

Truth, Reconciliation, Restorative Justice, and Canadian Discourses of Legitimation in Educational Contexts

Shannon A. Moore^{1,2}, Liana B. Clarysse³

¹Centre for Women's and Gender Studies, Brock University, St. Catharines, Canada

²Department of Child and Youth Studies, Brock University, St. Catharines, Canada

³University of Toronto, Toronto, Canada

Email: smoore@brocku.ca

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Abstract

Building upon previous research investigating discourses of legitimation informing restorative justice practices in educational contexts in Canada and the United Kingdom, the current study takes forward the same conceptual and analytic framework to engage a preliminary analysis of legitimation in the narrative of documents and testimonies found within the reports of the **Truth and Reconciliation Commission of Canada (2015a, 2015b)** or TRC. Shared philosophical principles emergent from Indigenous epistemologies are foundational to both restorative justice and truth and reconciliation proceedings and, accordingly, the current study drew upon insights from an original study epistemologically, analytically and methodologically (**Clarysse & Moore, 2017**). The conceptual framework guiding the analysis is shaped by **van Leeuwen's (2007)** framework of four categories for analyzing processes that legitimate social practices in public communication, education, and everyday interaction. Findings indicate unrestricted and extensive use of legitimation within historical discourse related to the residential schooling system disclosed in Canada's TRC. Subsequent current-day testimonies of the survivors of Canada's residential schooling system and their ancestors articulate the lived experience and fallout from education related to this historical discourse legitimation. In contrast to text evidence from the Truth and Reconciliation Commission, a comparative analysis of text samples from contemporary restorative justice policy, law and practice documents found less pointed and more holistic application of discourses of legitimation to convey the merit of restorative justice practices in educational contexts. This study reinforces the important role of educational discourses in shaping critical awareness of discursive patterns of legitimation and the impact of these pat-

terns of communication on notions of holism and community in educational contexts.

Keywords

Restorative Justice, Truth and Reconciliation, Education, Legitimation

1. Introduction

Restorative justice processes are emergent from the same philosophical base and Indigenous epistemologies as truth and reconciliation processes (Moore, 2003; Tutu, 1999). Although nuanced differences bound by place, culture and context cannot be overlooked (Gabe, 2013), examples of restorative justice proceedings can be found around the globe (Moore, 2017). Exemplars of these processes include the South Africa Truth and Reconciliation Commission (South Africa, 1999) and, subsequently, Truth and Reconciliation Commission of Canada (2015a, 2015b). Although beyond the scope of this paper to fully explore, the links between Canada's and South Africa's truth and reconciliation processes had century old antecedents (Mitchell, 2015; see also Borgeault, 1988). During the first years of the last century the architects of Apartheid in South Africa turned to Canadian officials to model their legislative process on Canada's "elaborate system of administration and territorial segregation of an internally colonized Indigenous population" (Borgeault, 1988, cited in Mitchell, 2015: p. 165). Canada, like South Africa, engaged truth and reconciliation proceedings because it is a country indelibly marked by the systematic cultural genocide of Indigenous populations and devastating related processes of colonization. A key instrument of colonization in Canada was the residential schools policy, which has had a long-term and traceable impact on education, social services, justice, and constructions of childhood for over 150 years (Moore, in press). The impetus for the current study is inspired by the statement of Senator Murray Sinclair, Chair of Canada's Truth and Reconciliation Commission, that "Education has gotten us into this mess, and education will get us out" (as cited in Anderson, 2016: p. 1).

Both authors of this paper engage scholarship with a concern for the "relationship between ontology and epistemology" and are grounded in critical feminist ways of knowing (Hemmings, 2012: p. 147). Accordingly, we recognize the "significance of intersectionality and relationality" to knowledge production and make our standpoints explicit (IBID). As Canadians, both authors of this paper share similar identities as settler educators and scholars, and in addition to this standpoint, our interpretation of theoretical knowledge and pedagogical practice is informed by professional careers that include combined experiences that span decades, and include the facilitation of restorative justice and peace-building practices in contexts within Canada and the United Kingdom. As settler educators, both authors identify as allies in the project of understanding

Canada's history as a colonial nation built upon the devastation of cultural genocide visited upon the Indigenous peoples on this "home and native land" (to quote the national anthem) we now call Canada (Regan, 2010). Given this standpoint, we emphasize that restorative justice as a philosophy and practice has been situated within ancient and contemporary cultures in more than 100 countries, including Canada, the United States, and the United Kingdom (Clarysse & Moore, 2017; Moore, 2003, 2007, 2017). The same principles that inform present day restorative justice processes also shape truth and reconciliation processes around the globe including South Africa and Canada.

