

# Articles

## The Spectre in the Archive: Truth, Reconciliation, and Indigenous Archival Memory



J.J. GHADDAR

**RÉSUMÉ** Cet article place la science archivistique en dialogue avec les études autochtones et les théories raciales critiques afin d'explorer deux cas de cour liés aux documents d'archives et à la Commission de vérité et réconciliation au Canada. Il examine sur quelle base la cour pouvait conclure que certains documents devaient être produits, d'autres conservés de façon temporaire, et d'autres encore, détruits. En tenant compte des études récentes qui préconisent un changement de la rhétorique au sujet des droits humains et de la diversité dans le discours archivistique, je soutiens que la disparition discursive ou la « spectralisation » des peuples autochtones joue un rôle crucial dans le processus de dépossession de leurs terres, de leurs ressources et de leur héritage culturel. En prenant note des tensions qui existent entre le désir d'être inscrit dans la mémoire et l'envie d'être oublié, j'affirme que l'incorporation de documents créés par des peuples autochtones ou à leur sujet dans les archives nationales du colonisateur demeure cruciale à la constitution de la mémoire historique archivistique de ce dernier (au détriment d'une mémoire historique archivistique autochtone), qui transforme la honte et la culpabilité nationales canadiennes en gloire et honneur nationaux. En conceptualisant le centre d'archives national canadien comme un lieu hanté par la crainte et le désir, et par la culpabilité et le triomphe nationaux, je montre comment les cas de cour de la Commission de vérité et réconciliation révèlent ou mettent en évidence les histoires de violence coloniale.

**ABSTRACT** This article places archival science, Indigenous studies, and critical theories on race and colonialism in dialogue so as to explore two court cases related to records and the Truth and Reconciliation Commission in Canada. It questions on what basis the courts would rule that some records were to be produced, others temporarily preserved, and yet others destroyed. Considering recent scholarship calling for a shift from a human rights and diversity rhetoric in the archival conversation, I argue that the discursive disappearance or spectralization of Indigenous people plays a crucial role in dispossessing them of their lands, resources, and cultural heritage. Noting the tensions between a desire to be remembered and a longing for oblivion, I argue that the incorporation of records by or about Indigenous people into the national settler archival repository is crucial for the constitution of a settler historical archival memory (at the expense of an Indigenous one) that transforms Canadian national shame and guilt into national glory and honour. Conceptualizing the Canadian national archive as a haunted site of fear and desire, national guilt and national triumph, I

show how the histories of colonial violence are revealed or brought to the fore by the Truth and Reconciliation Commission court cases.

## Introduction<sup>1</sup>

How have archival records figured in the work of the Truth and Reconciliation Commission (TRC), with its focus on “truth determination”<sup>2</sup> as a step toward laying the foundation for reconciliation between Indigenous and non-Indigenous people in what became Canada? The archival records in the custody of government and church institutions were so vital to the TRC that it took the Government of Canada to court to compel the compilation and handover of records pertaining to the history and running of the so-called Indian Residential Schools (IRS). In another instance, the TRC sought judicial guidance on what would happen to records of the claims for compensation made by school survivors as part of the same processes that mandated the commission’s establishment. While the courts would rule that some records were to be produced and others temporarily preserved, they also ordered the destruction of a large number of records pertaining to the testimonies of school survivors. The following considers these cases through the lens of archival science. Exploring the recent call made by Ricardo L. Punzalan and Michelle Caswell<sup>3</sup> for research that moves the archival conversation beyond a human rights framework and a focus on diversity, I draw on Indigenous studies and critical scholarship on race and colonialism to further trouble the tendency to centre a politics of recognition and self-reflexivity in the archival literature. Seeking to build on this scholarship, I outline how the discursive disappearance or spectralization of Indigenous people reinforces and at times helps to construct the political project of removing them from the land.<sup>4</sup> Within this framework, I examine the TRC cases and the tensions between a

- 1 This research was conducted in Toronto, Ontario, which is the territory of the Huron-Wendat and Petun First Nations, the Seneca, and most recently, the Mississaugas of the Credit River. The territory was the subject of the Dish With One Spoon Wampum Belt Covenant between the Iroquois Confederacy and Confederacy of the Ojibwe and allied nations to peaceably share and care for the resources around the Great Lakes. Today, the meeting place of Toronto is still home to many Indigenous people from across Turtle Island and I am grateful to have the opportunity to work in the community, on this territory. I would like to thank Dr. Sherene Razack for her invaluable teachings. This research was supported by the Social Sciences and Humanities Research Council of Canada.
- 2 Truth and Reconciliation Commission [hereafter TRC], *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015), vi, accessed 1 August 2016, [http://www.trc.ca/websites/trcinstitution/File/2015/Exec\\_Summary\\_2015\\_06\\_25\\_web\\_o.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Exec_Summary_2015_06_25_web_o.pdf).
- 3 Ricardo L. Punzalan and Michelle Caswell, “Critical Directions for Archival Approaches to Social Justice,” *Library Quarterly* 86, no. 1 (January 2016): 25–42.
- 4 Renée Bergland, *The National Uncanny: Indian Ghosts and American Subjects* (Hanover, NH: University Press of New England, 2000), 3–5.

desire to be remembered and a longing for oblivion. Ultimately, I argue that, historically, the incorporation of records by or about Indigenous people into the national settler archival repository has been crucial for the constitution of a settler historical *archival memory* (at the expense of an Indigenous one), which transforms Canadian national shame and guilt into national glory and honour. Conceptualizing the Canadian national archival memory as a haunted site of fear and desire, national guilt and national triumph, I show how the hidden histories and ongoing legacies of colonial violence are brought to the fore through these court cases.

It is beyond the scope of this article to delve into these cases in detail or to explore their legal dimensions. Neither is my intent to offer definitive answers to the questions arising from these cases or to cover all perspectives. Rather, I strive to give the reader a deeper understanding of the contested nature of the archive in (neo)colonial settings, and of the complex and seemingly irresolvable dilemmas that arise. I do so in the context of the TRC's final report: it features archives prominently in its calls to action, which are aimed at fostering reconciliation in future.<sup>5</sup> Seeking to respond to the spirit and letter of the calls to action, the following discussion privileges Indigenous voices with the aim of bringing into greater conversation with archival science the critical thought and practices of Indigenous scholars, as well as work on colonialism and racism more broadly.

### Archives, Social Justice, and Indigenous People

This study is situated within a multi-faceted history of inquiry in archival science<sup>6</sup> into the ethical dimensions, epistemological and ontological conundrums, and political purchase of the archive. Such inquiries include explorations of how archives contribute to or support a range of social justice efforts, as well as their role in the exposure of historic wrongs, the persecution of human rights violators, and the establishment of mechanisms of re-dress.<sup>7</sup>

5 TRC, *Honouring the Truth*, 393–411.

6 I consider here only English-language archival science scholarship.

7 See, for example, Danielle Laberge, "Information, Knowledge and Rights: The Preservation of Archives as a Political and Social Issue," *Archivaria* 25 (Winter 1987/88): 44–50; Judith Roberts-Moore, "Establishing Recognition of Past Injustices: Uses of Archival Records in Documenting the Experience of Japanese Canadians during the Second World War," *Archivaria* 53 (Spring 2002): 64–75; Randall Jimerson, "Archives for All: Professional Responsibility and Social Justice," *American Archivist* 70, no. 2 (Fall/Winter 2007): 252–81; Emiko Hastings, "'No Longer a Silent Victim of History': Repurposing the Documents of Japanese American Internment," *Archival Science* 11, no. 1 (March 2011): 25–46; Gabriela Andaur Gómez, "Finding Facts and Constructing Memory: The Creation and Custody of Human Rights Records in South America," *Archives and Manuscripts* 40, no. 3 (2012): 158–170; Wendy M. Duff, Andrew Flinn, Karen Emily Suurtamm, and David A. Wallace, "Social Justice Impact of Archives: A Preliminary Investigation," *Archival Science* 13, no. 4 (December 2013): 317–48; Michelle Caswell, "Defining Human Rights Archives:

Scholars have theorized the relationship between archives and collective/individual memory and identity alongside research on how community archives, participatory practices, and varied appraisal strategies can lead to a more inclusive archival heritage.<sup>8</sup> Scholars who draw on postmodern, post-structural, deconstructionist, or post-colonial theories have dismantled the claim of archival neutrality and interrogated notions of universality, objectivity, and truth. Emphasizing the need for an expansive approach to crucial archival notions such as provenance and record-ness, this scholarship has highlighted the critical role of the archivist in shaping archives and the stories that can be gleaned from them. In such scholarship, archives emerge as a contested site of power and silence, of inheritance and disinheritance.<sup>9</sup>

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Introduction to the Special Double Issue on Archives and Human Rights," *Archival Science* 14, no. 3 (October 2014): 207–13; and Amanda Strauss, "Treading the Ground of Contested Memory: Archivists and the Human Rights Movement in Chile," *Archival Science* 15, no. 4 (December 2015): 369–97.

