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Redefining Transitional Justice in the North American Context? The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission

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REDEFINING TRANSITIONAL JUSTICE IN THE NORTH AMERICAN CONTEXT?

THE MAINE WABANAKI-STATE CHILD WELFARE TRUTH

AND RECONCILIATION COMMISSION

By

Evan Centala

B.A. University of San Diego, 2014

A PROJECT

Submitted in Partial Fulfillment of the

Requirements for the Degree of

Master of Arts

(in Interdisciplinary Studies)

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May 2016

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PROJECT ACCEPTANCE STATEMENT

On behalf of the Graduate Committee for Evan Centala I affirm that this

manuscript is the final and accepted project. Signatures of all committee members are

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Dr. Darren Ranco, Associate Professor of Anthropology   Date

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REDEFINING TRANSITIONAL JUSTICE IN THE NORTH AMERICAN CONTEXT?

THE MAINE WABANAKI-STATE CHILD WELFARE TRUTH

AND RECONCILIATION COMMISSION

By Evan Centala

Project Advisor: Dr. Darren Ranco

An Abstract of the Thesis Presented
in Partial Fulfillment of the Requirements for the
Degree of Master of Arts
(in Interdisciplinary Studies)
May 2016

This thesis argues that a transformative justice discourse needs to be adopted by the current field of transitional justice in order to account for the many developments in the field. Using the case of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, it presents the innovative approaches and unique context the Commission operates in, following a transformative methodology to affect fundamental social change through the political, economic, and social structures that allowed the violence and harm in question to pass. Distinguishing itself from a transitional context where regime change exists with an objective to establish democracy, this thesis suggests that the Commission orients itself around a goal of human security, a goal that should be made critical to the transformative discourse. Demonstrating that the Commission supports a transformative methodology, this thesis rejects the notion of a North American context within the field and recommends more recent processes of transitional justice be analyzed and categorized under a new transformative discourse.

ACKNOWLEDGEMENTS

TABLE OF CONTENTS

CHAPTER 1

INTRODUCTION

The field of transitional justice exists within a state of constant evolution as a result of its relatively recent study as a field mixed with analyzing a non-static world. The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC) is a testament to this change, where practice continues to influence the trajectory of the field, requiring a critical study of the mechanisms used to better understand their effects and inform future practice. By posing the question of whether or not the MWTRC is redefining transitional justice in a North American context, this thesis rests on several premises: (1) that the MWTRC is by definition a process of transitional justice; (2) that the MWTRC in its redefinition represents a complete shift from the trajectory of the field, defying core tenets of transitional justice; and (3) that a specific North American context exists within the field of transitional justice, with its mechanisms and practices that differentiate it from the rest of the world.

Only recently completing its mandate, the MWTRC has yet to be thoroughly studied. This thesis intends to address several major themes that question the validity of the premises upon which this thesis is based and contextualize the MWTRC within the field of transitional justice. In doing so, the findings of this thesis may inform future study of the MWTRC, its impact, and clarify as well as emphasize the importance of the work conducted, the contributions made, and the sacrifices made by all those involved in the MWTRC process.

The methodology used in this study is composed of a combination of interviews conducted with those involved in the MWTRC process, as well as a comprehensive

study of transitional justice theory, practice, and development.[1] Following the framework

of Creswell and Miller, there are several different paradigms and lenses that can be

implemented as models to evaluate qualitative research.[2] This framework provides three

competing paradigms that can shape one's position toward qualitative research and

characterizes the assumptions made by the researcher: postpositivism, constructivism,

and the critical paradigm.[3] Likewise, Creswell and Miller establish nine different lenses

that are arranged to correlate with the three paradigms, existing as procedures to assess

the validity of qualitative research.[4] These include triangulation, member checking, and

audit trail for the postpositivist paradigm; disconfirming evidence, prolonged engagement

in the field, and thick description for the constructivist paradigm; and researcher

reflexivity, collaboration, and peer debriefing for the critical paradigm.[5] Following these

models made by Creswell and Miller, qualitative research can be strengthened by

identifying the assumptions of the researcher through the paradigm used, and applying

their corresponding lenses to evaluate the validity of the findings made.

By following a post-positivist paradigm where the program or policy being studied

is viewed as a separate instrument with independent effects, the instrumental

effectiveness of the MWTRC process can be assessed.[6] This questions how it works

and what its working components are. It also requires a method of triangulation used in

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[1] Due to the nature of this study, only three interviews were conducted as a result of time constraints, the small pool of individuals able to offer interviews regarding their experience, as well as their availability.

[2] Vasco Lub, "Validity in Qualitative Evaluation: Linking Purposes, Paradigms, and Perspectives," *International Journal Of Qualitative Methods* 14, (2015): 4-5, accessed April 20, 2016.

[3] Lub, "Validity in Qualitative Evaluation," 5.

[4] Lub, "Validity in Qualitative Evaluation," 5.

[5]Lub, "Validity in Qualitative Evaluation," 5.

[6] Lub, "Validity in Qualitative Evaluation," 4-5.

this thesis, where the culmination of qualitative research gathered is compared and

contrasted, eliminating biases, finding consistencies, and identifying literature that

supports or refutes claims made in interviews.[7] It also provides a method to assess the

validity of the research by detecting biases and therefore strengthening the interpretation

made from the research. Utilizing the information garnered from interviews that highlight

the experience of those who were an active part of the MWTRC process, comparing it

with the findings and primary documents composed by the Commission and the

literature addressing the current and future state of the field, this thesis makes informed

assertions that derive from outside and within the work of the MWTRC.

   This thesis will first trace and present the development of transitional justice to its

present day state, suggesting that the term and the definition for the field itself no longer

satisfies the processes that have grown and continue to occur globally under its

namesake. Identifying an alternative term and concept, transformative justice, this thesis

argues that by definition the MWTRC is not a process of transitional justice but of

transformative justice, suggesting that this term be adopted and implemented within the

field to replace transitional justice, as called for by other scholars in the field.

   By analyzing the MWTRC, regarded as a new, innovative model for other TRCs,

this thesis brings to light emerging trends for the direction of the field toward

transformative justice. These trends suggest the MWTRC is a pioneering evolution from

the transitional justice discourse into that of transformative justice. Furthermore, it pays

specific attention to the differentiation of goals between transitional and transformative

justice, targeting democracy and human security respectively. Demonstrating that the

MWTRC is focused on human security in the form of improved, equitable, and respectful

child welfare practices between Wabanaki communities and the State of Maine, this

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[7] Lub, "Validity in Qualitative Evaluation," 5-6.

thesis outlines a case where human security embodies a more achievable, victim/ survivor oriented goal that seeks to produce fundamental change to repair those areas where human security is lacking.

This thesis will also evaluate the argument made for a North American context for TRCs, a mechanism of transitional justice, and contest the assertion that such a context exists. By identifying the innovative features of the MWTRC which both support and challenge a North American context, this thesis argues that by adopting a transformative justice discourse, no North American context exists. Moreover, it argues that a North American context within the transitional justice discourse is simply another method of extending its coverage over processes which by definition do not fall within its purview, requiring contextualization or exception in order to account for its differences.

Lastly, this thesis will attempt to understand and outline the Wabanaki vision of peace from a non-Native perspective and how the MWTRC contributes to strengthening this vision of peace shared by the greater Wabanaki nation located throughout Maine and the Canadian Maritime Provinces.

A Brief History

The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission grew out of the 1999 Maine ICWA workgroup in order to confront the shortcomings the State of Maine was found to have relative to the responsibilities outlined in the Indian Child Welfare Act (ICWA) - federal legislation which recognizes the importance of Native people keeping children removed from their homes within their own families to preserve tribal ties.[8] From 2008 to 2013 this group worked with the State of Maine and tribal

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[8] For a complete, official history of the Commission and its relation to ICWA, please refer to *Beyond the Mandate*, the official report written by the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission.

governments in order to develop a declaration of intent and mandate for the truth and reconciliation commission. From this effort grew Maine Wabanaki REACH, which served as an independent partner to the Commission and continues to advocate for Wabanaki communities as well as continue the work of the Commission beyond its mandate.

The Commission evaluated the disproportions found between Wabanaki and non-Wabanaki children in the State of Maine's child welfare system from the 1960s to as recent as 2013, finding evidence of cultural genocide in the State of Maine against the Wabanaki people and historical trauma as a result of child welfare practice disproportionally and negatively affecting Wabanaki children. In Maine, Wabanaki children have entered into the foster care system on average of 5.1 times more than non-Native children over the past 13 years and federal reviews indicated that sometimes up to half of all children entering the system have not had their Native heritage verified between 2006 and 2009.[9] This is in addition to the decades of abuse and malpractice in child welfare before and after ICWA in 1978.[10] This evidence is the product of a historical record of institutional racism, contested tribal sovereignty, and failure to fully comply and better implement ICWA into child welfare practice in Maine.

The Commission completed its mandate in May 2015, publishing its official report, *Beyond the Mandate,* which outlines the history of Native child welfare in Maine, its findings, and recommendations to support the Wabanaki people and improve Native child welfare.

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[9] Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, "Beyond the Mandate. Continuing the Conversation," (Hermon, 2015), 11.

[10] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 25-26.

