and beading the moon was therapeutic and beautiful. Remember as you write the law in the beads that “...[t]he moon is considered our Grandmother because the moon sheds light in the night, and in this way the moon is always someone we can rely on in our darkest moments.”¹⁵⁰²

¹⁵⁰⁰ Métis Nation of Ontario and Canada, “Métis Government Recognition and Self-Government Agreement” (17 June 2019), online (pdf): *Metis Nation* <metisnation.org> [perma.cc/RU8A-27MG]; Métis Nation of Alberta and Canada, “Métis Government Recognition and Self-Government Agreement” (27 June 2019), online (pdf): *Métis Nation of Alberta* <albertametis.com> [perma.cc/K9LW-WHHU]; Métis Nation - Saskatchewan and Canada, “Métis Government Recognition and Self-Government Agreement” (27 June 2019), online (pdf): *Métis Nation of Saskatchewan* <metisnation.sk.com> [perma.cc/DE5F-J2A9].

¹⁵⁰¹ *Supra* note 103.

¹⁵⁰² *Gehl*, *supra* note 92 at 69.



Figure 54: Grandmother moon

Remember how we spoke of Auntie Tara when doing the pattern work, for she offered you your first Grandmother moon teachings. When you tell the law of this bison, if your Elders tell you it is safe to tell of the law carried in the teachings of Grandmother moon, there is also space in the story for our kinship structures and the laws of little mothers and adopted Aunties, and for the “...Métis legal principles that centre relationality, kinship, and care across time and space.”¹⁵⁰³

The starry night is beaded in 4 kinds of black plus gusts of inky aubergine, beaded as wind blowing from West to East. I can't imagine you would ever forget how I changed thread each time I reached the moon, so as to only bead from Treaty 1 to Algonquin territory. This pedagogical choice reflects the reality that when I left Red River there was

¹⁵⁰³ Zoe Todd, “Honouring Our Great-Grandmothers: An Ode to Caroline Laframboise, 20th Century Métis Matriarch” in Sarah Nickel & Amanda Fehr, eds, *In Good Relation: History, Gender, and Kinship in Indigenous Feminisms*, (Winnipeg: University of Manitoba Press, 2000) at 177.

a certain finality to the act. If you were to remove the lining of the shawl you would find a mess of knots and threads behind the beauty of the thing. Isn't that always the way.



Figure 55: Infinity bison calf

The tiny calf rests in the shadow of the matriarch but remains disconnected from the river and the territory that cuts through her mother. Think about Dr. Leanne Betasamosake Simpson who speaks of how we love our homeland deeply, even when we are away from her,¹⁵⁰⁴ and about how, when negotiating entry into Confederation, Métis leadership threw significant negotiating effort behind measures to ensure property rights for the children of the Métis Nation.¹⁵⁰⁵

¹⁵⁰⁴ *Supra* note 185 at 195.

¹⁵⁰⁵ *Manitoba*, *supra* note 1128; *Teillet*, *supra* note 15.

I made a pedagogical choice to bead the entire calf with one (very long) continuous piece of thread. Please try to unpack the law of the Nation imbedded in the national symbol of the infinity flag. How and why the infinity flag came to be is a source of great debate within the community, and no one knows for sure why the symbol was adopted. Dr. Racette's research found that in beadwork "the infinity sign is routinely represented as a symbol for the permanent unity of two different, but equal worlds."¹⁵⁰⁶ I like to think the adoption of this symbol for our Nation was a nod by leaders to the idea that the Métis nation would survive in perpetuity through efforts made in service to the generations that follow.

Tell of our citizenship, and our matrilineal society, kinship and Métis family law. These beads carry the story of how your mama's choice to leave the Homeland left her stateless for a decade, until our Nation reconsidered her place in the world and began to repatriate her citizens who live abroad as members of the diaspora.

These sunny beads also carry knowledge about balance and family.¹⁵⁰⁷ The wee bison looks sleepy, but it is only because she is waking after sleeping 100 years. She faces her sister, the artist, waiting to give her back her spirit.¹⁵⁰⁸

¹⁵⁰⁶ *Supra* note 150 at 328.

¹⁵⁰⁷ Robert Blizzard, "Leah Dorion- The Giving Tree" (23 March 2011) at 00h:4m:17s and following, online (video): *Youtube* <www.youtube.com/watch?v=1-FGhbqcYMU>

¹⁵⁰⁸ Louis Riel, July 4, 1885: "My people will sleep for one hundred years, but when they awake, it will be the artists who give them their spirit back." *Supra* note 17.