- 8 See, for example, Margaret Hedstrom, "Archives, Memory, and Interfaces with the Past," *Archival Science* 2, no. 1 (March 2002): 21–43; Laura Millar, "Touchstones: Considering the Relationship between Memory and Archives," *Archivaria* 61 (Spring 2006): 105–26; Andrew Flinn, "Community Histories, Community Archives: Some Opportunities and Challenges," *Journal of the Society of Archivists* 28, no. 2 (2007): 151–76; Katie Shilton and Ramesh Srinivasan, "Participatory Appraisal and Arrangement for Multicultural Archival Collections," *Archivaria* 63 (Spring 2007): 87–101; X. Ajamu, Topher Campbell, and Mary Stevens, "Love and Lubrication in the Archives, or rukus!: A Black Queer Archive for the United Kingdom," *Archivaria* 68 (Fall 2009): 271–94; Dominique Daniel, "Documenting the Immigrant and Ethnic Experience in American Archives," *American Archivist* 73, no. 1 (Spring/Summer 2010): 82–104; Jeannette Bastian and B. Alexander, eds., *Community Archives: The Shaping of Memory* (London: Facet Publishing, 2009); Mary Stevens, Andrew Flinn, and Elizabeth Shepherd, "New Frameworks for Community Engagement in the Archive Sector: From Handing Over to Handing On," *International Journal of Heritage Studies* 16, no. 1–2 (2010): 59–76; Terry Cook, "Evidence, Memory, Identity, and Community: Four Shifting Archival Paradigms," *Archival Science* 13, no. 2 (June 2013): 95–120; Diane K. Wakimoto, Christine Bruce, and Helen Partridge, "Archivist as Activist: Lessons from Three Queer Community Archives in California," *Archival Science* 13, no. 4 (December 2013): 293–316; Lisa J. Sisco, "Braille Preservation: Recognising and Respecting Archival Materials Produced by and for the Blind," *Archives and Manuscripts* 43, no. 1 (2015): 18–28.
- 9 See, for example, Brien Brothman, "Declining Derrida: Integrity, Tensegrity, and the Preservation of Archives from Deconstruction," *Archivaria* 48 (Fall 1999): 64–88; Terry Cook, "Fashionable Nonsense or Professional Rebirth: Postmodernism and the Practice of Archives," *Archivaria* 51 (2001): 14–35; Verne Harris, "The Archival Sliver: Power, Memory, and Archives in South Africa," *Archival Science* 2 (2002): 63–86; Jeannette A. Bastian, "Taking Custody, Giving Access: A Postcustodial Role for a New Century," *Archivaria* 53 (Spring 2002): 76–93; Terry Cook and Joan M. Schwartz, "Archives, Records, and Power: From (Postmodern) Theory to (Archival) Performance," *Archival Science* 2 (2002): 171–85; Rodney G. S. Carter, "Of Things Said and Unsaid: Power, Archival Silences, and Power in Silence," *Archivaria* 61 (Spring 2006): 215–33; Beverly Butler, "'Othering' the Archive – from Exile to Inclusion and Heritage Dignity: The Case of Palestinian Archival Memory," *Archival Science* 9 (June 2009): 57–69; Anne J. Gilliland, "Moving Past: Probing the Agency and Affect of Recordkeeping in Individual and Community lives in post-conflict Croatia," *Archival Science* 14 (2014): 249–274; Ellen Ndeshi Namhila, "Content and Use of Colonial Records: An Under-Researched Issue," *Archival Science* 16, no. 2 (June 2016): 111–23.

Punzalan and Caswell considered much of this literature in a recent excavation of the genealogy of the concept of social justice in archival science. In their assessment, there is a tendency to adopt a legalistic, universalistic human-rights framework and to ignore or downplay non-Western perspectives. Their work delineates a need to shift the archival conversation away from a diversity and individualist human rights rhetoric while encouraging research that draws on critical bodies of knowledge, such as feminist, queer, and critical race studies, to explicate the structures of white privilege<sup>10</sup> and economic structural inequities that shape the archival endeavour. Their critique suggests a need to elaborate or move beyond notions of archival pluralism<sup>11</sup> and a liberal politics of recognition that emphasizes inclusivity, multiplicity, and self-reflexivity. While these have revealed the dominant Western ontologies and epistemologies foundational to archival science, and how archives perpetuate the *othering* of diverse publics and bodies of knowledge, they have not effectively challenged or altered this state of affairs.<sup>12</sup> While Punzalan and Caswell see hints of an alternative in archival science work on co-creatorship and Indigenous claims to records taking place in Australia, they also note the widespread professional resistance to Indigenous epistemologies and understandings evidenced in the failure of the Society of American Archivists to endorse the *Protocols for the Native American Archival Materials*, which was developed predominantly by Indigenous contributors.<sup>13</sup> Certainly, there is

- 10 For a discussion on how white privilege shapes the archival enterprise and the applicability of critical race theory to archival science, see Anthony Dunbar, "Introducing Critical Race Theory to Archival Discourse: Getting the Conversation Started," *Archival Science* 6, no. 1 (March 2006): 109–29. See also Caroline Bressey, "Invisible Presence: The Whitening of the Black Community in the Historical Imagination of British Archives," *Archivaria* 61, no. 1 (Spring 2006): 47–61.
- 11 For a recent critique of archival pluralism in relation to the TRC, see Lisa P. Nathan, Elizabeth Schaffer, and Maggie Caster, "Stewarding Collections of Trauma: Plurality, Responsibility, and Questions of Action," *Archivaria* 80 (Fall 2015): 89–118.
- 12 Punzalan and Caswell, "Critical Directions," 33. Consider, for example, a widely cited essay by Charles Taylor in which he argues that modern states like Canada can recognize and accommodate Indigenous and other group claims while maintaining their commitment to a core set of fundamental rights. Stressing the positive impact of recognition, as well as the harmful consequences of a lack of recognition or misrecognition, Taylor is overall concerned with addressing only the subjective dimension of the colonial relation to the exclusion of its structural aspects. As Coulthard notes, proponents of liberal recognition like Taylor fail to consider how Indigenous perspectives and resistance to settler colonialism call into question the legitimacy of the settler state's claim to sovereignty over Indigenous peoples, as well as the normative status of the state form as the only appropriate mode of governance. See Charles Taylor, "The Politics of Recognition," in *Multiculturalism and 'The Politics of Recognition'*, ed. Amy Gutmann (Princeton, NJ: Princeton University Press, 1992), 25–74; and Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis, MN: University of Minnesota Press, 2014), 36.
- 13 Punzalan and Caswell, "Critical Directions," 32–33. For a list of contributors, see First Archivist Circle, "Protocols for Native American Archival Materials" (4 September 2007), <http://www2.nau.edu/libnap-p/protocols.html>. Of course, Indigenous and Western epistemologies and knowledge are not hermetically sealed off from one another; instead, they have

incisive archival scholarship from Australia and elsewhere that has sought to move beyond accommodation and recognition to respond more directly to the multi-faceted calls of Indigenous peoples for a decolonization of the archive.<sup>14</sup> Such scholarship at times draws on international law and a human rights rhetoric so as to speak, in a sense, a language that resonates with and is potentially more persuasive to the predominantly non-Indigenous archival sector. Yet it does so in a manner that tends to shift, at least partially, the terrain of the conversation from Western perspectives and law toward Indigenous knowledge systems, laws, and protocols, as well as the affirmation of Indigenous sovereignty, self-determination, or nationhood,<sup>15</sup> and claims over historic lands, tangible and intangible cultural items, and self-representation.<sup>16</sup> Seeking to respond to Punzalan and Caswell's critique, this inquiry draws on such archival scholarship and places it in dialogue with work on settler

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each been constituted and transformed by the other, although under conditions of inequality. For a rare and insightful piece on the influence of Indigenous peoples (the Kwakwaka'wakw in particular) on Western thought, see Isaiah Lorado Wilner, "A Global Potlatch: Identifying the Indigenous Influence on Western Thought," *American Indian Culture and Research Journal* 37, no. 2 (2013): 87–114.