2. Canadian Context for Truth, Reconciliation, and Restorative Justice

Processes of colonization in Canada over the past five centuries have had a predatory character. Cultural genocide and the manifest devastation of First Nations, Inuit, and Metis populations throughout Indigenous communities in Canada are documented clearly through the report on the Truth and Reconciliation Commission of Canada (2015a):

For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as "cultural genocide" ... cultural genocide is the destruction of those structures and practices that allow the group to continue as a group. States that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted. Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly to the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next. In its dealing with Aboriginal people, Canada did all these things (Truth and Reconciliation Commission of Canada, p. 1).

Similar to truth and reconciliation processes that focus on truth-telling through dialogue, restorative justice is built upon "Indigenous epistemologies" (Arabena, 2008) in support of the participation of community members to rectify harm, wrongdoing and crime. The connections among community, healing, and education are reinforced by the use of the circle as a symbol and instrument of "connection, inclusion, fairness, equity and wholeness ... which is a common thread" (Costello, Wachtel, & Wachtel, 2010, p. 5) linking restorative justice, peace-building practices, and truth and reconciliation processes (Moore, *in press*). The circle represents the natural flow of cycles in life and reflects the

knowledge that our experiences in life, including learning, relationships and conflict, are lived out in cyclical patterns. At the core of restorative justice, peace-building practices, and truth and reconciliation proceedings are Indigenous ways of knowing, being, relating and learning (Apgar, Argumedo, & Allen, 2009; Arabena, 2008; Moore, Tulk, & Mitchell, 2005).

Restorative justice has been formally integrated into educational contexts around the globe over the past two decades in response to burgeoning legal, policy, and practice discourses (Hopkins, 2007; McCluskey et al., 2008; Moore & Mitchell, 2009, 2011; Moore, 2014; Rideout & Windle, 2010; Vaandering, 2011). Antecedents to restorative justice are Indigenous ways of knowing, relating and communitarian values which engage the complexity of human relationships (Moore, 2008a, 2008b; Moore & Mitchell, 2011; Pranis, Stewart, & Wedge, 2003). Moreover, it is upon this foundation that the United Nations has articulated globally recognized principles for the use of restorative justice (United Nations Economic and Social Council, 2002). This is an education movement that integrates the holistic principles of restorative justice including the value and worth of relationships. A holistic approach to education shifts the emphasis from delineated core curricular strands to a consideration of student capacities to positively contribute to school communities (Moore, 2014; Vaandering, 2010; Meyer & Evans, 2012). Writing from a North American Indigenous orientation, Morcom (2017) of the Algonquin Métis, Bear Clan, further explains connections among Indigenous ways of knowing and education philosophy through the concept of Holism:

Holism intercalates every aspect of Anishinaabe and many other Indigenous epistemologies, including one's understanding of the self and one's relationship to the community, other living things, the earth, and the divine. This orientation has a significant impact on pedagogy and classroom practice. It also determines how curriculum is understood and utilized from an Indigenous perspective; in stark contrast to the compartmentalization of subjects in the Western education system, Indigenous educational philosophy focuses on interrelationships between different subjects. This perspective is central to Indigenous sense-making. While the fundamental assertions of Western and Indigenous educational philosophies are significantly different, it is possible to meet Western curriculum expectations through Indigenous pedagogy by enacting holistic teaching practices and focusing on topics and interrelations (Morcom, p. 121).

In education, Holism defines both pedagogy and practice through a shared interconnection of all subject areas, and is a central characteristic of, specifically, the Anishinaabe people, as well as many Indigenous cultures around the world including the First Nations of the eastern woodlands of North America (Morcom, 2017). Holism in education is the process of identifying with and understanding oneself. Holism involves reflecting on the shared relationship among individual subjectivities, land, living things and community; and, it follows that

the application of Holism to educational contexts shifts one's perception of academic disciplines, ontological frameworks and epistemologies. Conversely, Western education is delineated and categorized by academic disciplines, therefore running the risk of leaving little space for student and teacher reflexivity (Morcom, 2017).

