

Filling the Gaps: Working Towards the Truth and Reconciliation Commission Archives

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Thank you for coming today. To begin I need to locate myself clearly as a Settler in born in Mississauga territory now working Siksika territory. Professionally, I am an archivist who since August 2008 has been working in our University Museum. For many years I worked directing a National Church archives in Toronto and then I directed a converged department of Archivists and Librarians at the University of Calgary. From 1990 through 2003 I was actively involved in both Residential Schools research, litigation and Healing and Reconciliation work. Now for the Association of Canadian Archivists I am co-chair with Jonathan Lainey, a First Nations archivist from Library and Archives Canada of the Association of Canadian Archivists Special Interest Section on Aboriginal Archives. Also I am vice-chair of the Society of American Archivists, Archivists of Religious Collections Roundtable.

For the Archives of the Churches and Church entities that had contributed to the record of Residential Schools litigation the Settlement Agreement of May 8, 2006 has provided new opportunities and new challenges as the parties to that agreement have worked to implement each of the six commitments that their sponsoring agencies had previously agreed to on November 5, 2005. These included commitments

- (i) to settle the Class Actions and the Cloud Class Action, in accordance with and as provided in this Agreement;
- (ii) to provide for payment by Canada of the Designated Amount to the Trustee for the Common Experience Payment;

- (iii) to provide for the Independent Assessment Process;
- (iv) to establish a Truth and Reconciliation Commission;
- (v) to provide for an endowment to the Aboriginal Healing Foundation to fund healing programmes addressing the legacy of harms suffered at Indian Residential Schools including the intergenerational effects; and
- (vi) to provide funding for commemoration of the legacy of Indian Residential Schools;

Today I am not going to deal directly with the challenges that Library and Archives Canada and the wider government sector most notably the Department of Justice and the Department of Indian and Northern Affairs face in fulfilling Canada's commitments to this agreement. I want to concentrate on the interface between the Churches and Roman Catholic Church Entities archives responsibilities and challenges and the responsibilities of the Truth and Reconciliation Commission.

Appendix N of the Settlement Agreement sets out detailed instructions to the Truth and Reconciliation Commission and enumerates the duties of the Commissioners. Section 2 e) charges the Commission to “identify sources and create as complete an historical record as possible of the IRS system and legacy. The record shall be preserved and made accessible for further use and study.” Section g) charges the Commission to include “the history, purpose, operation and supervision of the IRS system” in its report.

The Commissioners in addition to receiving statements are to “make use of all documents and materials provided by the parties and “are required to archive all such documents, materials, transcripts and recordings of statements in a manner that will ensure their preservation and accessibility to the public and in accordance with access and privacy legislation, and any other applicable legislation”.

The Commission is bound to adhere to the strictest possible standards of the protection of personal

privacy and “shall not name names in their events, activities, public statements or recommendations, or make use of personal information or of statements which identify a person without the express consent of that individual...”

The Commission is charged in section 2(l) to make every effort to resolve disputes about document production, document disposal and archiving, the contents of its report and recommendations and Commission decisions regarding the scope of its research and issues to be examined but may refer disputes to the National Administration Committee (NAC) which consists of representatives from Canada, the Church Organizations, the Assembly of First Nations, The National Consortium, Merchant law Group, Inuit Representatives, and Independent Counsel. There is provision for appeal of National Administration Committee decisions to the Courts. Also, Section 3 d) charges the Commission to establish a research centre and ensure the preservation of its archives.

There have been very few Canadian initiatives that have had history and archives so thoroughly embedded in their mandates. One of the opportunities that the Commission has is to work out ongoing collegial relationships with historical and archival sectors. This is a huge challenge for the Commission and its staff. One example the Commission could draw on is the Directorate of History and Heritage of National Defence and the Canadian Forces¹. From its founding in 1917 the Directorate related indirectly to the Public Archives of Canada. Now it actively collaborates with Library and Archives Canada and a network of museums, libraries and archives across the country. The Directorate has been a major force for the publication of professional history since its inception, is bound by all federal records and archives legislation and related policy and is working towards ensuring that all military museums which are incorporated in a variety of ways are meeting accredited professional museums standards. Its web portal project also provides links to university archives and library collections on military and strategic studies themes.