- 14 See, for example, Evelyn Wareham, "'Our Own Identity, Our Own Taonga, Our Own Self Coming Back': Indigenous Voices in New Zealand Record-Keeping," *Archivaria* 52 (Fall 2001): 26–46; Krisztina Laszlo, "Ethnographic Archival Records and Cultural Property," *Archivaria* 61 (Spring 2006): 299–307; Karen J. Underhill, "Protocols for Native American Archival Materials," *RBG: A Journal of Rare Books, Manuscripts, and Cultural Heritage* 7, no. 2 (2006): 134–145; Neparra Gumbula, Aaron Corn, and Julia Mant, "Matjabela Mali' Buku-Runanmaram: Implications for Archives and Access in Arnhem Land," *Archival Science* 9 (June 2009): 7–14; Allison Boucher Krebs, "Native America's Twenty-First-Century Right to Know," *Archival Science* 12, no. 2 (June 2012): 173–190; Kay Mathiesen, "A Defense of Native Americans' Rights over Their Traditional Cultural Expressions," *American Archivist* 75 (Fall/Winter 2012): 456–81; Martin Nakata, "Indigenous Memory, Forgetting and the Archives," *Archives and Manuscripts* 40, no. 2 (July 2012): 98–105; Lynette Russell, "Indigenous Knowledge and Archives: Accessing Hidden History and Understandings," *Australian Academic & Research Libraries* 36, no. 2 (2013): 161–71; Kirsten Thorpe, "Indigenous Records: Connecting, Critiquing and Diversifying Collections," *Archives and Manuscripts* 42, no. 2 (2014): 211–14; and Jennifer R. O'Neal, "'The Right to Know': Decolonizing Native American Archives," *Journal of Western Archives* 6, no. 1 (2015): 1–17.
- 15 See Val Napoleon, "Extinction by Number: Colonialism Made Easy," *Canadian Journal of Law and Society* 16, no. 1 (2001): 113–45; and Alfred Taiaiake, *Peace, Power, Righteousness: An Indigenous Manifesto* (Oxford: Oxford University Press, 2009). These sources indicate the broad debates within Indigenous scholarship about concepts of nationhood, sovereignty, and self-determination.
- 16 Million argues that even though "the human rights framework is largely ineffective; it is now the only show in town. Indigenism both challenges and uses this paradigm." Hence, Indigenous peoples make claims both in relation to and in excess of the prevalent human rights paradigm. See Dian Million, "Felt Theory: An Indigenous Feminist Approach to Affect and History," *Wicazo Sa Review* 24, no. 2 (Fall 2009): 53–76, esp. 70. For further discussion and a parallel analysis of the therapeutic turn in an Indigenous context and in light of the TRC, see Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (Tucson, AZ: University of Arizona Press, 2013).

colonial structures<sup>17</sup> and racial hierarchies culled from Indigenous studies and other critical work on race and colonialism.

### A Dual Gathering and Destruction

Records and archives were evoked in the very mandate of the TRC and outlined in the *Indian Residential Schools Settlement Agreement* (IRSSA), a contract penned in 2006 as a result of negotiations between Canada, the Assembly of First Nations, Inuit representatives, school survivors, and other parties. The largest class-action settlement in Canadian history, the IRSSA was the result of the courageous and persistent legal and advocacy activities of survivors and Indigenous organizations and communities.<sup>18</sup> The Settlement Agreement allocated money to a range of healing, reconciliation, and redress measures, including the establishment of the TRC, which formally took place on 1 June 2008. Within a limited five-year term, the commission was mandated to foster a process of national reconciliation and to educate Canadians about the history of the schools. In terms of records, Schedule N of the IRSSA specified that the commission was to “identify sources and create as complete a historical record as possible of the IRS system and legacy. The records shall be preserved and made accessible to the public for future study and use.”<sup>19</sup> The agreement also specifies that, notwithstanding the requirements of privacy or access legislation, Canada and the churches were to compile and produce “all relevant documents in their possession or control” for the TRC.<sup>20</sup> A historical record, according to the TRC’s chair, Justice Murray Sinclair, is vital for accountability, reconciliation, and to ensure “that future generations of Aboriginal and non-Aboriginal Canadians will be able to hold to the statement that resonates with all of us: ‘This must never happen again.’”<sup>21</sup> Justice Sinclair here links history and reconciliation, making the oft-noted connection between public truth telling, historical restitution and redress for past injustices that would be at the core of the TRC’s approach to records.

The TRC’s document collection process was placed in serious jeopardy when the government declined to produce the millions of relevant records

17 On settler colonialism as a structure, not an event, see Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (2006): 387–409.

18 Paulette Regan, *Unsettling the Settler Within: Indian Residential Schools, Truth Telling, and Reconciliation in Canada* (Vancouver, BC: University of British Columbia Press, 2010), 6–7.

19 Indian Residential Schools Settlement Agreement between Canada and the Plaintiffs of the National Class Action on Indian Residential Schools (8 May 2006), <http://www.residentialschoolsettlement.ca/settlement.html>.

20 Ibid.

21 Murray Sinclair, quoted in Denise Titian, “Truth and Reconciliation Commission meets with ha’wiih at Tin Wis Resort,” *Ha-Shilth-Sa*, 28 January 2010, accessed 22 September 2016, [www.nuuchahnuhth.org/tribal-council/hashilthsa/2010/Jan.%2028.%202010.pdf](http://www.nuuchahnuhth.org/tribal-council/hashilthsa/2010/Jan.%2028.%202010.pdf).

held in Library and Archives Canada (LAC).<sup>22</sup> Given the prohibitive cost of gathering the materials itself, the TRC could not hope to undertake the task. In April 2012, after exhausting all other avenues, the TRC requested judicial guidance from the Ontario Supreme Court of Justice about whether the federal government was required to pay the large sums of money required to compile the records. The Assembly of First Nations and Inuit representatives were granted intervener status in the case, signalling the importance of this issue to Indigenous peoples.<sup>23</sup> The government argued that it was only obliged to provide the TRC with access to LAC, and to compile and produce federal records that had yet to be archived at LAC.<sup>24</sup> On 30 January 2013, the Honourable Justice Stephen Goudge ruled in favour of the TRC.<sup>25</sup>

“The importance of Canada’s documents archived at LAC to two of the TRC’s essential tasks, the comparative expertise of LAC’s staff in identifying archived documents relevant to these tasks and other significant aspects of the mandate that the TRC had simultaneously to accomplish in a fixed time-frame with a fixed budget were all part of the context in which the Settlement Agreement came about. All are inconsistent with excluding documents archived at LAC from Canada’s obligation to provide relevant documents to and for the use of the TRC, compiled in an organized manner.”<sup>26</sup>

For Judge Goudge, then, compiling and organizing the records was never meant to be the responsibility of the commission owing to its limited timeline and budget.

Soon after, the TRC again found itself in court, seeking judicial guidance on whether the government was obliged to produce records. This time, the records under dispute were related to the 1992–1996 criminal investigation by the Ontario Provincial Police of abuse at the IRS known as St. Anne’s, in Fort Albany, Ontario.<sup>27</sup> Yet again, the TRC argued that access to these records was crucial to realizing its mandate.<sup>28</sup> The Assembly of First Nations was again granted intervener status in the case in support of the TRC.<sup>29</sup> The government argued against producing these records on the basis that it was not obliged to take on the burden of providing third-party records, and officials even

22 *Fontaine v. Canada (Attorney General)*, 2013 ONSC 684 (CanLII).

23 *Ibid.*, para. 8.

24 *Ibid.*, para. 63.

25 *Ibid.*, para. 69–83. See also Assembly of First Nations, “Assembly of First Nations Welcomes Ontario Superior Court Decision to Disclose Documents to Truth and Reconciliation Commission” (30 January 2013), <http://www.afn.ca/en/news-media/latest-news/afn-welcomes-ontario-superior-court-decision-to-disclose-documents>.

26 *Fontaine v. Canada (Attorney General)*, 2013 ONSC 684 (CanLII), para. 78.

27 *Fontaine v. Canada (Attorney General)*, 2014 ONSC 283 (CanLII), accessed 1 August 2016, <http://www.canlii.org/en/on/onsc/doc/2014/2014onsc283/2014onsc283.html>.

28 *Ibid.*, para. 22.

29 *Ibid.*, para. 6.



disputed the court's jurisdiction over the matter.<sup>30</sup> After hearings by the Ontario Superior Court of Justice in December 2013, the Honourable Justice Paul Perell asserted the court's "powers to require Canada to honour its disclosure and production obligations to the Commission."<sup>31</sup> The court ordered that the records be produced.