Over time, and in response to the call for expanding legal, policy, and practice discourse, restorative justice is acknowledged as relevant and applicable to traditional school settings (Hopkins, 2007; McCluskey et al., 2008; Moore & Mitchell, 2009, 2011; Moore, 2014; Rideout & Windle, 2010; Vaandering, 2011). In the same instance, restorative justice does not easily fit within existing judicial, social service and educational systems in Canada, which are historically rooted in colonial ideologies that emphasize assimilation and alignment with Western settler ideals of individualism (Pon, Gosine, & Phillips, 2011). Without critically questioning foundations in Canadian law and service, restorative justice processes have the potential to become tools of assimilation (see Mitchell & Moore, 2016; Moore, 2017; Truth and Reconciliation Commission of Canada, 2015a, 2015b). For the purpose of this study, restorative justice in educational contexts is broadly defined as methods of addressing injustice focused on safety, equity, mutuality, participation, and non-discrimination. Examples of restorative justice practices in educational contexts are far ranging and may include: discussing conflict; interrupting existing colonial relations that serve to fabricate a misleading appearance of peace; the application of mathematical and scientific tools to resolve everyday real-world problems; and building relationships and a sense of community through dialogue (Bickmore, 2011; Bickmore & Parker, 2014; Bizouras & Birger, 2013; Moore, 2014; Tupper, 2014).

3. Methodology and Methods

Building on previous investigations into restorative justice and legitimization discourses in educational contexts (Clarysse & Moore, 2017), this study is a preliminary analysis primarily focused on documents and narratives from Canada's Truth and Reconciliation Commission final report (Truth and Reconciliation Commission of Canada, 2015a) and "The Survivors Speak. A Report of the Truth and Reconciliation of Canada" (Truth and Reconciliation Commission of Canada, 2015b). The TRC text excerpts were compared and contrasted with a subset of data from a larger data set focused on restorative justice legislation, policy and practice in Canadian and United Kingdom education contexts. Accordingly, the current investigation engaged a descriptive exploratory approach to qualitative inquiry utilizing critical discourse analysis (CDA) (Foucault, 1965; Arribas-Ayllon & Walkerdine, 2008). Grounded theory informed data gathering, analysis, and coding in order to synthesize any key findings of legitimization discourses (Clarysse & Moore, 2017).

The conceptual framework informing the current study draws on van Leeuwen's (2007) articulation of four categories for analyzing processes that legitimate

social practices in public communication, education, and everyday interaction:

1) Authorization: legitimation by reference to the authority of tradition, custom and law, and of persons in whom institutional authority is vested

2) Moral evaluation: legitimation by reference to discourses of value

3) Rationalization: legitimation by reference to the goals and uses of institutionalized social action and to the social knowledge that endows them with cognitive validity

4) Mythopoesis: legitimation conveyed through narratives/stories whose outcomes reward legitimate action and punish non-legitimate action

To elaborate on [van Leeuwen's \(2007: pp. 106-119\)](#) conceptualization, [Oakley \(2013: pp. 31-32\)](#) provides an integrated organization of the various sub-categories encompassing legitimation as theory and practice (See [Table 1](#)):

The method of analysis for the current study utilizes Critical Discourse Analysis (CDA) to search for patterns of legitimation. A subset of data focused on restorative justice in Canadian education contexts was compared and contrasted

Table 1. Legitimation categories.

Category	Sub-Category	Why should I do this (in this way)?
Authorization	Personal Authority	* because I say so * because so-and-so says so
	Expert Authority	* because experts say so * because Professor X says so
	Role Model Authority	* because experienced people say so * because wise people say so
	Impersonal Authority	* because the law says so * because the guidelines say so
	The Authority of Tradition	* because this is what we have always done * because this is what we always do
	The Authority of Conformity	* because that's what everybody else does * because that's what most people do
Moral Evaluation	Evaluation	* because it is right * because it is natural * because it is perfectly normal
	Abstraction	* because it has X (moralized) desirable quality
Rationalization	Analogies	* because it is like another activity which is associated with positive values
	Instrumental Rationalization	* because it is a (moralized) means to an end
	Theoretical Rationalization	* because it is the way things are * because doing things this way is appropriate to the nature of these actors
Mythopoesis	Moral Tales	* because look at the reward(s) this person achieved for doing it
	Cautionary Tales	* because look at the consequences this person suffered for not doing it

with historical discourse and present-day survivor testimonies drawn from the *Truth and Reconciliation Commission of Canada* (2015a, 2015b).