The Wabanaki Vision of Peace

While impossible to completely experience and fundamentally grasp the modern Wabanaki vision of peace and its long history from a non-Native perspective, it remains important to make an effort to articulate what a Wabanaki vision of peace may look like outside of the work of the MWTRC, and how it contributes to that vision. The recent history of the Wabanaki and peace work appears to be primarily occupied with colonial forces and the preservation of Wabanaki resources, land, culture, and society over the past several hundred years.[11] Beyond protection, Wabanki peace also appears to be rooted in a struggle for the recognition and respect of the Wabanaki way of life that creates space for Native and non-Native approaches to issues - an important element found in this recent history.[12] In this space, peace would allow for the opportunity to create a dialogue that places these perspectives on an equal level and encourages both sides to consider each other's perspectives. Consequently, healthy and equitable relationships function as the vehicle to operationalize Wabanaki peace.[13]

This peace also has deeper ties to a collective, human spirit that possess the capacity to create unity among Native and non-Native people. In this way Wabanaki peace is based on the interconnectedness of every individual that only requires people recognize their common ground in order to build this peace.[14] Through this unity with foundations in friendship, trust, respect, and cooperation, a Wabanaki vision of peace

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[11] Darren Ranco, "Wabanaki Diplomacy," *Community and Banking* 27 (2016): 24.

[12] Darren Ranco, "Wabanaki Diplomacy," 25.

[13] Gail Dana-Sacco, "The Indigenous Researcher as Individual and Collective," *American Indian Quarterly* 34 (2010): 75.

[14] Denise Altvater, Maria Girouard, Arla Patch and Elizabeth Koopman, "Peace is Possible," *Friends Journal,* February 1, 2016, accessed May 2, 2016, http://www.friendsjournal.org/peace-is-possible/.

looks to unite those from many different groups under a collective, human spirit while

maintaining the dignity of their own separate ways of being and knowing.

CHAPTER 2

TRANSITIONAL JUSTICE: DEVELOPMENT AND OUTLOOK

To understand the context of the Maine Wabanaki Truth and Reconciliation Commission, it is first necessary to understand the place it takes within the field of transitional justice and the timeline of the field's development. Establishing this background and a platform from which to begin to evaluate and analyze the MWTRC, the distinct elements of the Commission to be addressed in this thesis will become apparent.

Transitional justice has generally become understood as that which offers answers for past crimes and current violence, promising to heal war-torn societies, and to reestablish democracy and the rule of law by rebuilding political communities.[15] However, defining the term has become increasingly difficult as the field has developed over time, encompassing processes that fall outside of the field's true scope and experiencing a debate among varying definitions by scholars. Teitel claims to have coined the term, defining it as a conception of justice associated with periods of political change, characterized by legal responses to confront wrongdoing of repressive regimes, where political change is understood as the movement from less to more democratic regimes.[16] Still, these definitions continue to be challenged by current developments which stand to reconfigure the entirety of the field.

While a precise definition remains disputed, scholars agree upon the general timeline of the field and its periods or waves which characterize its development. The field's origins derive broadly from the aftermath of World War II and the proceedings of

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[15] Pierre Hazan, *Judging War, Judging History,* trans. Sarah Meyer de Stadelhofen, (Stanford: Stanford University Press, 2010), 29.

[16] Natalia Szablewska and Sascha-Dominik Bachmann, "Current Issues and Future Challenges in Transitional Justice," in *Current Issues in Transitional Justice*, ed. Natalia Szablewska and Sascha-Dominik Bachmann (Switzerland: Springer International Publishing, 2015), 340.

the International Criminal Court, establishing three broad characteristics forming a basis for transitional justice: (1) recognizing the atrocities committed against a group of people by the state as witnessed by Nazi Germany against the Jews; (2) requiring that Germany pay reparations for its wrongdoing; (3) and seeing to the democratic transition of Germany from the Nazi regime.[17] From this foundation, the first wave of what is regarded as the contemporary understanding of transitional justice would originate three decades later in the 1980s.

First Wave

To demonstrate how transitional justice is transitioning out of its traditional paradigm, Balasco characterizes the development of transitional justice in waves which highlight the major trends of the field relative to their appropriate wave. These waves parallel the structural periods of transitional justice history as put forth by Hazan and other scholars, capturing the nuances of ideological change, the influence of new actors, and relation to politics that distinguish each period. However, they differ through how they inform the future trajectory of the field and what elements are given greater attention in its discourse.

Balasco's first wave is set in the 1980s into the 1990s, and is attributed to the failed military regimes in Latin America, the declining influence of the Soviet Union in Europe, and other liberalizing processes taking place in Asia and Africa as the globe began to fall under a new world order.[18] This period of normative exploration is characterized by scholars, politicians, policymakers, and activists who grappled with how

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[17] Hazan, *Judging War, Judging History,* 29.

[18] Lauren Marie Balasco, "The Transitions of Transitional Justice: Mapping the Waves From Promise to Practice," *Journal of Human Rights* 12 (2013): 200.

to respond to human rights violations committed by state regimes while transitioning toward a democratic government under the new liberal order.[19] Cases such as Argentina's Truth Commission in 1983 and the South African Truth and Reconciliation Commission in 1995 not only helped to provide models for mechanisms that would soon become standard within transitional justice, but also solidified the early relationship between democracy as an end goal of transitional justice.[20]

Academia at this time introduced the mechanisms of commissions of inquiry, trials, and reparations as tools of the state with the assertion that only a democratic government could secure the dignity of human life and ensure the protection of human rights after crimes committed under a previous authoritarian regime. Thus, the use of these transitional justice mechanisms became the litmus test and rite of passage to assess the rule of law and quality of democracy under a new regime. This was further compounded by the idea that an authoritarian past must be thoroughly examined and understood to pave the way for a healthy, individual-state relationship in the future.[21]

Second Wave

Balasco characterizes the second wave as a period where transitional justice increasingly became a global norm and recommended practice, while scholars began to reflect critically on this concept and determine who stood to gain most from its mechanisms. Taking place during the 1990s into the early 2000s, Hazan also notes that this development parallels the ethnic identity conflicts of the period like Rwanda or

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[19] Balasco, "The Transitions of Transitional Justice," 200.

[20] Hazan, *Judging War, Judging History,* 29.

[21] Balasco, "The Transitions of Transitional Justice," 200.

Yugoslavia and the use of transitional justice to curb their violence through rule of law.[22]

These parallels are highlighted best though the International Criminal Tribunal (ICT)

established in Yugoslavia in 1993 and ending in 2001.[23]

Taking an introspective stance, as Balasco notes, scholars during this period

began to question the nature of traditional regime change towards democracy and its

consequences. Does transitional justice produce harming effects during transitions from

conflict to peace or authoritarian governments? What actually constitutes justice? Are

mechanisms of transitional justice adopted because a regime has already started to

transition towards democracy, or is the use of transitional justice mechanisms that propel

a state towards democracy? These types of questions while useful, also proved

troublesome for the field, requiring it to question the validity of its foundations.[24]

Particularly revealing were many of its own principles based in the Western,

liberal tradition, used outside of the Western world, implementing terminology like the

word "transition" itself, implying that pre-transitional states were somehow less civilized

or backward in comparison to the West.[25] The ambiguity of its goals also left it open to

criticisms while balancing those of international state-building, re-establishing human

rights, and conflict resolution. Still, these goals often failed to address actual harm done

to those who suffered and how this population could be better served - revealing an

implicit focus on reestablishing the rule of law and restoring order rather than facilitating

justice and healing. Consequently, the concept of rebranding transitional justice as

transformative justice was first presented during this period by Lambourne, suggesting

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[22] Hazan, *Judging War, Judging History,* 29.

[23] Hazan, *Judging War, Judging History*, 29.

[24] Balasco, "The Transitions of Transitional Justice," 201.

[25] Balasco, "The Transitions of Transitional Justice," 201.

that in doing so the necessity for long-term, sustainable processes that transform social, economic, and political structures may be highlighted, unlike the concept of transitional justice as an interim process linking the past to the present/future.[26]

Third Wave

Following the Second Wave in the 2000s into the present day, transitional justice's third wave began to shift its focus towards the operationalization of its mechanisms after processing through much of its self-examination during the second wave. According to Balasco, the primary drivers for the focus placed on operationalization derived from the growing disillusionment with transitional justice and its success in promoting democracy, as well as the continued and growing pressure to measure the effectiveness of transitional justice mechanisms.[27]

Through the pressure placed on delivering measurable results on efficacy, studies have shown that when using one or several mechanisms of transitional justice at a state level, there is no significant impact on strengthening democracy and reducing human rights violations.[28] More importantly, they show those states who only use truth commissions may experience a decrease in measures of democracy and human rights.[29] However, through this pressure Balasco suggests that still, not enough focus and study has been placed upon communities and how transitional justice affects them. This has become especially significant in light of local practices of transitional justice becoming increasingly common and reinforces the need for increased operationalization

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[26] Balasco, "The Transitions of Transitional Justice," 203.

[27] Balasco, "The Transitions of Transitional Justice," 205.

[28] Balasco, "The Transitions of Transitional Justice," 205.

[29] Balasco, "The Transitions of Transitional Justice," 205.

as more processes take place which are not universal in size or nature. Overall, this

period is focused on how these processes handle conflict and how, if at all, they are

resolving it. As a disconnect became increasingly apparent between transitional justice

mechanisms' goals, the need for justice from local populations, and work done within the

field of human rights and human development, the field was forced to reflect on the

nature and purpose behind its objectives.