Somewhat paradoxically, a whole controversy ensued in relation to the preservation of another set of records, those of the Independent Assessment Process (IAP), which, like the TRC, is a component of the IRSSA (Schedule D).<sup>32</sup> The IAP is an adjudicative process through which school survivors can seek financial compensation for physical or sexual abuse. Instead of presenting their case in court, survivors can make claims in a confidential, private hearing before the Indian Residential School Adjudication Secretariat (IRSAS), an independent, quasi-judicial tribunal established in 2007 under the IRSSA.<sup>33</sup> The TRC sought to acquire the records created by the Adjudication Secretariat over the course of the IAP for preservation at the National Centre for Truth and Reconciliation (NCTR). The NCTR, which was established at the University of Manitoba, is the repository for TRC records. Information in these records identifies survivors, witnesses, and perpetrators, and details horrific abuse and violence. The records reveal the impact of the IRS on survivors and their families and communities, including intimate accounts of addictions, domestic violence, psychological harm, and suicide attempts.<sup>34</sup> To say that these records contain sensitive information is to understate the case.

The Government of Canada opposed the destruction of the records, claiming them as government records under the *Library and Archives Canada Act*.<sup>35</sup> Such records may eventually be disclosed for research or other purposes. The chief adjudicator of the IAP, Dan Shapiro, called for the destruction of the records since survivors who submitted claims were promised confidentiality.<sup>36</sup> Others also called for the destruction of the records, including the Catholic Church Entities, the Sisters of St. Joseph, the Assembly of First Nations (AFN), and some survivors who had gone through the IAP.<sup>37</sup> For

30 Ibid., para. 24–25.

31 Ibid., para. 176.

32 Indian Residential Schools Settlement Agreement.

33 Indian Residential Schools Adjudication Secretariat, "IAP Records Disposition," accessed 30 July 2016, <http://www.iap-pei.ca/records/main-eng.php>.

34 Indian Residential Schools Adjudication Secretariat, "Media Room – Chief Adjudicator Calls for Destruction of IAP Records" (19 June 2014), <http://www.iap-pei.ca/media-room/media-eng.php?act=2014-06-19-b-eng.php>.

35 *Fontaine v. Canada (Attorney General)*, 2014 ONSC 4585 (CanLII) (1 August 2016), para. 13, 96–98, <http://www.canlii.org/en/on/onsc/doc/2014/2014onsc4585/2014onsc4585.html>.

36 Ibid., para. 7, 99–103; Indian Residential Schools Adjudication Secretariat, "IAP Records Disposition."

37 *Fontaine v. Canada (Attorney General)*, 2014 ONSC 4585 (CanLII), para. 12, 104–19.

example, Allan Adam, who attended Holy Angels Residential School in Fort Chipewyan, Alberta, was reported as stating, “My IAP records should be destroyed because that was the arrangement I made when I went into it.”<sup>38</sup> Other survivors called for the preservation of the records given their importance in elucidating the history of the IRS.<sup>39</sup> Lorna Bob, a school survivor, spoke of the destruction of the IAP records as follows: “Now further injustice is evident of this system which does not want to keep the evidence of the abuse, trauma and genocide at the hands of the government, churches and so-called school system.”<sup>40</sup> The TRC called for the records to be retained for 30 years while a notice plan was developed to inform survivors of their right to archive their records with the NCTR, as outlined in the IRSSA.<sup>41</sup> For the Assembly of First Nations, obtaining survivor consent was the most crucial issue.<sup>42</sup> Eventually, this highly disputed matter was brought before Justice Paul Perell of the Ontario Superior Court, who ruled in August 2014 that the majority of IAP records were to be destroyed, with the exception of the application forms, transcripts, transcripts and audio recordings of hearings, and adjudicator decisions.<sup>43</sup> This subset is to be kept for 15 years while a notice program to survivors is administered by the TRC or NCTR. The court also required that information identifying third parties be redacted in records to be archived. Justice Perell declared that to rule otherwise “would be a grievous betrayal of trust, a breach of the IRSSA, and it would foster enmity and new harms, not reconciliation.”<sup>44</sup> He added that “it is the survivor’s story to tell or not tell and it is the survivor’s individual decision that must be respected.”<sup>45</sup> Perell’s ruling gestures at the fact that there is a diversity of views among survivors as to the desirability of preserving or making accessible their records.

Those who filed appeals and cross-appeals included the Catholic Entities and the Sisters of St. Joseph of Sault Ste. Marie, who argued that the records could not be preserved without their consent.<sup>46</sup> Canada, now with the support

38 Shari Narine, “Court to Decide Whether to Destroy Records,” *Windspeaker: Canada’s National Aboriginal News Source* 33, no. 9 (2015), <http://www.ammsa.com/publications/windspeaker/court-decide-whether-destroy-records>.

39 National Centre for Truth and Reconciliation, “The IAP Records,” accessed 18 April 2016, [http://umanitoba.ca/centres/nctr/iap\\_records.html](http://umanitoba.ca/centres/nctr/iap_records.html).

40 Kathleen Martens, “Survivors Speak Out Against Destruction of Residential School Records,” *APT National News* (27 June 2014), <http://aptn.ca/news/2014/06/27/survivors-speak-destruction-residential-schools-records>.

41 *Fontaine v. Canada (Attorney General)*, 2014 ONSC 4585 (CanLII), para. 120–24; TRC, *Honouring the Truth*, 28.

42 Assembly of First Nations, “Indian Residential Schools – Fontaine Decision and Personal Credits Webinar,” *AFN Bulletin* (Ottawa: Assembly of First Nations, 2014), 2, accessed 1 August 2016, [http://www.afn.ca/uploads/files/14-08-11\\_afn\\_bulletin\\_fe.pdf](http://www.afn.ca/uploads/files/14-08-11_afn_bulletin_fe.pdf).

43 *Fontaine v. Canada (Attorney General)*, 2014 ONSC 4585 (CanLII), para. 17–19.

44 *Ibid.*, para. 19.

45 *Ibid.*

46 *Fontaine v. Canada (Attorney General)*, 2016 ONCA 241 (CanLII), accessed 1 August 2016, <http://www.canlii.org/en/on/onca/doc/2016/2016onca241/2016onca241.html>.

of the TRC and NCTR, reasserted its control over the records.<sup>47</sup> In considering the matter, Supervising Judge George Strathy of the Court of Appeal of Ontario argued: “These appeals raise the question whether the survivors control the stories of their residential school experiences or whether others do . . . is the survivor entitled to decide what happens to the story – to share it with others or to take it to the grave?”<sup>48</sup> In the end, a two-judge majority insisted that these records can only be preserved with the survivor’s consent, upholding Justice Perell’s ruling that they be retained for 15 years and that a notice program (now to be run by the chief adjudicator) be established.<sup>49</sup> In a dissenting opinion, Judge Sharpe argued in favour of the cross-appeals filed by the government, the TRC, and the NCTR: “If the IAP documents are destroyed, we obliterate an important part of our effort to deal with a very dark moment in our history.”<sup>50</sup> Clearly, a consensus on this issue is elusive, and further appeals are being considered as this article goes to print.

What is at stake in this simultaneous gathering and destruction of records, and on what basis are some things to be remembered and recognized while others are forgotten or given over to a “painless oblivion”<sup>51</sup>? In other words, what is at stake in this tension between a longing for recognition, on the one hand, and a longing for oblivion, on the other? And what can this tension tell us about desire and fear in the politics of memory and the archive? Here, I have in mind Bergland, for whom hegemonies, like ghosts, “are built on history, memory, fear, and desire. . . . Because the politics of the national, the racial, the classed, and the gendered are the politics of memory and false memory, they are also, necessarily, the politics of spectrality.”<sup>52</sup> I would like to place this thought alongside a statement made by the TRC regarding the IAP case: “The loss of these documents would be a blow to Canada’s national memory of a significant historic injustice, could contribute to the possibility that future generations would never know of the abuses in residential schools, and could contribute to the argument of those who would assert that this never happened.”<sup>53</sup> For both Bergland and the TRC, memory and the nation are inextricably intertwined. But what of oblivion? Like memory, oblivion is actively produced, and is no less imbricated in the politics of the national and racial, in fear and desire. With this in mind, the following seeks to disentangle the *spectralization* of Indigenous peoples vis-à-vis the archive in order to develop an analytical framework that eschews a Western-oriented

47 Ibid., para. 13.

48 Ibid., para. 10.

49 Ibid., para. 245–49.

50 Ibid., para. 320.

51 Édouard Glissant, *Caribbean Discourses: Selected Essays*, trans. J. Michael Dash (Charlottesville, VA: University Press of Virginia, 1989), 2.