There are several crucial differences of course. The Directorate is located within a government department and has had continuous though relatively modest federal funding. One of the gaps that will need to be addressed is how the costs of care, custody, access and control will be managed after the Commission has finished its important work. A long term and continuing commitment through institutional or multi-institutional supports will be essential to the success of the National Research Centre. One way of bridging this gap would be to link the ongoing work on the Commission's archival and library collections. In the National Research Centre to the Modernization effort of Library and Archives Canada. The draft Modernization documentⁱⁱ states “ The changing environment necessitates new perspectives and approaches on how to most effectively acquire, preserve and make accessible Canada's documentary heritage within LAC's envelope of allocated resources. These conditions also call for an increasing practice of collaboration among memory institutions, as there is simply too much content for one institution to address alone. The draft identifies four characteristics of effectiveness through collaboration: foundation building, i.e. the creation of relationships, collaborations or partnering, programs to support sustainable acquisition and transfer that is a formal agreement with a third party to ensure that LAC carries out its legislated mandate.

I recognize that ensuring continuity of care and access is a longer term concern. At present two major challenges that both the religious archivists and the Commission face is the implementation of their mutual commitments to providing the Commission with “all relevant documents” related to record of Indian Residential Schools and to the protection of personal privacy.

The Commissioners are working with very tight timelines. They need access to documents to produce their interim and final reports which have specific content requirements regarding documenting not just the schools but also the legacy of Residential Schools in communities and more broadly throughout

Canada. Church archivists are concerned that critical information about the provenance of the documents which are partial series at most not be lost in the process of copying and or digitizing, about how the work will be accomplished given the many ongoing administrative and research pressures they face and in the medium term what role they will play in the development of access policies and provision of services for the National Research Centre.

Church archivists have long experience with maintaining confidentiality and personal privacy which includes not only the civil legal regime but also Church tradition and Canon law and/or Institutional Regulations. In their paper *Trust and Professional Privacy in the Archives of Religious Organizations*, published in 2005, Mark J. Duffy, archivist of the General Convention of the Episcopal Church USA and Christine M. Taylor, Chancellor and Archivist of the Roman Catholic Archdiocese of Seattle, remind us that “ Personal privacy, especially the physical, constitutes an area over which individuals exercise some ultimate control and autonomy. Informational privacy is, however, the least controlled of the private realms and it is a profound source of anxiety in organizational life. The lack of a controlling privacy ethic in the larger social system leads one to look at organizations as the sites where individuals resolve privacy differences.”ⁱⁱⁱ

As Professor Heather McNeil drawing on Ruth Gavison's research notes: “the individual's right to privacy assumes the right to a reasonable degree of secrecy, anonymity and solitude. Of course, the concept of “ reasonable degree” constitutes a continually negotiated process. “^{iv} At the centre of this negotiation is the principle that a person should be able to determine for themselves when, where and how information about themselves that is not deemed to be in the public realm can be communicated in any form or format to others. McNeil argues that “individual rights to privacy should be interpreted not as a means of drawing isolationist boundaries but, rather, as a means of protecting relational ties.”