Fourth Wave

The Fourth Wave of transitional justice, as Balasco proposes, encapsulates

future expectations of transitional justice, the direction of the field, and presents a more

refined if not reformed vision of transitional justice.[30] Through this vision, Balasco argues

a greater focus will be placed on transitional justice within the context of the greater

reformation of the state and society during and after conflict. Consequently, carrying on

from the Third Wave, local justice practices and personal interpretations of transitional

justice within the context of a community will receive increased attention. Furthermore, in

an effort to operationalize transitional justice, scholars will and are beginning to realize

that the goals peace and related concepts are too broad to measure efficacy, thus

necessitating a shift out of the traditional transitional justice discourse.[31] Turning focus

towards policy communities that specialize in development and security, the field is just

beginning to examine the impact that these bodies have within the scope of transitional

justice, designing models around them to better measure efficacy.

By reevaluating the focus of study within transitional justice, sustainable

development will grow to become a primary theme within the discourse. Accounting for

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[30] Balasco, "The Transitions of Transitional Justice," 206.

[31] Balasco, "The Transitions of Transitional Justice," 207.

factors that cause conflict or exacerbate its effects, sustainable development includes

mitigating and deterring the harm done by population growth, migration, economic

disparity, and other non-military factors that threaten transitional justice processes and

the greater scope of human security. In doing so, Balasco argues that human security

will grow to become the primary goal and purpose of transitional justice, accounting for

the complications posed by the intersection of conflict and development.[32]

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[32] Balasco, "The Transitions of Transitional Justice," 207-208.

CHAPTER 3

TRANSFORMATIVE JUSTICE: TRANSITIONING FROM THE TRANSITIONAL

JUSTICE DISCOURSE

Given the context of the development and future trajectory of transitional justice,

it becomes apparent that transitional justice is transitioning out of its traditional context.

Recognizing fourth wave transitional justice and its emphasis on the reformation of state

and society, it is evident that the importance of its social impact for change has grown,

so much so that within the literature arguments exist for the use of the term

transformative justice.[33] Rather than transitioning away from regimes where atrocities

were committed, which implies a linear continuum where remnants of this regime may

persist and linger within a new one, transformative justice requires the transformation of

the social, economic, and political conditions that permitted the committed wrongs.[34]

Similarly, as Lambourne suggests, transformative justice implies a long-term,

sustainable process rather than interim processes where the past and the future are

linked by transition.[35]

Adopting a new practice of transformative justice is a natural, next step for the

field, understanding the new developments in fourth wave transitional justice and the

reevaluation of transitional justice's problematic core tenets such as liberal transition and

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[33] The use of the term transformative justice is still a relatively new development relative to transitional justice literature. There are many debates surrounding the use of the term and its separation, coexistence, or combination with the field of transitional justice. I recognize that this is a debate in and of itself which could be the sole focus of an entire article or thesis. For the purpose of this thesis, and its focus on the MWTRC, I have chosen to highlight major elements which distinguish both transformative and transitional justice that are important to note in the case of the MWTRC. Therefore, I wish to clarify that within this thesis I am a proponent for the implementation of transformative justice as the new normative term to encompass that which is transitional justice and recognize there may be those who contest this.

[34] Clara Sandoval, "Transitional Justice and Social Change," *International Journal on Human Rights* 20 (2014): 183*.*

[35] Balasco, "The Transitions of Transitional Justice," 203.

state-centered approaches. Rather than pointing to state regime change as a medium

for change, transformative justice focuses on the reformation of socio-ideological

practice and structures dominating society responsible for fostering an environment that

allowed past wrongs to be committed; and where universal change transforms all of

society.

Transformative justice accounts for contexts in which transitional justice, in its

most traditional sense, cannot. These include those where no liberalizing political

transition takes place; those where transitional justice mechanisms are used in an

already established democratic order to account for past wrongs; and those of

transitions during armed, internal conflict.[36] Furthermore, it accounts for the failures of

transitional justice processes where complete change that prevents violent or harmful

actions is demanded, yet witnesses the same past actions continue to occur after

transition. This is particularly true of structural violence causing injustices relative to

gender and race.

Transformative justice also encompasses processes currently classified under

transitonal justice that by definition extend beyond the limits set by the field. Vertical

expansion (the increased importance placed on actors of different levels where

transitional justice may be generated) and horizontal expansion (the use of transitional

justice mechanisms among a plethora of contexts not solely subscribed to political,

liberal transition after past wrongs) are explained by Hansen as indications that the field

of transitional justice has reached a point of disintegration, no longer able to support its

expansion within the confines of its definition.[37] These expansions account for how

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[36] Thomas Obel Hansen, "The Vertical and Horizontal Expansion of Transitional Justice: Explanations and Implications for a Contested Field," in *Theories of/for Transitional Justice*, ed. Susanne Buckley-Zistel (Oxford: Oxford University Press, 2012), 211.

[37] Hansen, "The Vertical and Horizontal Expansion of Transitional Justice," 204.

transformative justice can be implemented in new ways as a flexible concept, recognizing that the most recent process and developments in the field stretch transitional justice to its breaking point.

Lundy and McGovern highlight a new, localized, bottom-up approach that has emerged as a means to implement transitional justice mechanisms.[38] Emphasizing the key concepts of participation, empowerment, and community based processes, they demonstrate how individuals and civil society may begin to implement processes of transformative justice, generating change from the bottom up and defying the traditional state-centric model of transitional justice. These types of developments challenge the normative practice of transitional justice and make an attempt to go farther than former transitional justice processes have by securing change beyond a Westernized, ideologically charged scope.

Examining the capacity for social change between transitional and transformative justice, Sandoval presents three categories of change: ordinary change, structural change, and fundamental change. Emphasis is placed on fundamental change, whereby social struggle is able to establish a new, dominant ideology informed by radically different values than those established during the period of wrongdoing, supporting an environment capable of repression or conflict.[39] Ordinary and structural change defines changes made by transitional justice that fail to completely replace the former dominant structure and its influences, either supporting minimal change, or presenting a facade of major change having occurred. The process of affecting major, universal change is a process that takes generations, and cannot be accomplished in several short years,

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[38] Lundy, Patricia Lundy and Mark McGovern, "Whose Justice? Rethinking Transitional Justice from the Bottom Up," *Journal of Law and Society* 35 (2008): 280.

[39] Sandoval, "Transitional Justice and Social Change," 184*.*

much like the lifespan of most transitional justice processes do.[40] In this way,

transformative justice is a concept much more suited to address the type of

comprehensive social change that Sandoval asks of transitional justice by tracing conflict

to its roots and changing how society consciously or unconsciously supports these root

causes. Again, this demonstrates the expansion of transitional justice and how it has

reached a point of disintegration, no longer able to support its practice within the

confines of its own self-definition.

The MWTRC at the Forefront of Transformative Justice

The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission

stands to model methods and practices for the future of transformative justice,

distinguishing itself from any transitional justice process. Collins, McEvoy-Levy and

Watson note that it "[…] is a new kind of truth commission, linking reconciliation with

decolonization, and truth with practical policy change, in the process creating an

important model of community-based conflict transformation and trauma recovery that

has potentially wider implications for other communities - Indigenous, and non-

Indigenous - seeking to reconcile, and to heal, after a period of long-term trauma."[41]

Acknowledging the pioneering nature of this commission, it is important to distinguish the

unique context which positions it outside of the classification of transitional justice.

Following the traditional definition of transitional justice, the MWTRC should meet

the following requirements in some capacity to be classified accordingly:

1. Reestablish rule of law.

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[40] Sandoval, "Transitional Justice and Social Change," 186.

[41] Bennett Collins, Siobhan McEvoy-Levy and Alison Watson, "The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission: Perceptions and Understandings," (paper presented at AHDA Historical Justice and Memory Conference, New York City, New York, December, 2013).

2. Reestablish democracy.

3. Heal war-torn societies, or societies damaged by wrongdoing.

4. Generate a legal response to wrongdoing.

5. Facilitate a justice process during a period of political transition.

These requirements demonstrate transitional justice's inability to account for the MWTRC. Following the MWTRC Mandate, the commission exists as an autonomous, non-governmental body focusing on state child welfare practices in Native communities.[42] Therefore, it does not possess the capacity to generate legal responses to any wrongdoing, although it may influence government to generate potential legal responses. Furthermore, this body is not one established during a process of political transition with an intent to reestablish rule of law or democracy. Recognizing its existence within the State of Maine and the greater United States, both of which maintain a historically vibrant democracy and strong rule of law, the MTWRC maintains no focus concerning the facilitation of a political transition of any kind. Consequently, a paradox is found in the case of the MWTRC where mechanisms of transitional justice, such as a truth and reconciliation commission, are implemented in contexts beyond the scope of traditional transitional justice. Cases like the MWTRC, as a result, are responsible for the current transitional versus transformative justice debate in the field, supporting the adoption and acceptance of transformative justice as the field's future trajectory.

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[42] Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, "Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Mandate," (2012), 2.