52 Bergland, *The National Uncanny*, 6.

53 TRC, *Honouring the Truth*, 29.

legalistic conception of human rights. Drawing on Indigenous studies and critical theories, I build on Punzalan and Caswell's critique to grapple with the dilemmas at the core of these court cases.

### **Apologies, Cultural Difference, and the Limits of Self-Reflexivity**

Audra Simpson insists that colonialism has always been in the business of describing and analyzing difference. Anthropology, Simpson explains, develops out of this imperative, as does an understanding of cultural diversity premised on the (at times implicit, but often explicit) assumption of a normative (white<sup>54</sup> European settler) culture.<sup>55</sup> For Simpson, the need to describe the difference found in new places precipitated certain cultural forms and modes of analysis: "In this process, people became differentiated, their spaces and places possessed. 'Culture' served a purpose of describing the difference (always against a norm of sameness) that was encountered in those places."<sup>56</sup> Recognizing and analyzing cultural difference is intimately associated with the historical processes that dispossess Indigenous peoples of their lands and material resources. Like new places and spaces, they become objects whose differences and particularities are to be mapped, charted, and described. For Simpson, what in North American administrative speak is known as the "Indian problem" can best be understood as the problem of Indigenous continuity "in the face of an acquisitional and territorial desire that often moves through time to become, in liberal parlance, the 'problem' of difference. In the case of indigeneity in North America, or Great Turtle Island, this became the question of what to do with their souls, their bodies, their culture, and their difference."<sup>57</sup> Simpson's work indicates that a politics of recognizing difference that does not actively affirm Indigenous self-determination is a continuation of regimes of representation and cultural trespass that perpetuate settler colonialism and Indigenous dispossession: "a multicultural solution to the settlers' Indian problem."<sup>58</sup> Instead of embracing a politics of recognition,

54 My use of the term "white" is not meant to imply that whiteness is only a matter of phenotype or that only white people can be considered settlers. For further discussion, see Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis, MN: University of Minnesota Press, 2011); Eve Tuck and K. Wayne Yang, "Decolonization Is Not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012): 1–40; and Ashok Mathur, Jonathan Dewar, and Mike DeGagné, eds., *Cultivating Canada: Reconciliation through the Lens of Cultural Diversity* (Ottawa, ON: Aboriginal Healing Foundation, 2011), <http://www.ahf.ca/downloads/cultivating-canada-pdf.pdf>. In the latter, see in particular Bonita Lawrence and Enakshi Dua, "Decolonizing Anti-Racism," 233–62, and Malissa Phung, "Are People of Colour Settlers Too?," 289–98.

55 Audra Simpson, *Mohawk Interruptus: Political Life across the Borders of Settler States* (Durham, NC: Duke University Press, 2014), 95–114.

56 *Ibid.*, 112.

57 Simpson, *Mohawk Interruptus*, 19.

58 *Ibid.*, 20.

she highlights how US and Canadian citizenship was refused by the Mohawks of Kahnawà:ke and other Haudenosaunee people who insist on their status as nationals of a precontact Indigenous polity and on the integrity of their forms of governance.<sup>59</sup>

Similarly, Glen Coulthard draws on Fanon in characterizing recognition as “*a field of power through which colonial relations are produced and maintained.*”<sup>60</sup> The central problem, Coulthard explains, is that a liberal politics of recognition is based on “the assumption that the flourishing of Indigenous peoples as distinct and self-determining agents is dependent on their being afforded cultural recognition and institutional accommodation from the surrounding state.”<sup>61</sup> The terms of recognition will generally be decided by the settler society while “the Indigenous society will tend to come to see the forms of structurally limited and constrained recognition conferred to them by their colonial ‘masters’ as their own. In effect, they will begin to identify with ‘white liberty and white justice.’”<sup>62</sup> Power is key to this critique: power differentials lead to a representational dynamic whereby settler societies are placed in a position to affirm or negate how Indigenous peoples represent and identify themselves. Eschewing statist frameworks concerned with legal and political recognition, Coulthard calls for “*a resurgent politics of recognition*” that negates the authority of the colonial gaze through Indigenous self-realization, direct action, and the resurgence of cultural practices.<sup>63</sup> Likewise, Taiaiake Alfred articulates a concept of Indigenous resurgence against recognition, one that entails reconnecting Indigenous peoples psychologically and spiritually to the land and to associated traditions and ways of being.<sup>64</sup> These scholars encourage us to consider how, in a settler colonial context, inclusion and assimilation are, in effect, the same thing.

In a related argument, Andrea Smith characterizes the politics of recognition as a politics of the complaining Indigenous person and the self-reflexive settler.<sup>65</sup> For Smith, confession and even apology are too often treated as substitutes for addressing structural inequities, yet again positioning the settler or white subject as the subject capable of self-reflexivity and the colonized or racialized subject as the occasion for self-reflexivity.<sup>66</sup> Hence, although such

59 Ibid., 7.

60 Coulthard, *Red Skin, White Masks*, 17 (emphasis in original).

61 Glen S. Coulthard, “Subjects of Empire: Indigenous Peoples and the ‘Politics of Recognition’ in Canada,” *Contemporary Political Theory* 6, no. 4 (November 2007): 437–60, esp. 448.

62 Ibid., 450.

63 Coulthard, *Red Skin, White Masks*, 24.

64 Taiaiake Alfred, “Cultural Strength: Restoring the Place of Indigenous Knowledge in Practice and Policy,” *Australian Aboriginal Studies* 1 (Spring 2015): 1–11, 7–8.

65 Andrea Smith, “Native Studies at the Horizon of Death: Theorizing Ethnographic Entrapment and Settler Self-Reflexivity,” in *Theorizing Native Studies*, ed. Audra Simpson and Andrea Smith (Durham, NC: Duke University Press, 2014).

66 Ibid., 218.

self-reflexivity is not without merit, it serves to reinstitute the colonial structural domination it ostensibly seeks to disavow. For Smith, then, the acknowledgement of past injustices or the confession of contemporary settler privilege is a mechanism for the formation of the settler subject and nation. This claim, although counterintuitive, is grounded in a long history of scholarship that reveals how settler subjectivities and national identities develop through the appropriation of all things Indigenous, including suffering under colonialism. Relevant here is Sara Ahmed's claim that declarations of white privilege or racism are non-performative: they do not do the anti-racist work they purport to do.<sup>67</sup> Declaring one's privilege and racism, or one's opposition to either, does not mean that one can transcend or undo racial hierarchies even though individuals or institutions who do so are seen to be at least partially redeemed. Hence, as Ahmed notes, "the shameful white subject expresses shame about its racism, and in expressing its shame, it 'shows' that it is not racist: if we are shamed, we mean well. The white subject that is shamed by whiteness is also a white subject that is proud *about* its shame. The very claim to feel bad (about this or that) also involves a self-perception of 'being good.'"<sup>68</sup> Self-reflexivity as a mechanism for transforming guilt into shame, and bad feelings into good, ensures that racism remains the burden of racialized *others* who cannot, through confessing their racialization or dis-privilege, evade the negative feelings of hate, anger, shame, and grief that are invariably an effect of racism. Through parallel processes, the nation gains or fortifies its sense of identity when it recognizes, and therefore ultimately transcends, its shameful past. Again, however, the colonized cannot transcend the legacies and ongoing realities of their dispossession through any such confession or acknowledgement.

Elsewhere, Ahmed analyzes the demand for the recognition of racism toward Indigenous peoples in Australia to reveal how national declarations of shame for past wrongs resuscitate national identity by subordinating notions of individual guilt and responsibility to the collectivity. Since feeling bad about the shameful past allows one to feel better, the Australian public discourse of shame served to displace the recognition of injustice and forestall debate over what harms had been done and where responsibility lies.<sup>69</sup> If Ahmed is right to claim that apology functions as a technique for producing national identity for its members as individuals who feel shame yet also "feel better," then what can we say about the apology for the IRS offered by the former prime minister of Canada, Stephen J. Harper? Delivered before Parliament on 11 June 2008, the apology opens as follows: "The treatment of children in Indian Residential

67 Sara Ahmed, "Declarations of Whiteness: The Non-Performativity of Anti-Racism," *Borderlands E-journal* 3 (2 November 2004), [http://www.borderlands.net.au/vol3no2\\_2004/ahmed\\_declarations.htm](http://www.borderlands.net.au/vol3no2_2004/ahmed_declarations.htm).

68 *Ibid.*, 11.