Although there are a few collections and publications of the record of early aboriginal schooling in Canada for example in The Jesuit Relations and the writings of early nineteenth century English missionaries, John West, Jacob Mountain and Egerton Ryerson among others, the vast bulk of the archival record in religious archives of Indian Residential Schools dates from the early twentieth century or later. This record is included within the larger archival fonds of a number of independent missionary and educational agencies, boards and societies. Some of these are now collected within larger archival entities served by professional archives staff. Others remain with their sponsors under a more general administrative control. In both cases the methods of record creation and retention were highly individualized and distributed. This is true even in the case of the Protestant missionary societies which most closely assimilated then contemporary forms of secular business structures and practices. As Duffy and Taylor note, “These historically embedded distinctions create decentralized information collection and distribution systems in mainline denominational agencies as well as various operations of Catholic charities, religious orders and educational institutions.” (2005, 215). Adding to the differentiation and complexity is the fact that each of these agencies responded to Indian Affairs as individual clients. In some cases they did not respond at all since they were clients of related organizations for example Roman Catholic Sisters who related only to other orders or diocesan authorities. Charting the actual flows of information challenge our assumptions about how information should flow in hierarchically structured organizations be they religious or secular.

The process of professionalizing religious archives in Canada and the United States began in the 1970s. This was a period of professional expansion in many sectors, the exception being business archives which struggled to establish themselves as ongoing archives services. The priority for many of us, I served as the second professional archivist for the Anglican General Synod from 1978-2003, was securing policy and programs that provided open and equitable access to collections that previously had been used only for the ongoing business of the Church or by a very restricted number of professional

church historians many of whom like Rev. Dr. T. R. Tillman had also been the part-time and voluntary archivist of the society. Collections from Church agencies that were not of immediate research interest, for example the War Brides files of the Anglican Council of Social Service, simply had not survived after the programs ended. In the same way only an abstracted version of personnel information from the Anglican Indian Residential Schools Ottawa office was retained. When the Ottawa office closed in 1962 the Winnipeg and Ottawa office operations files, with very few exceptions, were lost.

Judith Schwarz, formerly the records manager for the General Board of Global Ministries of the United Methodist Church (USA) describes the process of creating open access in the 1980s. To develop a new access regime she surveyed Church leaders and professional Church historians who recommended that files should be “open except if the information might cause personal harm or deep embarrassment to a living person”.^v Archivists in this period were involved in real negotiations with Church leaders about how emerging professional standards, for appraisal, arrangement, description, preservation as well as access and privacy standards were to be incorporated into Church policy and procedures. An example of excellent results is found in the Manual of the United Church of Canada.

The expansion of the practice of professional historians into new areas of social research along with what is termed 'The Roots' movement meant that by the 1990s people expected that Church records would be as available as public records. My experience was that there was also an expectation that records of individual baptisms, marriages and burials would be open and available to their families as well as to the participants themselves. New expectations regarding privacy rights emerged together with the demand for wider access. One common example relates to the baptismal records of adopted children and/or the children of unmarried mothers. These records may be compromised. A baptism record can name adoptive parents as biological ones or it can record judgemental remarks about a parent or child. Religious archivists drew on generally understood theological norms, Church

regulations and civil law in proposing solutions to particular problems and cases.

In the last ten years Canadian religious agencies including their archives have continued to work with the ambiguities and competing challenges that accompany expectations around access and privacy. In many cases the archives are not as well resourced as they were previously. This puts additional pressure on providing network based solutions and consistent levels of service. In May I surveyed a number of Church agencies websites followed by a series of email enquiries and phone calls to archivists. Since 2003 Church agencies have increasingly adopted Privacy Standards Policies which are designed to ensure compliance with the Personal Information Protection and Electronic Documents Act of Canada (PIPEDA). In addition some religious archives in Quebec, Alberta and British Columbia responding to Provincial Privacy legislation and others in other jurisdictions in order to bring their practice into conformity with University ethics committees and funding agencies guidelines have adopted Researcher Agreements regarding the disclosure of personal information. These agreements are contracts that bind researchers who are publishing the results requiring them to aggregate their data and to ensure the protection of individual privacy. The agreements also may stipulate ways in which researchers must hold copies of personal information in a secure manner. All of the archives I surveyed now require requests for information from parish registers to be made in writing. The norm is for a certified copy to be made although occasionally if there is a single item on a page it will be photocopied. As far as I could determine archival records including those related to Indian Residential Schools that were open in 2003 remain open. The religious archives do still reflect their institutional mandates and there is a variation in the access that is available to personnel records including the records of former Residential Schools staff members. All of the archives indicated that they make service to Residential Schools survivors a highest priority expediting requests, waiving services fees either when asked or by policy and providing specialized search assistance. Considerable progress has been made with the identification of individuals in photographs often drawing on protocols developed