The Mandate lists seven major objectives of the MWTRC.[43] [44] Many of these may be classified as those that seek to create structural changes, following Sandoval's definition, as changes that provide structural transformation (i.e. new legislation, new official processes, etc.) but are not sufficient enough to constitute fundamental change that transforms the ideology of the old system which allowed wrongdoing to occur. However, two may be classified as objectives that seek to create fundamental change, transforming society:

> "4. Work in collaboration with the TRC Community Groups and Convening Group to provide opportunities for healing and deeper understanding for Wabanaki people and state child welfare staff; […]
>
> 7. Promote individual, relational, systemic and cultural reconciliation."[45]

Transformative justice recognizes and requires that structural changes be made in order to affect change, but recognizes that it is not enough. Societal culture must also be transformed in order to complement structural change, and is admittedly much more difficult to achieve.

Esther Attean, the Co-director of Maine Wabanaki REACH notes that reconciliation is a lifelong process and "[…] is more about restoring human people to restore that humanity within our relations with each other […] reconciliation cannot

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[43] (1) Give voice to Wabanaki people with experience in child welfare. (2) Give voice to state and tribal child-welfare staff, care providers and the legal community in regard to their work with Wabanaki families. (3) Create and establish a more complete account of the history of the Wabanaki people in the state childwelfare system. (4) Work in collaboration with Maine-Wabanaki REACH to provide opportunities for healing and deeper understanding for Wabanaki people and state child-welfare staff. (5) Improve child-welfare practices and create sustainable changes in child welfare that strive for the best possible system. (6) Formulate recommendations to state and tribal governments and other entities to ensure that the lessons of the truth are not forgotten and to further the objectives of the Commission. (7) Promote individual, relational, systemic and cultural reconciliation.

[44] Maine Wabanaki Truth and Reconciliation Commission, "Mandate," (2012), 2-3.

[45] Maine Wabanaki Truth and Reconciliation Commission, "Mandate," (2012), 3.

happen without healing and once healing starts happening, reconciliation is just a natural

progression."[46] The concept of reconciliation is inherently transformative as well. Philpott

defines reconciliation as peace in the absence of violence, and realization of justice as a

condition of mutual love and respect.[47] Others such as Amstutz echo similar values from

a different extension of the definition, relating how the concept identifies with alienation

and distrust, and the potential for these conditions to transform into social trust and

communal solidarity.[48] *Beyond the Mandate* also pays specific attention to the concept of

reconciliation relative to the harm done to Native communities, including an excerpt from

Walter R. Echo-Hawk in his analysis of the UN Declaration on the Rights of Indigenous

Peoples, claiming that this is a historic time where transformative steps may be taken to

lead to reconciliation.[49]

Following these definitions, Objective 7 of the Mandate then seeks to promote

justice at individual, relational, systemic, and cultural levels built on mutual love, respect,

social trust, and communal solidarity. Recognizing that in the broadest sense,

transformative justice seeks to repair a breakdown in humane relationships,

reconciliation follows as the process of healing that transforms the socially accepted

norms that had allowed this breakdown to occur. However, the concept of reconciliation

within the field does not necessarily carry the same societal understanding.

Reconciliation may also be viewed as re-legitimizing existing power relations and

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[46] Esther Attean, "Interview with Esther Attean," interview by author, personal interview, (Machias, September 3, 2015), 4.

[47] Daniel Philpott, "Beyond Politics as Usual," in *The Politics of Past Evil*, ed. Daniel Philpott, (Notre Dame: University of Notre Dame Press, 2006), 14.

[48] Mark R Amstutz, "Restorative Justice, Political Forgiveness, and the Possibility of Political Reconciliation," in *The Politics of Past Evil*, ed. Daniel Philpott, (Notre Dame: University of Notre Dame Press, 2006), 160.

[49] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 21.

injustice, leading some in the commission like Carol Wishcamper to use the phrase "truth, healing, and change."[50] This contrast reveals the relationship between transitional and transformational justice related to change. Fundamental change made through true, reconciliatory means cannot be enacted by a transitional justice process, rather, it only enacts structural changes that frame the conception of reconciliation as the normalization or pacification of relationships. Transformational justice, by focusing on fundamental changes to transform the entirety of society, aims to reclaim the concept of reconciliation that transitional justice TRCs have failed to fulfill.

Apart from these broad points of comparison that demonstrate the MWTRC's non-transitional nature, there are four major, emerging themes that specifically demonstrate the transformational elements of the work carried out by the Commission and its partners: autonomy, a grassroots approach to organization, finding evidence of structural violence, and decolonization. While some of these elements may be specific to the transformational nature of the work being done by the MWTRC, others may model structural components for future processes of transformative justice.

Autonomy

The autonomous nature of the MWTRC allowed it to work outside of the system and institutions it aimed to transform. The Mandate states that "The Commission shall be an autonomous body comprised of five Commissioners that are trusted by both tribal and state governments and their respective citizens."[51] In order to be an agent of change, this is significant, as it demonstrates the need for support of the MWTRC mission from all actors while still acting independently. This unique structure for the

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[50] Collins, "The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission."

[51] Maine Wabanaki Truth and Reconciliation Commission, "Mandate," (2012), 2.

MWTRC, where leaders of all five Wabanaki tribes and the State of Maine signed the Mandate with specific clauses stipulating how these bodies will support the mission of the MWTRC, at a minimum, demonstrate the acknowledgement of an existing problem and willingness to explore opportunities for change and improvement.

The Commission's independence from the state and tribes is particularly significant in the case of the MWTRC. One of few autonomous TRCs that have been established globally, the MWTRC is the first to act independently without government oversight or control, while still being officially supported in its mission by the same governments it seeks to change. This is a break from traditional methods of transitional justice where a TRC is often established with government oversight and financial support, typically by the new government constructed after regime change. The argument can be made that transitional justice processes are limited to achieving structural change due to government involvement - that to change the ideology on which a government is based from within its own structure is impossible. Through the MWTRC's autonomous nature, it may be able to change this ideology from without. However, to say at this time whether or not it has begun is still too early to tell.

The MWTRC and its autonomy also lends it a legitimacy it could not gain as a governmental commission. Recognizing that in the case of Native child welfare and the state, the State of Maine was and still is responsible for wrongdoing within its practices concerning Native children and the child welfare system. Acknowledging this wrongdoing, to ask the Wabanaki people to trust a governmental commission sponsored by a government that has committed the wrongdoing it seeks to examine would be extremely difficult if not impossible. As an autonomous body, there is a legitimacy that the MWTRC gains that would not be possible through any other means. As Rachel George states, the former Research Coordinator of the MWTRC, "[…] the lack of

oversight over the Commission has been essential to our work. It's what makes our commission a legitimate truth commission. [Those] that have government oversight are often biased."[52] This autonomy is key to the transformational nature of the MWTRC in that it sets it apart from traditional limitations seen through transitional justice processes. As an independent body, it may affect fundamental social change that directly contradicts that which the system it seeks to change rests on.

Grassroots Organization & Bottom-Up Approach

The bottom-up or grassroots approach implemented by the MWTRC has been an integral part of its work, and Maine Wabanaki REACH (Reconciliation, Engagement, Advocacy, Change, and Healing) has been at the forefront of these efforts. REACH, while independent from the MWTRC, has laid the Commission's foundation, supported its work, and has continued its work beyond the end of the Commission. As an agent primarily responsible for affecting social change in Maine surrounding Native and non-Native relations, REACH constitutes one of the most important elements in this process of transformative justice.

During the mandate of the MWTRC, REACH established its grassroots organization by placing community organizers in each of the tribal communities, as well as two covering the State of Maine and non-native peoples. Barbara Kates, a REACH Community Organizer, notes that community organizers prepared these communities for visits made by the MWTRC through various methods, including presentations outlining the shared history of Native and non-Native people in Maine, in-person meetings, and

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[52] Rachel George, "Interview with Rachel George," interview by author, personal interview, (Bangor, August 11, 2015), 17.

phone calls.[53] They ensured that Native people participating in the MWTRC process were given the necessary and proper emotional support, and that they knew their participation would mean the recording and public dissemination of their experience when making the decision to give testimony. Their work also included investigating those the MWTRC should speak with that were involved with Native child welfare over the past several decades, and they prepared and advised the MWTRC for their visits within many different communities. However, while REACH supported the MWTRC, it had no involvement in the actual processing of the commission, including its findings, report, and other related material.

Both during and after the close of the Commission, Maine Wabanaki REACH has also worked to engage the non-Native community by providing their Ally Workshop that educates participants on the work of REACH and the MWTRC; the shared history of Native and non-Native people; issues of white privilege, micro aggressions, and other marginalizing forces in society which can be prevented; as well as how to be an ally to Native people.[54] These trainings within a year have seen an attendance of over 200 individuals, and has since generated 6 regional groups around the State of Maine, working with REACH to support advocacy and activism around Native people and their rights while promoting a healthy, cross-cultural collaboration among Native and non-Native people.

REACH's efforts are the work for fundamental social change which constitutes an integral part of transformative justice. REACH actively engages society in Maine to reevaluate and correct its long-established colonial ideology embedded in social norms

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[53] Barbara Kates, "Interview with Barbara Kates," interview by author, personal interview, (Machias, July 17, 2015), 8.