Discourse analysis serves to unearth textual ideologies influenced by dominant power structures operating within contexts that would otherwise go unnoticed, unchallenged, and remain oppressive (Foucault, 1965). Established in the early 1990s as a theoretical and methodological framework, CDA's first methodologists include van Dijk, Fairclough, Kress, van Leeuwen, and Wodak (Fairclough & Wodak, 1997). CDA is a specific methodological tool that considers ideologies in discursive texts (Rogers, Malancharuvil-Berkes, Mosley, Hui, & Joseph, 2005). Critical discourse analysis reveals ideological positions and their influence on language, as well as dominant power structures (Fairclough, 2003).

In the first phase of this study, 78 legitimation-related text excerpts were selected from the *Truth and Reconciliation Commission of Canada* (2015a, 2015b) to be compared and contrasted with a subset of data focused on restorative justice in Canadian education contexts, as analysis for themes of legitimation were engaged. During the second phase, word-specific examples were chosen, narrowing the number down to 30 text excerpts from *Truth and Reconciliation Commission of Canada* (2015a, 2015b). Keywords indicating legitimation included but were not limited to: *justified, law, normal, acceptable, convert, savage, policy, force, expert, power, jail and arrested*.

During the third phase, grounded theory procedures (Glaser & Strauss, 1967/2010) for open coding of textual language were carried out with a specific focus on legitimation by source and subject matter. In the final stage of the coding process, the data were combined, compared, and contrasted from subject-specific text excerpts. This permitted a final number of 14 text excerpts from *Truth and Reconciliation Commission of Canada* (2015a, 2015b) documents. Multistep data analysis draws from Glaser and Strauss's work in grounded theory. Grounded theory deduces broader theory from specific observations, and offers a significant contribution to education theory by uncovering knowledge that applies to the real-world experience of stakeholders in education contexts (Glaser & Strauss, 1967/2010). The text excerpts chosen had to fulfill the following criteria:

- 1) The documents have been published as part of Canada's Truth and Reconciliation Commission.
- 2) The document must have been published in and for Canada.
- 3) The text excerpts relate to education and education contexts.

The central research question for this study has two parts:

(A) What textual evidence of discursive legitimation strategies are documented in Canada's Truth and Reconciliation Commission?

(B) How does the textual evidence found in the Truth and Reconciliation Commission of Canada compare and contrast with legitimation discourses shaping contemporary restorative justice and peace-building practice discourse for education contexts?

4. Findings and Preliminary Textual Analysis of Canada's TRC Documents

Document I is Truth and Reconciliation Commission of Canada (2015a).

Document II is Truth and Reconciliation Commission of Canada (2015b).

4.1a. Text Excerpts One

(A) *...residential schools were created....led by Canada's First prime minister, Sir John Macdonald.* (Preface, Document I)

(B) *Canada outlawed Aboriginal spiritual practices, jailed Aboriginal spiritual leaders, and confiscated sacred objects.* (p.2, Document I)

(C) *...I heard my dad talking to my mom there, and he was kind of crying, but he was talking in Cree now. He said that, "It's either residential school for my boys, or I go to jail." He said that in Cree. So, I overheard him. So I said the next morning, we all got up, and I said, "Well, I'm going to residential school," cause I didn't want my dad to go to jail.* (Isaac Daniels, p.13, Document II)

4.1b. Legitimation Category—Authorization (Expert, Role Model, Impersonal)

The legitimation strategy of authorization validates a social action or practice because it is entrusted in the: "authority, tradition, custom, law and/or persons within whom some kind of institutional authority is vested" (van Leeuwen, 2008: p. 105). As such, the realization of a goal or practice corresponds with the authorization or backing of a person or organization within whom power is allocated (van Leeuwen, 2008). Not only does the legitimation strategy of authorization invoke an answer to the question of *why* but also answers the question of *who* has the power to exercise authority and *how* (Oakley, 2013; van Leeuwen, 2008; Rojo & van Dijk, 1997; Fairclough, 2003).