Figure 56: Rose bison pattern development

The Rose bison carries a song in her heart and speaks to the bardic tradition of the Métis Nation and the law found in song.¹⁵⁰⁹ Incomplete circles speak to disruptions in intergenerational knowledge transfer of culture brought about through colonial law. Some say the Métis Nation was born of our bardic tradition as it was the song written about the Victory at Frog Plain that allowed our nation to coalesce.



Figure 57: Rose bison

¹⁵⁰⁹ Teillet, *supra* note 15.

Rose stays close to mama, a nod not only to the matrilineal structures of our Nation and to intergenerational knowledge transfer, including legal knowledge, between generations of women. I hope it is one day safe enough for you to speak these layered truths aloud and be not only heard but understood.

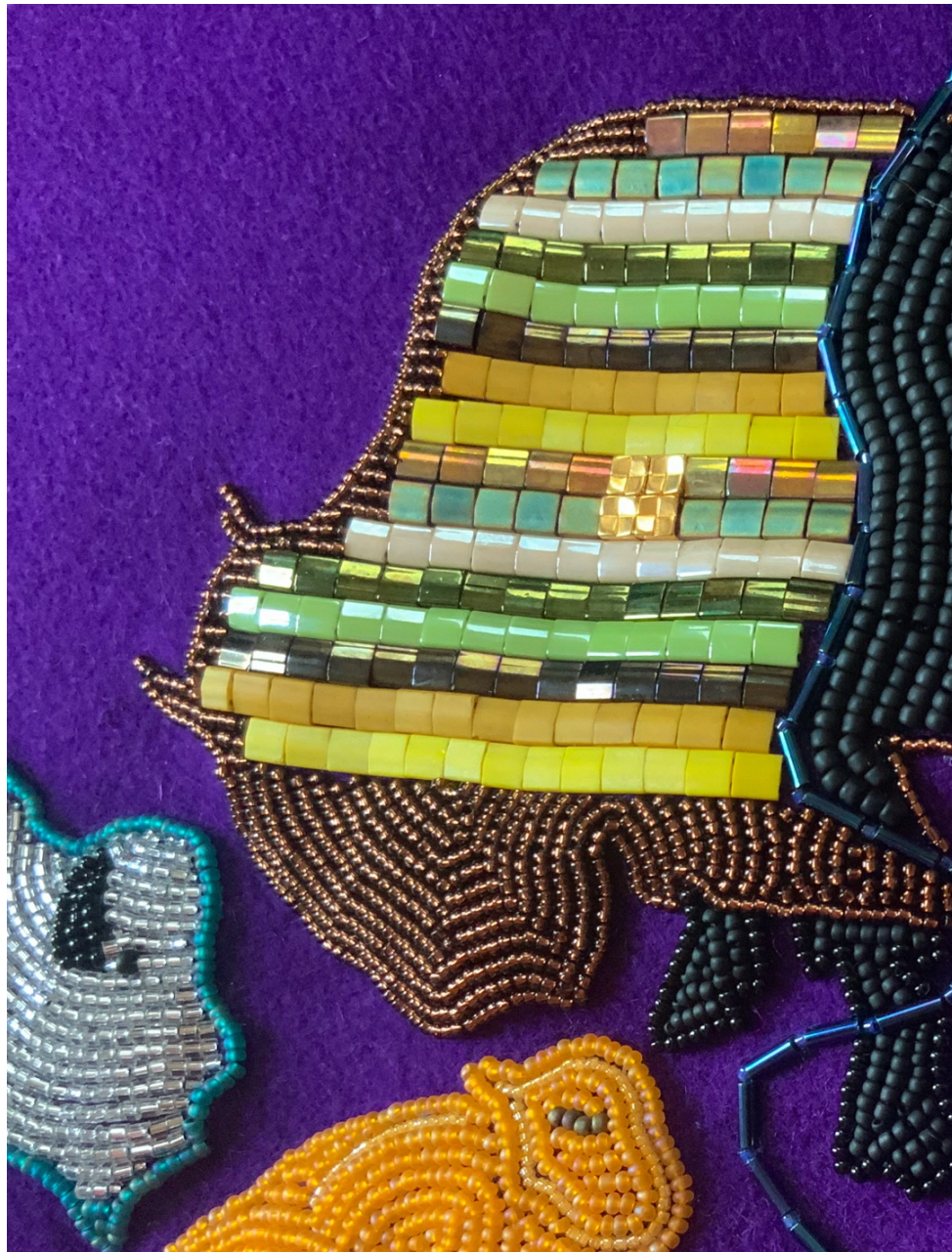


Figure 58: The Matriarch