[54] Kates, "Interview with Barbara Kates," 15.

through education and a bottom-up approach that welcomes every individual to participate in its efforts. As Esther Attean notes, "[…] there has not been a truth and reconciliation process in this way at a more grassroots or people-to-people level […]" made possible by REACH.[55] This is emphasized further by Rachel George, explaining that the grassroots nature of the MWTRC process is a model that cannot fit under the traditional government implemented, top-down structure of transitional justice because of REACH's involvement.[56] [57] Transformative justice, by definition, is a long term, sustainable process - an element that REACH is fulfilling for the MWTRC process. Its importance is compounded as recommendation eleven of *Beyond the Mandate*: "Support the work of Maine-Wabanaki REACH in both Wabanaki and non-Native communities to foster truth, healing and change."[58]

Finding Structural Violence & Cultural Genocide

Beyond the Mandate, the official report written by the MWTRC indicates in its own findings that a grouping of several interconnected factors including institutional racism in state systems, contested sovereignties and jurisdictions between state and tribal governments, as well as how the effects of historical trauma on the Wabanaki

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[55] Attean, "Interview with Esther Attean," 3.

[56] George, "Interview with Rachel George," 1.

[57] Taken as whole, this requires an evaluation of how transformational justice processes are identified. While a Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission existed during its two year mandate, simply referring to the work completed in Maine collectively as part of the MWTRC does not reveal the collaborative yet independent nature of both the MWTRC and REACH, particularly given that REACH continues to operate and work to promote social change. If this begins to model a structure for future processes of transformative justice, it will require rethinking how these bodies are identified. Acknowledging this fact, the collective work carried out by the MWTRC and REACH will hereon be referred to as the MWTRC process in this thesis.

[58] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 71.

people have culminated in cultural genocide.[59] Within the scope of the MWTRC, the Commission has found cultural genocide to be an ongoing process facilitated by disproportionate and unequal Native child welfare practice in Maine since the 1960s.[60] However, the greater historical record of the Wabanaki people in Maine reveals other vehicles through which cultural genocide continues to be facilitated, of which most notably includes the contested sovereignty of tribal land and Native people between tribal and state governments.

Structural Violence refers to the way in which social structures, rooted in the political and economic organization and operations of society, are able to place individuals or populations in harm's way, causing injury or harm to those affected.[61] It is often tied to historical factors which have made an effort to constrain a person or populations which then embed themselves into the commonplace operations of society, making structural violence difficult to identify and complicating to whom or what culpability is assigned.

The disproportions found between Native and non-Native children in the Maine child welfare system indicate a textbook example of structural violence, coinciding with its ties to cultural genocide. As a result of the institutional racism that exists within the structures of the State of Maine connected to the fact that the Wabanaki people constitute a marginalized community with little power or influence in the state relative to other populations, it is conceivable how disproportionate child welfare practice harming Native children could endure for so many decades. Without those with power acknowledging the harm being done to Wabanaki people until now, only the Wabanaki

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[59] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 68.

[60] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 25.

[61] Paul Farmer, "An Anthropology of Structural Violence," *Current Anthropology* 45, (2004): 306-307.

community itself could feel and experience the harm affecting their everyday life. This dynamic where those who are marginalized in society are often those that are harmed, impacted, and ignored is characteristic of structural violence. The consequence is that which the MWTRC reports, where an entire group of people like the Wabanaki are saddled with generational/historical trauma and have experienced decades of structural violence culminating in cultural genocide.[62]

It is important to emphasize that the disproportionate and harmful child welfare practices affecting the Wabanaki people are not the only way in which the Wabanaki have experienced structural violence and cultural genocide, a fact Rachel George notes while indicating that the MWTRC falls closer to being categorized as a process of transformative justice.[63] However, Native child welfare is an issue the MWTRC found important to address, and the Commission's work consequently demonstrated how examining one issue, both past and present, can open a window to greater structural factors and root causes as to how and why the harm and violence in question has come to pass. The concept of linking issues back to their root causes points to how the MWTRC constitutes a process of transformative justice, not just seeking to reconcile recent past violence, but correct and reconfigure the very structures that support and permit the harm or violence to be committed.

Rachel George points out that transformative justice, in large part, is concerned with examining the root causes of violence because only addressing one issue derived from a root cause makes it difficult to create change that affects all others deriving from the same cause.[64] Acknowledging that structural violence is produced within the social

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[62] Collins, "The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission."

[63] George, "Interview with Rachel George," 1.

[64] George, "Interview with Rachel George," 1.

structures of society, embedded in their economic and political organization, it follows

that transformative justice, by definition seeking to change the social, economic, and

political factors that permitted any wrongdoing or violence to occur is best equipped to

bring issues of structural violence to light and affect fundamental change that impacts

these very structures society rests on. This suggests that processes of transformative

justice, as evidenced by the MWTRC, are better equipped to confront contexts where

the violence or wrongdoing that took place are the products of historically and socially

rooted causes.

Decolonization

      The MTWRC indicated evidence of cultural genocide stemming from a greater

context of structural violence, largely influenced by the greater historical narrative of

colonialism in the United States and locally in Maine. While colonialism is not explicitly

listed as a finding within *Beyond the Mandate,* products of colonialism are indicated,

namely institutional racism, a long history of contested tribal sovereignty with the State of

Maine, and cultural genocide. Colonialism, by definition, is a practice of structural

domination subjugating one group of people to another, involving the political, economic,

and social control over a dependent, subjugated territory.[65] In the context of the

MWTRC, evidence of colonialism can arguably be identified through the harmful and

disproportionate Native child welfare practices that removed Wabanaki children from

their communities. This has subjugated Wabanaki communities to state practices that

cause harm to their community, and support unequal tribal-state relationship that exists

between the State of Maine and the Wabanaki tribal governments, diminishing their

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[65] "Colonialism," Stanford Encyclopedia of Philosophy, accessed April 1, 2016, http://
plato.stanford.edu/entries/colonialism/.

sovereignty. Through cultural genocide, practices are made evident by the state that go so far as to exert dominance over the Wabanaki people in an attempt to erase the culture and fabric from which their own communities draw history, strength, and identity.

Decolonization refers to the undoing of colonialism and unequal relationships, cited as a potential outcome of the MTWRC process to affect significant transformation in Maine surrounding state-tribal relations.[66] Again, while colonization and decolonization are not explicitly referenced by the Commission's report, decolonization has been at the forefront of the work for Maine-Wabanaki REACH, the Commission's partner. Esther Attean, classifies the work of REACH as decolonization.[67] REACH seeks to help those unpack all the ways of knowing that they have come to learn as a result of the colonialist structures and ideology pervasive in society.[68] Not only does decolonization help non-Native people examine themselves and how they can decolonize to better support Wabanaki communities, it also allows Wabanki people to reclaim, as Attean states, the ways of knowing and being that have helped the Wabanaki to survive and that are central to their community.[69]

The effort being made by REACH to continue the work of the Commission beyond its mandate represents a true shift towards affecting fundamental change that provides social transformation by implementing a new dominant ideology, replacing the previous one which permitted the wrongdoing in question to pass. Demonstrating these elements of transformative justice, decolonization in the context of the MWTRC process is an extremely significant theme that conveys the necessity to replace structures and

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[66] Collins, "The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission."

[67] Attean, "Interview with Esther Attean," 6.

[68] Attean, "Interview with Esther Attean," 6.

[69] Attean, "Interview with Esther Attean," 7.

ideology that dominate society and support harm or violence. While the MWTRC itself focuses on Native child welfare, its innovative partnership with REACH allows this organization to act as the catalyst for social transformation to remedy the findings the Commission has made and to carry out its recommendations.

Transformative Justice Mobilizing the Wabanaki Vision of Peace

While focusing in depth on the the issue of Native child welfare, the MWTRC as a process of transformative justice mobilizes the Wabanaki vision of peace through fundamental change. Examining the transformative aspects of the MWTRC process and how it is creating fundamental change, it becomes more evident how the process supports the Wabanaki vision of peace.

Acknowledging the colonial history which has infringed upon the Wabanaki vision of peace, the work the MWTRC and REACH have done and continue to do around decolonization has begun to take the first steps toward addressing how the colonial history of non-Native people to this day continues to affect Wabanaki communities. By allowing the Wabanaki to reclaim their ways of being and knowing and utilize them in dialogues around issues affecting the Wabanaki with non-Native people on an even and respectful platform, decolonization will fundamentally reshape the mindset of society towards those affected by state's colonial legacy. Through raising consciousness of this issue, it will allow people to recognize the interconnectedness between each and every individual essential to the Wabanaki vision of peace.

The work of REACH and creating a cross-cultural collaborative also heavily supports the Wabanaki vision of peace, creating a body working to establish an open dialogue between Native and non-Native people that supports equally respectful relationships of both Native and non-Native life. Basing its own work in reconciliation,

change, and healing, REACH is working toward the heart of Wabanaki peace by fostering these healthy and equitable relationships, as well as building new ones out of those that have been broken by the state's colonial legacy and structural violence ,contributing to the marginalization of the Wabanaki.

The autonomous nature of the MWTRC provides a platform for the Wabanaki as a grassroots movement to take charge of issues affecting their community and work to change them so that their knowledge and understanding of their community can be used to create positive change. This autonomy provides an element of self-determination for the Wabanaki to reclaim control over Native child welfare practice, acknowledging the Wabanaki know best how to to care for Native children in the child welfare system. This element of self-determination also supports more healthy, equitable, working relationship with the State of Maine, critical to Wabanaki peace. Furthermore, the autonomy of the Commission allows the Wabanaki to reclaim ways of knowing and being by ensuring that their children can safely learn Wabanaki culture and customs as a way to preserve the Wabanaki community for future generations.