69 Sara Ahmed, *The Cultural Politics of Emotion* (Edinburgh: Routledge, 2004).

Schools is a sad chapter in our history.”<sup>70</sup> Harper also stated: “We now recognize that, far too often, these institutions gave rise to abuse or neglect and were inadequately controlled, and we apologize for failing to protect you. Not only did you suffer these abuses as children, but as you became parents, you were powerless to protect your own children from suffering the same experience, and for this we are sorry.” Who does the “our” refer to, and who are the “we” and “you” of this exchange? Whose history and nation are at stake? The “now” in the latter statement implies that “we” did not know *then*, disavowing the violence and colonialism at the core of Canada’s history and, therefore, restoring the foundational Canadian myth of what Regan aptly described as “the benevolent peacemaker – the bedrock of settler identity.”<sup>71</sup> While positioning the experiences of Indigenous peoples in the IRS as part of the history of the settler nation, the apology yet again renders the Indigenous person the powerless interlocutor of a self-reflexive and self-determining Canadian nation that imagines itself innocent of the very wrongs it purports to be apologizing for.<sup>72</sup> There is no mention in the apology of a colonial past, nor is there any reference to how the IRS was part of a broader system of land dispossession, political domination, and forced assimilation.<sup>73</sup> Indeed, Canadian society to this day routinely denies the history of European conquest and colonization.<sup>74</sup> Such denial, Alfred notes, is harmful to Indigenous-settler relations: “The complete ignorance of Canadian society about the facts of their relationship with Indigenous peoples and the wilful denial of historical reality by Canadians detracts from the possibility of any meaningful discussion on true reconciliation.”<sup>75</sup> The fact that colonialism continues unabated is also unthinkable to many. Hence, Harper’s apology narrowly situates the abuses of colonialism

70 Government of Canada, Indigenous and Northern Affairs Canada (INAC), Topics: About INAC – Indian Residential Schools, “Statement of Apology to Former Students of Indian Residential Schools” by the Right Honourable Stephen J. Harper, Prime Minister of Canada, on behalf of the Government of Canada (Ottawa, ON: Indian Affairs and Northern Development, 11 June 2008); and “Prime Minister Harper Offers Full Apology on Behalf of Canadians for the Indian Residential Schools System,” both accessed 19 July 2016, <https://www.aadnc-aandc.gc.ca/eng/1100100015644/1100100015649>.

71 Regan, “Unsettling the Settler,” 11.

72 Such settler moves to innocence serve to alleviate settler guilt and culpability without having to give up the land, power, or privilege; see Tuck and Yang, “Decolonization Is Not a Metaphor,” 10.

73 Alfred, “Cultural Strength,” 8; Coulthard, *Red Skin, White Masks*, 125.

74 Sherene H. Razack, “Race, Space, and the Law,” in *Race, Space, and the Law: Unmapping a White Settler Society*, ed. Sherene H. Razack (Toronto: Between the Lines, 2002), 1–2.

75 Gerald Taiaiake Alfred, “Restitution is the Real Pathway to Justice for Indigenous Peoples,” in *Response, Responsibility, and Renewal: Canada’s Truth and Reconciliation Journey* (Ottawa, ON: Aboriginal Healing Foundation, 2009), 179–87, esp. 181, accessed 1 August 2016, <http://www.ahf.ca/downloads/trc2.pdf>. Similarly, Borrows argues, “It is clear that many Canadians hold strong cultural beliefs about the general inappropriateness of addressing the past in meeting the challenges Indigenous peoples face today:” see John Borrows, “Residential Schools, Respect, and Responsibilities for Past Harms,” *University of Toronto Law Journal* 64 (2014): 486–504.

firmly *in the past*, leaving the *present* structure of colonial rule unacknowledged.<sup>76</sup> Small wonder that at least some survivors were reluctant to yet again trust the government with information or records pertaining to them: better the destruction of the IAP records and obscurity than the risks and dangers of trusting a settler state that apologizes in this manner.

### National Identity and the Trope of a Vanishing Indigeneity

Taken together, these scholars compel us to consider the consequences of a politics of self-reflexivity and recognition within a colonial, racial order where affirming the difference of the *other* and one's bad behaviour *in the past* leads to the re-instantiation of the white or settler subject as a self-aware, self-determining, and proud subject. They draw on and elaborate scholarship that focuses our attention on how settler societies develop white settler mythologies of their national origin and past. These mythologies work relentlessly to disavow the conquest, genocide,<sup>77</sup> slavery, assimilation, and racial exploitation foundational to the establishment and development of the nation. Myths, as Slotkin reminds us, are ideology rendered in narrative form. They are stories and poetic constructions that affect and reflect political beliefs and practices and seek to explain the problems arising in the course of historical experience.<sup>78</sup> In his excellent deliberation on US popular culture and government policy in the 20th century, Slotkin shows how the myth of the frontier, a myth of "regeneration through violence,"<sup>79</sup> first served to justify the establishment of the American colonies, and then changed over time to address the shifting preoccupations of the colonies as they expanded and developed into a nation. Similarly, Sherene Razack discusses how settler national mythologies posit that Indigenous peoples are allegedly disappearing through assimilation and death, and since Europeans were the first to fully develop the land, they are the rightful heirs of Indigenous land, material resources, culture, and history. With this in mind, Smith notes, "Indigeneity is not necessarily framed as antagonistic to the settler subject; the Native is instead supposed to disappear into the project of settlement. The settler becomes the new-and-improved

76 Coulthard, *Red Skin, White Masks*, 22, 125.

77 On genocide in Canada and in relation to the IRS, see, for example, Roland Chrisjohn and Sherri Young, *The Circle Game: Shadow and Substance in the Residential School Experience in Canada* (Penticton, BC: Theytus Books Ltd., 1997); Andrew Woolford, Jeff Benvenuto, and Alexander Laban Hinton, eds., *Colonial Genocide in Indigenous North America* (Durham, NC: Duke University Press, 2014); Matthew Wildcat, "Fearing Social and Cultural Death: Genocide and Elimination in Settler Colonial Canada — an Indigenous Perspective," *Journal of Genocide Research* 17, no. 4 (2015): 391–409; TRC, *Honouring the Truth*.

78 Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America* (Norman, OK: University of Oklahoma Press, 1992), 6, 25.

79 *Ibid.*, 10.



version of the Native, thus legitimizing and naturalizing the settler's claims to this land."<sup>80</sup> The works of Razack and Smith, like other scholarship on the trope of Indigenous disappearance, reveal a logic of settlement whereby white Europeans come to believe they supplanted Indigenous peoples as the first inhabitants, a process of settler subject constitution that requires incorporating Indigenous land, resources, and culture. This process also entails severing the material relationships between an Indigenous people and their place, languages, beliefs, and practices in order to make whole and coherent a white settler subjectivity and nationhood.<sup>81</sup> Such literature, then, reveals a colonial settler logic that erases indigeneity so it can be recalled by modern non-Indigenous people as a relationship to Indigenous culture, history, and land that might reconcile the settler society to inheriting conquest.<sup>82</sup>

The emergence of a settler society or nation entails a double movement then – one comprised of dispossessing Indigenous peoples materially while simultaneously erasing them discursively. Hence, the discursive disappearance or spectralization of Indigenous peoples, their impersonation and celebration,<sup>83</sup> and the incorporation of their signs and symbols reinforce, and at times help to construct, the political project of removing Indigenous peoples from the land. Published in 1982, Brian Dippie's *The Vanishing American: White Attitudes and U.S. Indian Policy*<sup>84</sup> is an early exploration of how the myth of a vanishing indigeneity is a constant in settler national thinking. Dippie argues that, by its logic, the extinction of Indigenous peoples is a deplorable yet inevitable fact, a natural law that cannot be changed. Like the wilderness, with which Indigenous peoples allegedly shared an almost symbiotic relationship, their fate is to recede before the advance of (white European) civilization. "Without a past of its own," Dippie explains, "America lacked grandeur, its character remained distressingly two-dimensional.... The Indian, as the First American, was necessary to any such attempt at self-definition. He *was* the American past."<sup>85</sup> As a crucial arsenal of colonialism, the belief in the disappearance of Indigenous peoples works hand in hand with attempts to remove or erase Indigenous peoples from the landscape.<sup>86</sup> It is also crucial to the constitution of a white settler individual and national identity.

80 Smith, "Native Studies," 218.

81 Linda Tuhiwai Smith, *Decolonizing Methodologies* (London: Zed Books, 1999), 89.

82 Bergland, *The National Uncanny*, 4; Scott Morgensen, *Spaces between Us: Queer Settler Colonialism and Indigenous Decolonization* (Minneapolis, MN: University of Minnesota Press), 3.