In excerpt A, legitimation of the social act of separating Indigenous children from their families was incited and validated by a person with significant authority—the Prime Minister of Canada (A). As leader of the country, the Prime Minister of Canada exercised role model and expert authority over the Canadian people. In addition, validation of the authority of John A. Macdonald in example (A) extended further to the impersonal authority of the law via the authority to jail Indigenous spiritual leaders (B) and to order the arrest of Indigenous parents who resisted the removal of their children from the family home for the purpose of being placed in residential schools (C).

4.2a. Text Excerpts Two

(A) *In justifying the government's residential school policy, Canada's first prime minister, Sir John A. Macdonald, told the House of Commons in 1883: When the school is on the reserve the child lives with its parents, who are savages; he is surrounded by savages, and though he may learn to read and write his habits, and training and mode of thought are Indian. He is simply a savage who*

can read and write. (John A. Macdonald, p.2, Document I)

(B) *Campbell Papequash was taken, against his will, to residential school in 1946... And after I was taken there they took off my clothes and then they deloused me. I didn't know what was happening but I learned about it later, that they were delousing me; "the dirty, no-good-for-nothing savages, lousy."* (p. 39, Document I)

(C) *... And I remember not wanting to cut my hair, because I remember my mom had really long hair, down to her waist. And she never ever cut it, and she never cut our hair either. All the girls had really long hair in our family. And I kept saying that I didn't want to cut my hair, but they just sat me on the chair and they just got scissors and they just grabbed my hair, and they just cut it. And they had this big bucket there, and they just threw everybody's hair in that bucket.* (Helen Harry, p. 40, Document II)

(D) *I was already taking care of myself. I knew I didn't have bugs. But right away they assumed I did because I'm Aboriginal* (Ricky Kakekagumick, p. 40: Document II)

(E) *As soon as we entered the residential school, the abuse started right away. We were stripped, taken up to a dormitory, stripped. Our hair was sprayed ... they put oxfords on our feet, 'cause I know my feet hurt. They put dresses on us. And were made, we were always praying, we were always on our knees. We were told we were little, stupid savages* (Elaine Durocher, p. 41, Document II).

(F) *Brian Rae said he and the other boys at the Fort Frances, Ontario, school were given a physical inspection by female staff. You know, to get stripped like that by a female, you know, you don't even know, cause, you know, it was embarrassing, humiliating. And, and then she'd have this, you know, look or whatever it was in her eyes, eh, you know. And then she would comment about your private parts and stuff like that, eh, like, say, "Oh, what a cute peanut," and you know, just you know kind of rub you down there, and, and then, you know, just her eyes, the way she looked. So that kind of made me feel, feel all, you know, dirty and, you know, just, I don't know, just make me feel awful I guess because she was doing that. And then the others, you know, the other kids were there, you know, just laughing, eh, that was common. So, I think that was the first time I ever felt humiliated about my sexuality* (Brian Rae, p. 41, Document II).

4.2b. Legitimation Category—Instrumental and Theoretical Rationalization; and Moral Evaluation

The legitimation strategy of Instrumental Rationalization substantiates a social action on the grounds that it is fundamental to the realization of a desired social goal. As such, the realization of the practice of personal hygiene corresponds with success *or* failure in accomplishing the goal of converting aboriginal children from their "savage" (A, B & E) ways via cleanliness (van Leeuwen, 2008). Not only does the legitimation strategy of Instrumental Rationalization invoke the polarizing lens of savage versus civilized, but also an emphasis on the use-

fulness of the legitimated mass social practice of violently cutting hair (A), bathing publicly (F), stripping naked (B, E & F), culture and gender based shaming (A, B, C, D, E & F) and dousing with chemical (E) is elemental (Oakley, 2013; van Leeuwen, 2008; Rojo & van Dijk, 1997; Fairclough, 2003). Legitimated as a means to a socially desired end, acts of violence are legitimated by what they allow dominant power structures to accomplish. Moralizing routine hygiene practices in the context of Canada's residential school system legitimated violent acts that were carried out systematically, in mass numbers and without question (van Leeuwen, 2008).