CHAPTER 4

REORIENTING GOALS: DEMOCRACY VS HUMAN SECURITY

While the means of transitional justice and transformative justice maintain more detailed differences and similarities, demonstrating the fluidity with which these two concepts have been able to operate conjointly, the growth of transformative justice and further introspection and evaluation of transitional justice reveal their starkest difference found in their objective. As previously noted, the goal of transitional justice is to respond to past crimes and violence with justice and healing to establish the rule of law and democracy by rebuilding political communities. In contrast, as transformative justice develops it appears that its definitive goal is provide human security as defined by the protection of human lives from critical pervasive threats that may interrupt long term human fulfillment.[70]

Balasco argues that the implementation of a framework around human security to measure the success of transformative justice would provide a better method of assessment than that around the traditional absence of conflict and establishment of a democratic state.[71] By replacing democracy with human security as a primary objective, the transformative justice discourse can customize its mechanisms to apply to the specific needs of the population experiencing conflict or harm. This replacement does not detract from the need for the rule of law and protection of an individual's liberty and human rights, but also does not confine transformative justice to a strict, universal objective of democracy that cannot be modified to the contextual needs of conflict.[72] Human security allows itself to conform to local needs and situations as the field of

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[70] Balasco, "The Transitions of Transitional Justice," 208.

[71] Balasco, "The Transitions of Transitional Justice," 208.

[72] Balasco, "The Transitions of Transitional Justice," 208.

transitional justice continues to see less state-based and more locally based practices establish themselves. It also allows the local population, community, or region(s) to address their concerns regarding their own human security and establish a defining role in transformative justice processes, enabling itself to break away from its neoliberal or Western conceptions, and remove the application of a Western-based, liberal, democratic model of governance unless desired. Within the relationship between transformative justice and human security, a need is found to reform and reconstruct a state that previously existed as a threat to its own people in many forms. Consequently, human security not only addresses the cessation and prevention of physical violence and conflict, but also identifies ways in which structural violence affects victims, through institutional inequalities via governance, law, policy, and other structures which affect the daily lives of individuals both directly and indirectly.[73]

Upon closer examination, there are three operating objectives of transitional justice (responding to past crimes, democracy, rebuilding political communities) compared to transformative justice's singular, though admittedly broader goal (human security). In comparing the two discourses and their objectives, it also becomes clear that they maintain entirely different foci. Transitional justice's objectives include democracy, an *ideopolitical* system of governance; rebuilding *political* communities defined as a collectivity of individuals who share an understanding of what is public and what is private within a polity;[74] and serving justice for past crimes, with justice being dealt by whatever form of legitimate power exists.

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[73] Balasco, "The Transitions of Transitional Justice," 208.

[74] Chandran Kukathas, "A Definition of the State," (paper presented at conference on Dominations and Powers: The Nature of the State, Madison, Wisconsin, March 29, 2008).

It is important to recognize that the entirety of transitional justice objectives are political, thereby referring to the use of power and control over others. This concern with power better explains the strong relationship between state building and transitional justice over the past several decades, particularly in the context of transitional justice methods being used in areas where states have failed or lost legitimacy, requiring that power be restored and the state secured. Moreover, it is imperative that the Western origins of transitional justice be recognized, and how the Western, liberal form of democracy is that which is implemented through transitional justice mechanisms. This itself demonstrates a greater context of concern with power as Western ideology and political systems are imposed on fragile, non-Western states in the greater history of transitional justice. Clearly, the focus on power in transitional justice including who holds it and how it is secured far outweighs the welfare and security of those who have suffered the past violence and crimes to which both transitional justice and transformative justice should theoretically respond.

Democracy presents an ideopolitical end-goal to resolve problems and violence that has affected countless people where transitional justice takes place. Transformative justice, however, presents human security as its end-goal, shifting focus away from power and the state and places it on the safety and welfare of those who have been and continue to be in danger. Admittedly, to resolve this, transformative justice looks toward affecting fundamental political, economic, and social changes that also manifest themselves in the state and systems of power. Still, at its core, transformative justice seeks to ensure its methods and change all support and protect the people wronged through violence, rather than the state that may have been weakened during this same period of violence.

Is a shift from democracy to human security truly better or is it merely an effort to affect thematic change in the transitional justice discourse, and an overall effort to retitle it as transformative justice? As Balasco explains, focusing on human security represents a practical shift towards a better application of measurements for efficacy as a well as a break from Western, neoliberal ideology that has influenced transitional justice.[75] In place of this, transformative justice allows for the focus of individual and communal needs through locally based practices that are becoming increasingly frequent, especially those not directly connected to the state or systems of governance. It also focuses on transforming the state and resolving systemic issues in all possible fields, not rebuilding or restoring the state. By focusing on local and individual needs as well as the change necessary to bring about true transformation which remedy the initial causes for past conflict and violence, human security as a goal directly meets the needs of those harmed.

Perhaps more important is identifying why shifting to a goal modeled around human security matters relative to democracy. Conceptually, orienting transformative justice towards human security influences its own mechanisms so that people with real needs who have experienced jarring conflict and violence become the focus of them, not power and the state. Human security also allows for greater personalization and modification of its mechanisms so that they may be tailored to the needs of individuals and local communities that have experienced violence and conflict. In this way, real healing can begin rather than prescribing standard mechanisms that ignore contextual differences.

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[75] Balasco, "The Transitions of Transitional Justice," 201-206.

THE MWTRC EXEMPLIFYING A PRACTICAL SHIFT TOWARDS HUMAN SECURITY

Examining the foundational documents for the MWTRC and its report reflect an emphasis on human security that conducts work and provides solutions to resolve issues around Native child welfare that affected countless individuals, families, and local Wabanaki communities across the State of Maine. Wabanaki children in Maine have entered into the foster care system on average of 5.1 times more than non-Native children over the past 13 years and federal reviews indicated that sometimes up to half of all children entering the system have not had their Native heritage verified between 2006 and 2009.[76] This is in addition to the decades of abuse and malpractice in child welfare before and after ICWA in 1978.[77]

Acknowledging this fact, there is a significant human security concern where Wabanaki children are taken from their own communities, which constitute sovereign governments, at a rate higher than average, severely impacting the ability of Wabanaki children to be raised in an environment that allows them to learn and practice their own culture. Furthermore, this threatens the ability of the Wabanaki, which constitutes 8000 people across the State of Maine, to successfully preserve their own culture, language, communities, and identities - a fact that endangers the existence of the Wabanaki and their own way of life. This in itself is the critical and pervasive threat that the Wabanaki have had to face for decades, impacting Wabanaki childrens' long term development within their own culture and communities within the greater scope of indigenous rights and survival. By removing them from their families and placing them into the foster care system, the longevity of the Wabanaki tribe itself is threatened.[78]

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[76] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 11.

[77] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 25-26.

[78] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 13.

The issue of human security in the MWTRC ultimately culminates in the finding of cultural genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide adopted by the UN General Assembly in 1948 which defines cultural genocide as acts committed with the intent to destroy, in part or whole, any national, ethnic, racial, or religious group.[79] Of the acts defined, *Beyond the Mandate* states that the acts listed in this convention including causing serious bodily or mental harm to members of the targeted group and the forcible transfer of children from one group to another constitute culture genocide in the context of the Wabanaki's experience in the State of Maine.[80]

The findings listed thus far from *Beyond the Mandate* demonstrate a true human security threat to the Wabanaki, and consequently demonstrates the MWTRC seeks to establish human security for the Wabanaki people as its primary objective. In the original mandate, objectives 5, 6, and 7 also directly support a greater human security goal by improving child welfare practice and creating sustainable change in child welfare; formatting recommendations to state and tribal governments to further the objectives of the Commission; and promoting systemic and cultural reconciliation.[81] [82] Meanwhile, while objectives 1 through 4 do not directly point to a goal of human security, they are necessary and ancillary to 5, 6, and 7, ensuring that change be made elsewhere so that human security may be more readily achieved among the Wabanaki people.

The official findings of *Beyond the Mandate* also demonstrate strong human security concerns. Identifying already stated issues including the increased average that

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[79] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 12.

[80] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 12.

[81] Please refer to page 17, footnote 34 for a complete list of these objectives.

[82] Maine Wabanaki Truth and Reconciliation Commission, "Mandate," (2012), 3.

Wabanaki children enter foster care, cultural genocide, and the need to improve ICWA, there are others that highlight other facets of the greater Wabanaki human security concern. These include the institutional racism that exists in the State of Maine and its governmental structures that adversely affect the Wabanaki, such as historical and intergenerational trauma, its effects on the Wabanaki people, and the threatened sovereignty of Wabanaki tribes.[83]

The nature of the findings and recommendations in *Beyond the Mandate* also demonstrate a greater preoccupation with human security as an ultimate goal than that of democracy in this process of transformative justice. The closest that the report and Commission comes to discussing democracy is found in reference to the need to respect tribal sovereignty and tribal jurisdiction, bringing in the concept of democracy's connection to rule of law in transitional justice discourse. However, this is stated in the greater context of security for the Wabanaki and therefore still does not focus on democracy as an absolute objective.[84]

THE PRACTITIONER'S MIND: REFLECTING ON OBJECTIVES

In interviews with Barbara Kates and Esther Attean of Maine Wabanaki REACH and Rachel George of the Commission, the debate between democracy and human security was revealed to be largely irrelevant, demonstrating the following: first, practicioners know the populations and context they are working with best and are more focused on promoting healing; supporting those who experienced conflict, violence, and wrongdoing; affecting large-scale transformation to correct structures and systems that allowed the wrongdoing to take place; and creating healthy relationships between those

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[83] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 68.