83 Philip J. Deloria, *Playing Indian* (New Haven, CT: Yale University Press, 1998).

84 Brian Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Middletown, CT: Wesleyan University Press, 1982).

85 *Ibid.*, 16.

86 *Ibid.*, 71.

This theme is taken up by Bergland, who traces the discourse of spectralization over more than 300 years of European American literature to show that it is populated by Indigenous ghosts or spectres. For Bergland, the metaphor of ghostliness is a mechanism for absorbing Indigenous peoples into the white American mind as an aspect of American consciousness: “By discursively emptying physical territory of Indians and by removing those Indians into white imaginative spaces, spectralization claims the physical landscape as American territory and simultaneously transforms the interior landscape into American territory.”<sup>87</sup> Hence, ghostly “Indians” are as central to the formation of American national identity as the fantasy of empty land. Paradoxically, ghostly “Indians” also represent the triumph of the nation as well as its national guilt: “The horrors of this discursive practice are clear: the Indians who are transformed into ghosts cannot be buried or evaded, and the spectre of their forced disappearance haunts the American nation and the American imagination.”<sup>88</sup> To be haunted, then, is to return over and over again to that which is repressed or surmounted.<sup>89</sup> It is a fate that no settlers can escape when they seek to align themselves with the national identity of the settler society, a process that requires them to simultaneously acknowledge the horror of colonization and to celebrate it, to simultaneously desire to continue colonizing Indigenous peoples and to long to escape from colonialist regimes altogether.<sup>90</sup>

Whether in Australia, the United States, or Canada, we are faced with a nation haunted because it is built on land haunted because it was taken by force. Evidently, in settler colonial context, there is an *unsettling* and irresolvable tension between the need or wish to revisit the past as part of developing or reinforcing a national identity, and the need to forget or disavow past atrocities. And what is also clear from this discussion is that revisiting the past, acknowledging and apologizing for historic wrongs, exposing or describing colonial violence and atrocities, or reflecting on one’s racism and privilege are not necessarily anti-colonial, anti-racist, or decolonizing acts. The fact that these acts often fail to build trust or genuine reconciliation between Indigenous people and the settler population of a particular area is understandable given how even Indigenous suffering and settler shame or guilt work to solidify rather than challenge an entitled settler sense of self. As Tuck and Yang insist, genuine, meaningful decolonization requires more than just symbolic acts; it must entail the repatriation of land and the dismantling of contemporary forms of colonial and imperial structures.<sup>91</sup> In part, then, the

87 Ibid., 5.

88 Ibid.

89 Bergland, *The National Uncanny*, 11.

90 Ibid., 16.

91 Tuck and Yang, “Decolonization Is Not a Metaphor,” 7, 31.

impulse to destroy the IAP records, articulated by some Indigenous people, including school survivors, is an impulse toward hiding and, therefore, protecting a painful chapter of *Indigenous* history from being incorporated into the story of Canadian shame-cum-national-triumph. Why not oblivion given the risk of such appropriation?

Alfredo González-Ruibal discusses how oblivion is essential to colonialism, which needs to perpetually erase the violence it necessarily commits to impose its law as well as the past and culture of the *other* in order to undermine their ability to resist domination.<sup>92</sup> It is understandable, therefore, that one focus of the TRC, among others, has been on recovering the memories and experiences of the IRS, which had for so long been repressed or denied. Conversely, González-Ruibal argues that the production of oblivion, rather than memory, is necessary when the work of domination has been so systematic and violent that alternative memories have been thoroughly shattered.<sup>93</sup> Here is one case, at least, where oblivion may be considered an act of resistance to domination. With such issues in mind, Édouard Glissant argues that hidden histories and realities that have been made invisible cannot be easily made knowable through a series of clarifications.<sup>94</sup> Some experiences and realities are too difficult to approach, buried beneath too many layers of power, time, and violence to be unearthed. In such circumstances, there is only one solution: “We demand the right to obscurity. Through which our anxiety to have a full existence becomes part of the universal drama of cultural transformation: the creativity of marginalized peoples who today confront the ideal of transparent universality, imposed by the West, with secretive and multiple manifestations of Diversity.”<sup>95</sup> In a startling reversal of liberal rhetoric, secrecy (and not recognition) is seen as necessary to the flourishing of a diversity that eschews the universalizing underpinnings of the Western gaze. The silence and oblivion enforced to crush anti-colonial resistance are the subject of much attention. Less widely recognized and harder to perceive are the ways in which certain communities and peoples, “condemned as such to painless oblivion,” generate a discourse of “shadowy threads of meaning where their silence is voiced” and find in being unknown and unremembered at least the potential of liberation. This is similar to what Dian Million terms a “turning in,” a process whereby Indigenous peoples seek to assess themselves within their cultural value system in the face of the dehumanizing figure of the profane “Indian.”<sup>96</sup>

92 Alfredo González-Ruibal, “Land of Amnesia: Power, Predation, and Heritage in Central Africa,” in *Excavating Memory: Sites of Remembering and Forgetting*, ed. Maria Theresia Starzmann and John R. Roby (Gainesville, FL: University Press of Florida, 2016), 131–52, 135.

93 *Ibid.*, 132.

94 Glissant, *Caribbean Discourses*, 2.

95 *Ibid.*

96 Million, *Therapeutic Nations*, 48.

Archival scholars have long recognized that trust, or distrust, are at the heart of the disputes over the ownership and use of archival records by or about Indigenous peoples.<sup>97</sup> Recent scholarship on the work of the NCTR has questioned the idea that building trust between the archival sector and Indigenous peoples is the issue. Instead, distrust and conflict are seen as necessary to generate the energy and space needed for change.<sup>98</sup> Distrust, conflict, obscurity, and silence are not easily accommodated within a framework of inclusion or recognition. Relevant here is the observation made by Eve Tuck and C. Ree that they expect readers to be confounded by what they share, given what is held back. As Tuck and Ree explain (intentionally in the first person singular), “I care about you understanding, but I care more about concealing parts of myself from you. I don’t trust you very much. You are not always aware of how you can be dangerous to me, and this makes me dangerous to you. I am using my arm to determine the length of the gaze.”<sup>99</sup> Can we consider that the impulse of some Indigenous people to destroy the IAP records is driven in part by the imperative to contain the ability of the Canadian state and settler society to penetrate any further into the secrets of an Indigenous diversity that continues to flourish centuries after it was said to be vanishing? And by a fear that to do otherwise is to lose what little living room is left?

### The Spectre in the Archive

Just as the land, the nation, and the national memory are haunted, so too is the colonial archive. As a source for the construction of memory and the writing of history, as well as a mechanism for their institutionalization, the archive is not only a contested site but one as haunted as the US literary imagination. Built on stolen land, the Canadian national archives are full of records containing Indigenous information, knowledge, histories, and cultural expressions that have been revealed, acquired, or exposed because of colonization.<sup>100</sup> One consequence of colonialism, then, is Indigenous people’s lack of control over how their information, histories, and cultural knowledge are used and interpreted. For even as colonial processes undermine the ability of Indigenous peoples to generate and maintain their own records (broadly defined) of their cultures and histories, the archives of colonial governments, their successor states, and the settler population tend to *collect* and generate the most records

97 Sue McKemmish, Shannon Faulkhead, and Lynette Russell, “Distrust in the Archive: Reconciling Records,” *Archival Science* 11, no. 3 (November 2011): 211–39.

98 Nathan et al., “Stewarding Collections of Trauma.”

99 Eve Tuck and C. Ree, “A Glossary of Haunting,” in *Handbook of Autoethnography*, ed. Stacy Holman Jones, Tony E. Adams, and Carolyn Ellis (Walnut Creek, CA: Left Coast Press, 2013), 640.