for the LAC's Naming project and the Missing Children program none have had the resources necessary to create searchable name indices for students in their administrative records. All of the archivists recognize that at the moment there is a considerable gap between their expectations, the Commissions mandate and the available resources but remain committed to resolving these differences through the consultation structures that they and their organizations leadership are involved with. What's missing in my opinion is a sustained examination of how aboriginal ways of knowing and working can contribute to bridging these gaps.

In meeting the challenges of access and protection of privacy there are a number of models of aboriginal ways of knowing that we can draw from. Part of the problem lies in the Western intellectual tradition and its reliance on categories of knowledge that place actions like providing access and protecting personal privacy at odds with rather than in relationship to each another. In their seminal study *Protecting Indigenous Knowledge and Heritage: a global challenge*, Professors Marie Battiste and James (Sa'ke'j) Youngblood Henderson remind us forcefully: "When Eurocentric thought is faced with a choice between two different paradigms, each paradigm's ability to measure, predict, or control mediates its validity. This solution does not resolve the dilemma...Using Eurocentric analysis, one cannot make rational choices among conflicting worldviews, especially those held by others." ^{vi} At the heart of an Indigenous solution to providing access and supporting privacy lies the concept of "Respect" which is a local, mutual and shared process. Battiste and Youngblood Henderson conclude that "the social process of learning and sharing knowledge, which is unique to each Indigenous knowledge and heritage, lies at the heart of its traditionality. Much of this knowledge is relatively recent but it has a social meaning and legal character entirely unlike the knowledge that Indigenous people have acquired from settlers and industrialized societies." ^{vii}

In April 2006 a group of American professionals and 2 Canadians met to develop appropriate Protocols

for Native American Archival Materials .^{viii} The results have been published and are now been discussed through a three year Forum process sponsored by the Society of American Archivists. At the heart of the Protocols recommendations is a call to “Respect and Act on both Native American and “Western” approaches to caring for archival collections. Traditional knowledge systems possess equal integrity and validity. Actions and policies for preservation, access, and use based on native American approaches will in some cases be priorities as a result of consultations with a tribal community.” While the language of the Protocols reflects the situation in the United States I think that the thrust is clear to Canadian archivists, their sponsors and researchers. The principles of self-determination and respect that are essential to Healing and Reconciliation are also essential to developing the institutional policies, guidelines and procedures that will ensure the widest possible research access to the records of the legacy of Indian Residential Schools while protecting personal privacy and the integrity of the records themselves.

- i See <http://www.cmp-cpm.forces.gc.ca/dhh-dhp/index-eng.asp>. Retrieved 13 June 2010
- ii See <http://collectionsCanada.gc.ca/modernization/012004-900...> retrieved 19 May 2010
- iii Mark J. Duffy and Christine M. Taylor, Trust and Professional Agency in the Archives of Religious Organizations: an Archival Perspective on Confidence Keeping, in Menzi L. Behrend-Klodt and Peter J. Wosh, Privacy and Confidentiality Perspectives: Archivists and Archival Records, Chicago, Society of American Archivists, 205-225
- iv Heather McNeil, Information Privacy, Liberty and Democracy in Behrend-Klodt and Wosh as above, 69
- v Judith Schwarz, The Archivist's Balancing Act: Helping Researchers While Protecting Individual Privacy in Behrend-Klodt and Wosh as above. ,82-92
- vi Marie Battiste and James (Sa'ke'j) Henderson, Protecting Indigenous Knowledge and Heritage: a global challenge, Purich Publishing Ltd., Saskatoon, 2000, 37-38
- vii Ibid. ,47
- viii Published as <http://www2.nau.edu/libnap-p/protocols.html>