[84] Maine Wabanaki Truth and Reconciliation Commission, "Beyond the Mandate," 68-71.

where none previously existed while educating others to prevent future wrongdoing. Second, the argument between goal setting in human security or democracy is largely a contest isolated within academia created by the increased use of local mechanisms of transformative justice by practitioners that have focused on supporting and safeguarding people while ignoring state building and democracy.

Barbara Kates and Esther Attean both acknowledge that they are not familiar with the terminology of human security and democracy being used in the context transformative justice as goals. Kates adds that if anything, it remains to be seen if the MWTRC will contribute more to a strengthened democracy in the State of Maine or increased human security for the Wabanaki people.[85] Attean, while admitting she does not know if either should be a goal, also points out the flawed nature of democracy, maintaining a skepticism if democracy should even be considered as a goal.[86] However, Kates emphasizes the important work that REACH has done and continues to do including the facilitation of educational opportunities across the state to learn about the shared history between the Wabanaki and State of Maine, as well as inviting non-Native people to become allies and learn what that means. In doing so, a greater voice is given to the Wabanaki that helps to address their needs.

Rachel George who had worked with the Commission points out that the MWTRC process has contributed to advancing structural change by educating society and its members. This structural change will ultimately work to further Wabanaki survival, however, she adds that it is too early to gauge how else the Commission's work is contributing to indigenous security, or human security as a whole.[87] Here, George

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[85] Kates, "Interview with Barbara Kates," 6.

[86] Attean, "Interview with Esther Attean," 6.

[87] George, "Interview with Rachel George," 16.

indirectly points out the gap between what has been achieved and what has been found by the Commission that requires change following its recommendations. This dose of reality addresses an important fact in the greater context of the MWTRC process where real change needs to be made for the work done, its findings, and its recommendations to have an impact on improving the state of human security for the Wabanaki people. In essence, this suggests for the MWTRC process and any other form of transformative justice, that human security may be a goal, however what ultimately matters is that goal be met through fundamental change in all aspects of society for greater human security to be realized. In this sense, an even deeper truth may be realized, where practitioners in the field are more focused on the objectives of their own process than how they fit into the larger categories established by academia, and recognize that their work must actively catalyze change for these objectives to be fulfilled. In academia, it appears the filed is often more focused on the categorization of these processes and the theoretical trajectory of the field rather than how research can better support practitioners in affecting change to meet their processes' objectives.

CHAPTER 5

TRANSFORMATIVE JUSTICE AND A NORTH AMERICAN CONTEXT

Recent processes of transformative justice, particularly noting the Canadian TRC and MWTRC, have shifted focus in the field towards North America. This shift has given rise to a relatively new but significant argument for the case of a North American context for truth and reconciliation commissions as a primary mechanism of transitional justice. While it is true that North American processes have given rise to significant and innovative developments in the field (i.e. bottom-up approach, independent commissions) in order to confront the uniquely different systems they operate in relative to processes across the rest of the globe, there needs to be serious consideration of whether a true North American context exists. Arguably, to suggest a North American context may be another way in which the dominant Western overtures in transitional justice, which transformative justice rejects, is attempting to manifest itself in the field, effectively separating itself from the rest of the world as categorically different.

Truth and reconciliation commissions are mechanisms of transformative justice that respond to victim's needs, engage all stakeholders, and attempt to heal and rebuild relationships within a society/community that has experienced severe trauma or damage due to wrongdoing or violence.[88] Androff, in his argument for the existence of a North American context, points to 5 common characteristics among TRCs around the globe, and uses these as points of comparison and analysis to identify the unique nature of North American TRCs. Categorizing his argument between the Global South defined as less developed countries and emerging nations, and the Global North as industrialized,

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[88] David K Androff, "Adaptations of Truth and Reconciliation Commissions in the North American Context: Local Examples of a Global Restorative Justice Intervention," *Advances in Social Work* 13 (2012): 410.

democratic states in Western Europe and North America, he uses the category of the

Global North and its inclusion of North America to argue for a North American context.[89]

1.   Androff states that TRCs in the Global South have responded to problems of

military dictatorships, political oppression, civil wars, dirty wars, ethnic

cleansing and foreign invasion while those in the Global North are less

associated with those problems that TRCs in the Global South have

responded to. However, those in the Global North still face problems of

structural violence, oppression, poverty, and injustice which need to be

addressed.[90] Sandoval explains that transformative justice seeks to affect

fundamental change where the factors and elements that allowed for the

original violence and wrongs to be committed are corrected, be they political,

social, or economic, to ensure they do not happen again. Transformative

justice therefore accounts for all issues listed in Androff's first point, be they

ascribed to the Global North or Global South. Additionally, the findings of

cultural genocide in the MWTRC account for a type of ethnic cleansing,

ascribed to the Global South by Androff, thereby challenging the notion that

the Global North does not or cannot face the same problems as the Global

South.

2. Androff suggests that historically, the majority of TRCs have been created in

the wake of political transition, often from oppressive and authoritarian

regimes toward democratic governments. However, governments in the

Global North are less likely to experience significant political transition and

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89 Androff, "Adaptations of Truth and Reconciliation Commissions," 410.

90 Androff, "Adaptations of Truth and Reconciliation Commissions," 410.

already constitute robust, developed democracies.[91] Still, political transition is critical only to transitional justice, where a key goal is the transition to democracy from an authoritarian, oppressive regime. Transformative justice does not account for political transition at all since its focus is on healing and creating fundamental change to prevent future violence. This could potentially mean the transition toward another form of government, however transformative justice only necessitates that it serves those who were wronged and prevents past violence from reoccurring on account of its broad scope and focus on human security. Furthermore, Androff's second point does not recognize the ways in which a democratic government of the Global North may be oppressive. The findings of the MWTRC indicate the need for government in the United States and State of Maine to respect tribal sovereignty and allow for greater tribal autonomy, demonstrating a history where Native people like the Wabanaki have endured under a government that has failed to recognize their own unique sovereignty.[92] Under these conditions, this oppressive relationship has given rise to other problems within the Wabanaki community such as fair and equal child welfare practice, which the TRC examines.

3. Androff addresses how TRCs often operate in processes of transitional justice with other legal mechanisms in which TRCs have occupied a major role in response to the lack of a strong legal authority after transition, addressing crimes committed during the period of violence or wrongdoing.

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[91] Androff, "Adaptations of Truth and Reconciliation Commissions," 410.

[92] Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. "Beyond the Mandate."

However, governments in the Global North operate strong, functioning legal systems that arguably provide no role or space for TRCs which also address the problems within the greater whole that their legal systems fall under.[93] In the case of the MWTRC process, as a TRC in North America and Androff's Global North, did not operate alongside or within the legal system of the United States, instead plainly operating outside of the federal government and government of the State of Maine. While supporting Androff's claim to a North American context, the broad umbrella of transformative justice accounts for localized practices that identify the needs of the populations, state of human security, power and role of change agents, as well as the potential for fundamental change through different methods - factors which influence the capacity for a TRC to pursue a legal course of action. In the case of the MWTRC, there is a clear emphasis on education, community building, healing, and reconciliation, particularly through the work of Maine Wabanaki REACH, goals that could arguably be hindered or polarized were legal action pursued. Rachel George also points out the potential effects legal or retributive action may have had on the MWTRC process, noting that by pursuing this course of action it may have proved much more difficult to bring together the tribal governments and the government of the State of Maine to jointly sign and agree to the Mandate and support the work of the MWTRC.[94] Furthermore, George speculates that pursuing retributive elements may have made it more difficult or turned people away from the MWTRC who otherwise came to the TRC to speak about their experiences and offer their testimony

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[93] Androff, "Adaptations of Truth and Reconciliation Commissions," 410.

[94] George, "Interview with Rachel George," 18.

over the highly sensitive and personal nature that child welfare occupies.[95] Acknowledging this, the MWTRC demonstrates the contextualized and customized nature of these process that transformative justice allows for. This is particularly true when juxtaposed to the recent Canadian TRC which examines similar issues and has pursued a course of action originating and operating within the Canadian legal system, thus challenging the notion of a North American context supported by this point in Androff's argument.[96]

4. Androff points out that there is a strong tradition of civil society being highly involved in TRCs in order to ensure that they respond appropriately to victims groups, women's groups, and other sensitive populations at the onset of political transition. However, the Global North has a history of maintaining many strong, established civil society groups that organize and act to influence social and political institutions, thus presenting a context where an initial void is not presented for civil society to fill in a North American TRC, potentially complicating the purpose and necessity and their role in them.[97] The MTWRC process challenges the notion that civil society may have a more difficult role in North American TRCs, primarily based on the fact that the entire growth and evolution of the TRC and its affiliates were grassroots oriented organizations that evolved over time, allowing them to launch the MWTRC and arrive at a full fledged truth and reconciliation commission. Esther Attean notes the long process that took place to arrive at the operation of the MWTRC, pointing out her role in the original ICWA workgroup in 1999

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[95] George, "Interview with Rachel George," 19.