4.3a. Text Excerpts Three

(A) *In establishing residential schools, the Canadian government essentially declared Aboriginal people to be unfit parents. Aboriginal parents were labelled as being indifferent to the future of their children—a judgment contradicted by the fact that parents often kept their children out of schools because they saw those schools, quite accurately, as dangerous and harsh institutions that sought to raise their children in alien ways* (p. 4, Document I).

(B) *My parents were told that we had to go to the residential school. And prior to that, at times, my dad didn't make very much money, so sometimes he would go to the welfare to get, to get ration, or get some monies to support twelve of us. And my parents were told that if they didn't put us in the residential school that all that would be cut off. So, my parents felt forced to put us in the residential school, eight of us, eight out of, of twelve* (Vitaline Elsie Jenner, p. 14, Document II).

(C) *She would go and clean, work for people, eh, like do their laundry and clean their floors and clean the house for them and that's how she fed us. They'd give her food, eh. And then when the priest arrived he told her, you know they'd be in a good place if they went to school. And so that's how that happened. I, my little sister, she was only four years old. So that's how we first got picked up* (Cecilia Whitefield-Big George's words about her mother, p.19, Document II).

4.3b. Legitimation Category—Moral Rationalization (Evaluation and Abstraction)

By moralizing the issue of poverty, the act of removing children from their families was legitimated. Essentially, this legitimation diverted acknowledgement from the systemic causes of poverty thereby rationalizing marginalization and disenfranchisement based on financial status. The mandated confiscation of Indigenous children from their families was the result of a “generalized motive” borne out of what was considered to be morally *healthy, good, right* or *normal*. According to Habermas (1976), this type of “generalized motive” ensures “mass loyalty”. It takes a person with historical knowledge of culture to spot the moral legitimation in such written and spoken discourses in order to prevent “genesis amnesia” (Bourdieu, 1979). As such, moral rationalizations are recognizable but

not explicit. In example (A), there was the implication that not sending children to Christian schools made Indigenous parents unfit. In examples (B) and (C), the accounts of the survivors of Canada's residential schooling system reflected the discourse of that time in history. As such, being financially poor was the equivalent to poor morality. This led to mass loyalty to displacement under the pretense that it was an act carried out in the best interests of not just Indigenous children, but their families and culture.

4.4a. Text Excerpts 4

(A) *At their height, the European empires laid claim to most of the earth's surface and controlled the seas. Numerous arguments were advanced to justify such extravagant interventions into the lands and lives of other peoples. These were largely elaborations on two basic concepts: 1) the Christian god had given the Christian nations the right to colonize the lands they "discovered" as long as they converted the Indigenous populations* (p. 46, Document 1).

(B) *Doctrine of Discovery was linked to a second idea: the lands being claimed were terra nullius—no man's land—and therefore open to claim. On the basis of this concept, the British government claimed ownership of the entire Australian continent (there, the doctrine of terra nullius remained the law until it was successfully challenged in court in 1992). Under this doctrine, imperialists could argue that the presence of Indigenous people did not void a claim of terra nullius, since the Indigenous people simply occupied, rather than owned, the land. True ownership, they claimed, could come only with European-style agriculture* (p. 46, Document I).

4.4b. Legitimation Category—Authorization (Impersonal Authority)

As aforementioned, the legitimation strategy of authorization validates a social action or practice because it is entrusted in the "authority, tradition, custom, law and/or persons within whom some kind of institutional authority is vested" (van Leeuwen, 2008, p. 105). As such, the question of "why" is answered by a person/expert (personal authority) or a group/institution/law (impersonal authority) that holds power. In example A, religious authority is used to justify the appropriation of Indigenous land under the pretense of "discovery". With impersonal authorization, the questions of "why", "who" and "how" are answered by policies, codes, regulations and laws (Oakley, 2013; van Leeuwen, 2008; Rojo & van Dijk, 1997; Fairclough, 2003). Hence, the "doctrine of discovery" or "terra nullius" legitimated the appropriation of land that had already been inhabited by Indigenous people for thousands of years. Under the law of the "doctrine of discovery", all land was decidedly "occupied" not "owned" by Indigenous families thereby legitimating appropriation.