The Red River cuts through the heart of the mother bison, reminding us of the critical links between nationhood and territory. The family stands at the Forks of the Assiniboine and Red Rivers, in the heart of the homeland of the Métis Nation. The matriarch carries the *Law of the Prairie*,¹⁵¹⁰ Métis conceptualizations of property law in *les rangs* and the hope of the Treaty negotiations¹⁵¹¹ that became *The Manitoba Act, 1870*.¹⁵¹² Her beads hold kinship laws, and express the duties owed to the seven generations that follow. At the forefront of her mind is common land, held for the benefit of the whole community, the fields carry the crops of wheat and peas, barley and potatoes. Food sovereignty interacts with environmental law here. The beads tell of the sacred and life-giving relationship to water, and how we are bound to protect our more-than-human relations.

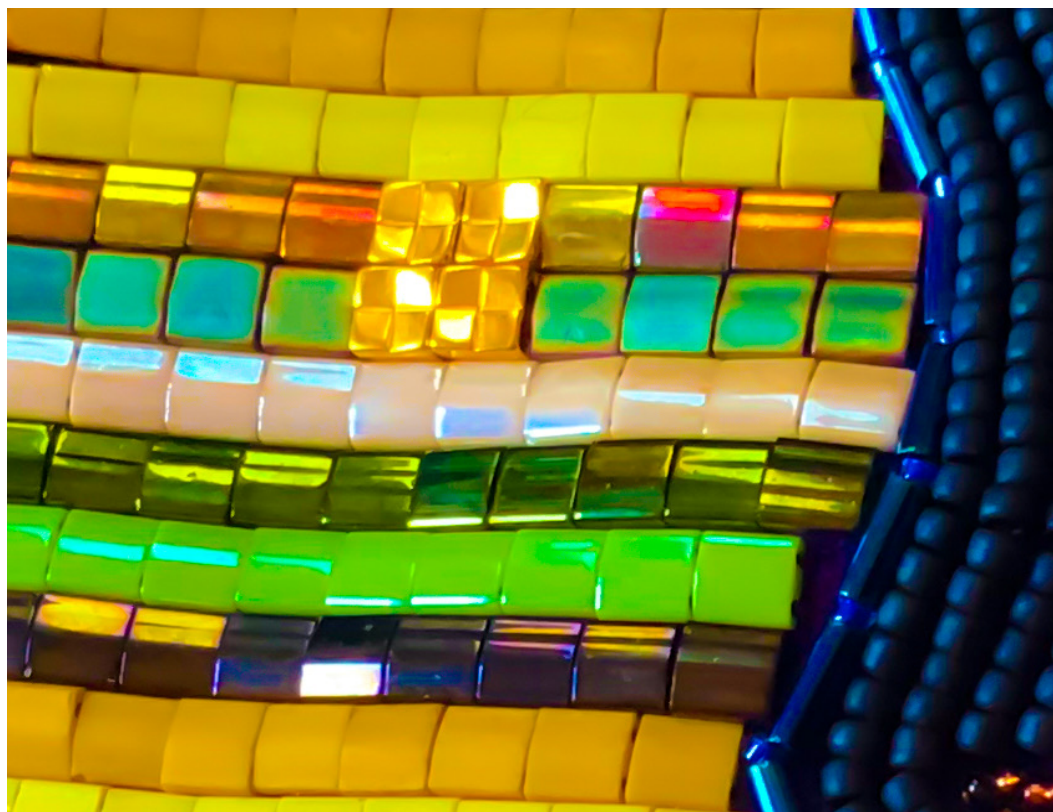


Figure 59:
Frog Plain

¹⁵¹⁰ *Teillet, supra* note 15; *Campbell, supra* note 1091at xxii.

¹⁵¹¹ *Vermette, supra* note 105.

¹⁵¹² *Supra* note 1128.