[96] Ian Austen, "Canada's Forced Schooling of Aboriginal Children Was 'Cultural Genocide,' Report Finds," *New York Times*, June 2, 2015.

[97] Androff, "Adaptations of Truth and Reconciliation Commissions," 411.

and her participation in Maine Wabanaki REACH which has changed and evolved throughout the past as well.[98] Other groups were also involved in the establishment and work of the MWTRC, past and present, including the TRC convening group that included stakeholders from all parties involved like the Wabanaki communities and other institutions or agencies such as the University of Southern Maine Muskie School of Public Service and tribal child welfare programs.[99] The demonstrated inclusion and participation of many significant individuals and groups in the creation process of the MWTRC reveal that the role of civil society in the establishment of a TRC may be even greater than Androff's Global South, particularly when functioning outside of the government in order to confront governmental wrongdoing.

5. Androff states that the Global South shares the common characteristics of mass poverty, deprivation, inequality, and economic and social underdevelopment which often contribute to conflict or violence. Consequently, TRCs in the Global South have increasingly focused on sustainable economic and social development in order to remedy the conflict that has come to pass, which has come to include in some cases reparations or restitution to victims. TRCs in the Global North may not face the same structural and developmental problems faced by the Global South that contribute to violence, but nonetheless encounter similar issues, therefore challenging North American TRCs and the role of reparations.[100] Androff's fifth point and the MWTRC coincide fairly well, again demonstrating how

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[98] Attean, "Interview with Esther Attean," 1.

[99] Collins, "The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission," 148.

[100] Androff, "Adaptations of Truth and Reconciliation Commissions," 411.

transformative justice accounts for this point made to support a North American context. The relative high standards of living in the US compared to other countries may cause less emphasis to be placed on sustainable development, however it should also be realized the marginal population such as the Wabanaki communities in Maine still experience significant economic, social, and political disparities compared to the rest of the US population. Androff notes that TRCs in North America can be a significant tool for helping to address these inequalities among the often overlooked marginal populations in developed, industrialized societies, which include identifying the structural factors which may contribute to continued marginalization and any wrongdoing that took place.[101] In effect, this point reveals that in Androff's argument the problems of poverty, inequality, economic and social disparities, etc. may differ in degree between the Global North and South, however it is the methods used to solve these and from where they derive that differ. The MWTRC which maintains a postcolonial discourse would not be something that could necessarily be used in the Global South. Consequently, transformative justice, as stated previously, allows for nuances in its processes to target the problems at hand that best support human security and fundamental change.

Through these 5 central points and several case analyses, Androff concludes that a North American context may be more effective at addressing the abuses and excesses of the modern state such as institutional racism or colonialism.[102]

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[101] Androff, "Adaptations of Truth and Reconciliation Commissions," 417.

[102] Androff, "Adaptations of Truth and Reconciliation Commissions," 415.

Admittedly, Androff makes acute observations regarding the differences between a TRC that may take place in the Global North versus the Global South, however the concept of a North American context undermines the very basis of transformative justice. With a focus on human security and locally based practices that incorporate stakeholders and address their own specific needs, transformative justice will not be a standardized process in any instance. Consequently, to group TRCs into categories such as the Global North and Global South undermines the unique nature of each TRC that has taken place and the specific needs its process has attempted to ameliorate and address. Moreover, Androff's interchangeable use of the Global North and the West demonstrates the real categorical divide he makes among TRCs, which are separated between Western and non-Western versions. This comes as no surprise as his argument also extends from the discourse of transitional justice rather than transformative justice, which in itself holds a Western bias and set of assumptions that group the rest of the non-Western world together, seemingly ignoring many of the differences between states and communities where TRCs have taken place within this category.

To Androff's point, he identifies that there are in fact many similarities among Western, developed countries with regard to their problems of structural violence and racism, colonialist roots and norms, as well as harboring their own underserved and oppressed populations. Still, this does not warrant a North American context, particularly when the three major, Western processes of transformative justice (Canadian TRC, MWTRC, Greensboro TRC) have derived from Canada and the United States. To suggest this context is to suggest that the future will not witness TRCs in other Western states or localities, particularly when 2 of these 3 process that have occurred in the West have taken place only within the past 5 years. Ultimately, Androff's argument attempts to

establish large groupings in order to make sense of and establish models for the Western and non-Western world when realistically each process remains so distinctly unique and tailored to the issues it intends to address, that only broad similarities may be traced between these processes and the common, customizable mechanisms they implement.

By using the primary assumptions of transitional justice, Androff arrives at the conclusion that there must be a North American context, particularly at a point when the transitional justice discourse by definition no longer accounts for many of the processes that have occurred and continue to establish themselves. Through mechanisms like TRCs used in transitional justice as tools for state building towards democracies being implemented in developed, Western democracies, it is evident that transitional justice does not account for its use within Western society, responsible for its development. Thus, a North American context is created to account for what transitional justice has failed to account for. This is very reason that many have now begun to point towards movement beyond the discourse towards transformative justice, entering the Fourth Wave that accounts for wider scope of processes. Consequently, transformative justice satisfies what a North American context was intended to account for while removing its Western bias.

Although a North American context is a plausible argument within the transitional justice discourse because transitional justice itself does not account for methods in processes located in strong, robust democracies. By maintaining a goal of democracy oriented around state-building during political transition, TRCs in Western democracies such as those in North America already maintain idealogical differences with all the other processes of transitional justice. Consequently, a North American context not only becomes unnecessary in the transformative justice discourse, it undermines the

individuality and special needs of the population(s) that each localized process serves by

grouping all process across the globe into one collective category, separating out those

found in North America.

CHAPTER 6

COMMUNITY ACTION, TRANSFORMATIVE JUSTICE AND A WABANAKI

VISION OF PEACE

The case of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission presents many significant, innovative and pioneering initiatives, not only within the realm of Native rights, but also that of TRCs. However, because a TRC structure was implemented in Maine to confront Native child welfare does not by default suggest that it is a process of transitional justice. More pointedly, the MWTRC proves to be a body that by definition, categorically does not fall under the term transitional justice. The MWTRC process brings to life the concept of transformative justice, as several TRCs before it have begun to do. By creating a process that produced an official commission partnering with REACH to continue to carry out the work begun by the MWTRC and work to act on its recommendations, what has truly happened in Maine is a project to unite society around the issue of Wabanaki child welfare. Constructing a platform to tackle other ongoing, structural issues that can begin to improve the standing and wellbeing of Wabanaki communities across Maine, this process can offer insight into how other communities may begin to create their own processes that meet their specific needs.

While building on commonalities found among other North American TRCs, the fact that the MWTRC is representative of a process embodying transformative justice affirms the claim that a North American context does not exist for processes of transformative justice. Understanding the need to transition out of the transitional justice discourse which has become far too specific to encompass that which it claims to include, a North American context is evidence of the need to make exceptions within the transitional justice discourse for processes that have evolved out of its own definition.

This brings to light transitional justice's Western, liberal orientation, and further lends the claim that a move toward adopting transformative justice must be made in order create a more inclusive, survivor-oriented field.

Adopting a transformative justice discourse amplifies the number of available opportunities for transformative processes to take place while also expanding the types of contexts these processes can confront. Recognizing that transformative justice can be used not only to confront recent violence or harm, but also that which has occurred in the past and has rooted itself into the fibers of society as structural violence, transformative justice can provide a response to many demands for healing and change. It can offer a response to recent calls for a TRC to examine the events of police brutality in the United States, rooted in institutional racism, or the Flint, Michigan water crisis and its connections to racial and economic inequality relative to state services. It can also offer resolution to communities that may still seek it, like those affected and imprisoned by the Japanese internment camps in World War II. Similar to the MWTRC, it can also help to confront the many issues affecting Native people across the United States including those addressed by the MWTRC, empowering individual Native nations and tribal communities to confront the structural violence and historical trauma experienced by so many.

The possibilities for these communities adversely affected present an exciting new path for transformative justice, allowing the community to customize mechanisms to their needs, take action, and create fundamental change. More importantly, it releases the field from a government/state controlled model that allows communities to use the process in order to confront the government itself. From here, the field must go forward and study how research can better support communities that establish transformative processes affect fundamental change and social justice. It must establish strategies and

methods to invite participation from all affected parties, especially those with power, so that legitimate process can be established at a grassroots level that gain support and affect necessary.

Most importantly, the MWTRC process as transformative justice is taking important steps toward realizing the Wabanaki vision of peace, while paving the way for Wabanaki communities to begin to confront issues adversely affecting them, such as those related to resource management, tribal sovereignty, and others which are disproportionately dominated by the State of Maine without consideration for Wabanaki input, feedback, or participation. The MWTRC models a process to take on the issues affecting the Wabanaki like Native child welfare, affecting fundamental change that transforms the practice of state agencies. By example, it demonstrates how the Wabanaki vision of peace can be realized further through similar processes which utitilize the Native and non-Native coalition established by REACH to take on issues that continue to marginalize the Wabanaki community. Through identifying these issues while continuing to combat their root causes like structural violence and colonialism, Wabanaki peace will continue to bring Native and non-Native people together to build a society that equally supports and recognizes the ways of being and knowing central to their communities.

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