5. Discussion, Contrast and Comparison

Canadian TRC documents & Restorative Justice in Contemporary Educa-

tion

Themes of legitimation drawn from the preliminary analysis of Truth and Reconciliation Commission of Canada documents were compared and contrasted with a subset of data investigating legitimation discourses in Canadian education contexts. Examples from the subset of data focused on restorative justice in Canadian school contexts include the following (see [Clarysse & Moore, 2017](#)):

This Facilitators' Companion has been created to assist boards of education in meeting their obligation to ensure that codes of conduct in their districts meet the provincial standards and comply with the School Act and the Provincial Standards for Codes of Conduct Order (p. 2) (Guide of the [British Columbia Ministry of Education, 2008](#))

This text example ([British Columbia Ministry of Education, 2008](#)) has indications of legitimation via impersonal authorization. Validating a social action or practice because it is entrusted in the “authority, tradition, custom, law and/or persons within whom some kind of institutional authority is vested” ([van Leeuwen, 2008, p. 105](#)), impersonal authorization in both text excerpts uses the authority of laws, acts and policies ([van Leeuwen, 2008](#)). Answering the question of *why* (because of a code of conduct, order, act etc.) as well as *who* holds power. As such, the Ministry of Education and the first Prime Minister of Canada hold the power to exercise authority ([Oakley, 2013](#); [van Leeuwen, 2008](#); [Rojo & van Dijk, 1997](#); [Fairclough, 2003](#)). If a misuse or over-reliance on impersonal legitimation is traceable in discourse related to education reform, there is the potential for the reallocation of power to external governing bodies in lieu of stakeholders in education contexts like teachers, students, principals and school boards. This, in turn, may diminish the sense of agency experienced by stakeholders who are sincerely on the front lines of education contexts.

Every student deserves to feel and be safe in a school, on the school grounds, on the school bus, and at school events and activities. At Hamilton-Wentworth District School Board (HWDSB), we know safety is essential to good learning. Students learn and teachers teach more successfully when schools are safe. If a student misbehaves, the principal decides on what steps to take to help the student improve his or her behaviour. Restorative Justice Practices represent one possible step ([Hamilton-Wentworth District School Board, 2009: p. 2](#)).

The second selected text example above, has indications of legitimation via instrumental rationalization. As such, the safety of staff and students in Hamilton-Wentworth schools is instrumental to good teaching and learning. Hence, the actions take to ensure safety are legitimated as a means of obtaining the social goal of *good teaching and learning*. Rationalized as instrumental, steps taken in the direction of increased school safety may be considered as “kinds of truth” and/or “micro-actions” towards school success ([van Leeuwen, 2008](#)).

Comparably, yet with an entirely different purpose, theme and subject matter, the example of instrumental rationalization in TRC text excerpts 2B and 2C (see 4.2a above) also indicated the use of instrumental rationalization. Although the actions, subject matter and purposes of the two documents differ extensively, in the TRC text cited above, there is reference to a fundamental goal and rationalization of the actions taken to achieve it. Text excerpt 2A from the TRC (see 4.2a above) offers an example of instrumental rationalization where residential schools were rationalized and legitimated as a means of attaining the social goal of converting Indigenous students from their *savage* ways (Habermas, 1976). During historical epoch marked by Canada's residential school system the schools were teleologically described as a "kind of solution" with the overarching goal of "strategic-utilitarian morality" (Habermas, 1976). In the TRC document, steps towards taking Indigenous children from their families and placing them in residential schools may have been perceived as steps or "micro-actions" toward a social goal (van Leeuwen, 2008).

Progressive discipline, as supported by Bill 212, has been a positive support for our restorative practices and strategies (Glenview Park Family of Schools, 2009: pp. 5-11).