The four golden beads of Frog Plain remind us of the hope of our nationhood. The black beads that overwhelm the body of the matriarch can be read as the stain of scrip, of how our ancestors negotiated Treaty but ended up landless, forced to live on the precarious periphery. Geographically, and legally.¹⁵¹³ Tell them about the legal theft of the lands promised to the children of our Nation, of the decriminalized fraud perpetuated by speculators who travelled with the commissioners,¹⁵¹⁴ and the “X” that was marked by so many of our ancestors under the watchful eyes of the Bishop.¹⁵¹⁵



Figure 60:
Family

¹⁵¹³ See e.g. *Peters, Stock & Werner*, *supra* note 1131.

¹⁵¹⁴ “Métis Lands, Métis Scrip, and Other Unbroken Promises to the Métis”, presentation at “Otipemisiwak: A National Conference on Métis Self-Government” (last visited 26 August 2020), online: *Métis Nation of Ontario* <metisnation.org> [perma.cc/HY5Y-QBBK]. Panelists included Audrey Poitras, President of the Métis Nation of Alberta, Aaron Barber, Senior Executive Officer of the Métis Nation of Alberta, Mitch Case, President of the Métis Nation of Ontario Youth Council, Zachery Davis from Paper, Salter, Teillet LLP and Counsel to the Métis Nation of Alberta, and Emilie Lahaie, Cassels Brock and Blackwell LLP, Counsel to the Métis Nation, Saskatchewan.

¹⁵¹⁵ See e.g. Scrip affidavit for Baptiste Desjardins, Claim No. 876, Scrip No. 6617 and 6624.

The black beads lead all the way to the Supreme Court.¹⁵¹⁶ I hope one day, when read as law, they can lead you home.

In universities, students, Learners, and academics are constantly called upon to exist in a space of open intellectual spirit. Our worldviews, politics, histories, and all the things we thought we knew and might one day know again are called into question on a daily basis as we read, write, and are tested. The same could be said for the legal profession. The practice of law requires constant learning, moments of introspection as we check our own prejudices and biases in favour of service, and a healthy dose of humanity – if you are doing it right.

I believe this leaves us more vulnerable to loving.

Loving is a vulnerability insofar as it is misunderstood in settler society as something dangerous, taboo, or singular. My desire to build a loving community within the frame of legal education is grounded in the idea that love can and does exist in these spheres, and that only a decolonized understanding of love can support healthy Indigenous Learners and the revitalization of Indigenous legal orders.

I ask a lot of you three tiny souls, but this is why we make the sacrifices we make. We give up time together, we open our home and hearts in the name of self-determination, both national and intellectual. I ask a lot of you because it is our responsibility to leave things a little better than they were before for those who will follow. There is no wrong

¹⁵¹⁶ *Manitoba*, *supra* note 1128.

way to do this. The best I have come up with is to fight, in kindness and with an open heart, to make space for radical, decolonial love in all corners of our communities.

As much as we may wish it, nothing in life is perfect. We all get tired sometimes, and fear can blind us. Seek comfort in each other and your communities and ground your efforts in love. If you get discouraged, stop to rest near the spirit beads. There are a few, nestled in the safety of the saskatoons, hidden in the seeds of the heartberries, safe in the resting body of the smallest bison. They are there are touchstones to keep you grounded and humble as you pick up the loose threads I could not tie off in this work. I wish I could do more, but I have said all of the words I can safely say today. I am sorry. Know that I wish I could have done better for you, but I have done all I could do in these spaces as they exist. It is all there, if you read the beads. I hope it was enough.

Love,

Mama

When Jeremy Dutcher of Tobique First Nation performed at the National Arts Centre on September 25, 2019, he told the story of the discovery of the broken cylinder that should have carried the voices of his ancestors as one of grief as he came to terms with the loss of a song that would forever be unheard. But, he continued, as I was flipping through the field notes of the anthropologist tasked with documenting the culture of my ancestors, I found some sheet music. "Suddenly I had a melody and an opportunity to reimagine something new." You see, he explained, when he put the pieces together, it was a love song. The nature

of the song never changed, even when we couldn't hear it. "Even when it was broken, the pieces carried a love song, and doesn't that sound like Canada?" he asked.

Though she doesn't know it, Fauteux Hall owes a debt of gratitude to Jeremy Dutcher. His art empowered me with language I was missing, language sorely needed because without it the story was lost in translation, fractured into unrecognizable notes without a melody. Equipped with his teachings of art, love, and law, I could articulate what I always knew. Though sometimes staccato with violence, this is my ode to Fauteux Hall. In the spaces in between – in the moments of community, resurgence, resistance, and beads – it was always a love song.

Even when it was broken.

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