100 Kay Mathiesen, “A Defense of Native Americans’ Rights Over Their Traditional Cultural Expressions,” *American Archivist* 75 (Fall/Winter 2012): 456–81, esp. 479.

per capita by or about the Indigenous peoples in the local area. Significantly, the information, knowledge, and cultures of Indigenous peoples, like their territories, ancestral remains, and possessions, were stolen or coerced from them – not traded, discovered, or given freely.<sup>101</sup> Colonizers love archives, and nothing is more common in the colonial world than the enthusiastic, if rather callous, figure of the academic or artist going about the self-appointed task of preserving – not Indigenous peoples themselves, but a *record* of them. The scientific and commercial value of that record resides in the fact that it could never be duplicated.<sup>102</sup>

One may wonder why a process of memorialization is necessary to the colonial endeavour. Our earlier explorations of the politics of memory and the nation, and the mythology of a vanishing indigeneity, allow us to appreciate that, at least in part, the record is meant to convince the colonizer of what is said to have happened: Indigenous peoples disappeared and the settler nation triumphed. The process of keeping a record is its own form of memorialization. A specific memory of the past, not the truth per se, is recorded. Like pinning a butterfly to a wall mounting, a record fixes events and actions in time and therefore keeps the fear at bay. Certainly, both fear and desire stalk the Canadian national archive, given that the cumulative effect of colonialism is to severely compromise or silence the Indigenous archive through complex processes that enable the establishment and development of the Canadian national archive. Here, I draw on the work of Beverly Butler, who extends the notion of “archive” beyond its routinized or institutional understanding, reconceptualizing the archive within a broader heritage paradigm as ‘archival memory’ which offers a means to give access and recognition to tangible and intangible heritage resources as crucial to collective and individual identity-work.<sup>103</sup> The Canadian settler project appropriated the histories and cultures of Indigenous peoples in order to create archives *about* Indigenous people and *of* the Canadian nation. The “engulfment”<sup>104</sup> of records by or about Indigenous peoples into the national settler archives is crucial for the constitution of a settler historical archival memory (at the expense of an Indigenous one) that transforms national shame and guilt into national triumph. This process of engulfment also transforms Indigenous people into spectres in the archive, phantoms that haunt the Canadian national archival memory – for even as the myth of the disappearance of Indigenous peoples is propagated, Indigenous individuals, groups, and nations appear relentlessly in the archives of the settler society. Ultimately, the plethora of records pertaining to Indigenous

101 Smith, *Decolonizing Methodologies*, 89.

102 Dippie, *The Vanishing American*, 27.

103 Butler, “‘Othering’ the Archive,” 57.

104 Denise Ferreira da Silva, *Toward a Global Idea of Race* (Minneapolis, MN: University of Minnesota Press, 2007).

peoples in the national repository of the Canadian settler state document and attest to their historical and contemporary continuity as much as anything else. In that regard, the archive is haunted – colonialism haunts it, as does the fiction of Canada and the fiction of race.

Drawing on the work of Avery Gordon,<sup>105</sup> I use the concept of haunting to indicate that colonialism, like other oppressive systems, makes itself known and its impact felt in everyday life and sites, especially when it is denied or has supposedly ended. As repressed or unresolved violence is dis-contained, invariably there will appear spectres and ghosts, powerful beings with a formidable presence that demand their due. Ghosts, then, are not simply the invisible presences of the missing and dead; they are social figures that notify us that what has been concealed is very much present, while registering harm inflicted or loss sustained because of social violence. Being haunted is a frightening, sociopolitical-psychological state that is a constituent element of modern social life, not a superstition or individual psychosis.<sup>106</sup> Insofar as scholarship seeks to study the ways in which what appears to not be there is often a seething presence, then it must confront the ghostly and the haunted. Haunting, Gordon tells us, is the realm of the troubled and the unsettled: it is “that moment (of however long duration) when things are not in their assigned places, when the cracks and rigging are exposed, when the people meant to be invisible show up without any sign of leaving, when disturbed feelings cannot be put away, when something else, something different from before, seems like it must be done.”<sup>107</sup> Gordon draws our attention to the way organized forces and structures that seem removed from us make their impact felt in everyday life, confounding our analytic and social separations.<sup>108</sup> Haunting conceptually allows us to consider the fact that complicated, difficult, and contrary claims will invariably arise when colonial histories are evoked in relation to the archive. Given that, how do we reckon with what modern history renders ghostly in the archive?

Canadian archives and their holdings cannot be disentangled from the colonial past that created and shaped them. This history has left a colonial imprint on the archive, which is analogous to what Verne Harris describes as the apartheid imprint that shaped the archives of the South African regime.<sup>109</sup> (Of course, apartheid in South Africa was another settler colonial project.) The Canadian national archives are persistently haunted by the colonial past. In the midst of the case to compel Canada to compile and hand over the archival

105 Avery F. Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minneapolis, MN: University of Minnesota Press, 1997).

106 *Ibid.*, 7–8.

107 *Ibid.*, xvi.

108 *Ibid.*, 19.

109 Verne Harris, “The Archival Sliver,” 69.

records housed at LAC, Julian Falconer, the TRC's lawyer, made a striking intervention. He declared that what was at stake in this court case was no less than "control over history," elaborating that "Canada's honouring of the Settlement Agreement isn't only important to Survivors, but to Canadians across the country."<sup>110</sup> Claims like this one, concerned with who has the power to write history, are claims haunted by the violence and dispossession foundational to the emergence of the Canadian national archives. They suggest that by reclaiming the records containing information by or about Indigenous people and their experiences with the IRS, the ghosts can be exorcised and the haunting of the national consciousness can be abated. This becomes even clearer when we place Falconer's statement alongside one made by the IAP's chief adjudicator, Dan Shapiro, who argued against the government's claim that IAP records are government records: "The IAP was established to resolve court claims in which the Government of Canada was a primary defendant. It would be perverse to see the resolution of those claims come with strings attached: the wholesale transfer of the plaintiffs' personal information to the defendant."<sup>111</sup> Contention and conflict arise because the history of colonialism complicates claims to ownership and unsettles the taken-for-grantedness of how government records are generated, managed, and preserved. As previously noted, the TRC argues that the IAP records are vital for "Canada's national memory," to ensure that the injustice done to Indigenous peoples through the IRS is not forgotten or repeated.<sup>112</sup> The commission's efforts to force the government to produce records reveal not a simple desire to record the colonial truth, but rather the desire to expose the fiction or myth making that transforms the records of injustice into a narrative of settler innocence and pride. Often we archive what we would otherwise have to remember. In a sense, archives and other information systems are a means of forgetting what we otherwise would have had to memorize in order to know at some point in the future. Consigned to the archive for so long, accumulated over vast stretches of time, scattered across collections, fonds, and repositories, the IRS records can be easily forgotten, at least enough for Harper to have made the untenable claim that *we did not know then*. The TRC's demand for the reassembly of vast swaths of the Canadian national repository in order to gather the records dispersed across a range of department collections, shelves, sites, catalogues, and record systems is in part a demand for the reassembly and recontextualization of the archival records. It seeks to repatriate the power of the

110 Truth and Reconciliation Commission of Canada, "Truth and Reconciliation Commission Makes Reference to Court" (3 December 2012), 1, <http://www.myrobust.com/websites/trcinstitution/File/TRC%20NEWS%20RELEASE%20TRC%20makes%20reference%20to%20court%203%20Dec%202012.pdf>.

111 Indian Residential Schools Adjudication Secretariat, "Media Room."

112 TRC, *Honouring the Truth*, 29.

knowledge held in the archive. This demand partakes in haunting, for it renders the familiar strange, thus disturbing temporal narratives and bringing into view what had been taken for granted or hidden in the archive. The same records once safely enshrined within an archival arrangement and descriptive regime that affirmed Canadian sovereignty over land and history are recontextualized within a narrative of historic accountability to, and healing of, Indigenous peoples.

Yet even the TRC cannot exorcize the metaphoric ghosts. Even the recategorization or recontextualization of records can turn into the story of colonialism again – hence the impulse toward oblivion rather than reclamation or remembrance. Over and over again, new disputes arise when the IRS and associated records are involved, even when records are safely housed at the Indigenous-led NCTR.<sup>113</sup> Haunting, we have learned, is relentless despite any claims by settler societies to innocence, or assurances of a commitment to reconciliation.<sup>114</sup> Haunting, unlike reconciliation, does not hope to change people’s perceptions. It is unceasing: “Alien (to settlers) and generative for (ghosts), this refusal to stop is its own form of resolving. For ghosts, the haunting is the resolving, it is not what needs to be resolved.”<sup>115</sup> Haunting as a framework allows us to grapple with the irresolvable tensions and intractable conundrums driving the disputes and myriad views that have arisen in the course of the TRC cases that I have explored. Discarnate yet real, horrible yet irresistible, the spectre in the archive reminds us that past and present violence and dispossession cannot be ignored, even when inconvenient or disturbing.

*J.J. Ghaddar is a doctoral student at the University of Toronto’s Faculty of Information, from which she graduated with a Master of Information degree specializing in Archives and Records Management.*

113 See, for example, Nathan et al., “Stewarding Collections of Trauma.”

114 Tuck and Ree, “A Glossary of Haunting,” 642.

115 Ibid.