Although differing extensively in purpose and subject matter, the selected text from the subset of data investigating legitimation discourses in education-related restorative justice practices around bullying at the Waterloo Region District School Board (Glenview Park Family of Schools, 2009) and text excerpts 4A and 4B from Canada's TRC (see 4.4a above) show legitimation via impersonal authorization. Validating a social action or practice because it is entrusted in the "authority, tradition, custom, law and/or persons within whom some kind of institutional authority is vested", in excerpt 4A (where Christianity holds power) while in excerpt 4B, the British Government, Imperialists and the law hold power (Oakley, 2013; van Leeuwen, 2008; Rojo & van Dijk, 1997; Fairclough, 2003). Impersonal authority answers *why* a law should be followed and for *whom*. The Waterloo document uses law and/or policy to support the use of restorative justice in education contexts. On the other hand, the TRC's excerpt of historical discourse demonstrates a misuse or over-reliance on impersonal legitimation resulting in land appropriation and centuries of displacement for Indigenous people.

In sum, findings from this study indicate unrestricted and extensive use of legitimation within historical discourse related to the residential schooling system as disclosed by survivors to Canada's TRC. In this CDA of text excerpts from the Truth and Reconciliation Commission of Canada, findings indicate that written and spoken discourse reveals themes of legitimation that reflect imbalances of power and to exploit Canada's Indigenous people. Education as violence was evident in Canada's residential schooling system as indicated in writing and the corresponding spoken word of Indigenous survivors and their descendants. Subsequent current-day testimonies of the survivors of Canada's residential

schooling system and their ancestors articulate the lived experience and fallout of education resulting from this historical discourse legitimization. In contrast to text evidence from the TRC, a comparative analysis of text samples from contemporary restorative justice policy, law and practice documents found a less pointed and more holistic application of discourses of legitimization to convey the merit of restorative justice practices in educational contexts. Although moralization was evident in the Canadian TRC texts, the selected excerpts from the present-day restorative justice law, policy and instructional documents did not show moral rationalization.

The implications of legitimization for discourses related to contemporary restorative justice in education contexts highlights the importance of an active process of reflexivity in the development of written texts and use of the spoken word. A historical and cultural understanding of what could be called “genesis amnesia” (Bourdieu, 1979) is critical for stakeholders in education contexts who engage in restorative justice practices. The *Truth and Reconciliation Commission of Canada* (2015a, 2015b) serves as a historical chronology of patterns of legitimization in education-related discourse leading to an “us versus them” mentality. The rhetoric of polarization was the impetus for cultural genocide and the use of schools and education as instruments of violence. By examining the past, stakeholders in education contexts are better equipped to develop relationship-focused restorative justice practices.

6. Conclusion

This study contributes to the growing body of literature investigating findings from the *Truth and Reconciliation Commission of Canada* (2015a, 2015b) and restorative justice in education contexts (Clarysse & Moore, 2017). It is one of the first studies utilizing critical discourse analysis (CDA) to examine text samples from the *Truth and Reconciliation Commission of Canada* (2015a, 2015b). Drawing from Foucault’s (1965) conceptualization of discourse analysis, the following research questions were addressed:

- 1) What textual evidence of discursive legitimization strategies are documented in Canada’s Truth and Reconciliation Commission?
- 2) How does the textual evidence found in the Truth and Reconciliation Commission of Canada compare and contrast with legitimization discourses shaping contemporary restorative justice and peace-building practice discourse for education contexts?

Through this investigation, documents from the *Truth and Reconciliation Commission of Canada* (2015a, 2015b) were engaged in a preliminary analysis and thematic patterns were found in selected text excerpts that convey relations of power and identity inherent to hierarchal organizational structures via legitimization processes of authorization, moral evaluation, and rationalization. TRC texts were then contextualized through a comparative analysis of present day restorative justice policy, practice and legislation in Canadian education con-

texts.

This study reinforces the important role of education-themed discourses in shaping critical awareness of discursive patterns of legitimation and the impact of these patterns of communication on notions of holism and community in education contexts. This study has limitations regarding the scope and depth with which it analyzed two sets of education-based texts that differed extensively and varied in purpose. This is a preliminary comparative analysis of discourses of legitimation found within the Canadian TRC and restorative justice in contemporary education contexts. As such, future studies comparing the use of legitimation in historical discourse related to education with current discourse may offer greater insight into the evolution of the use of legitimation in education texts over time. This juxtaposition of discourse use over time regarding scope, depth and purpose of legitimation in education-related discourse has the potential to contribute to understanding the impact of *how*, *why*, for *what* and *whom* legitimation is utilized in legislation, policy and practice.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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