Outline: Truth and Reconciliation

How should the history and legacy of residential schools in Canada affect the study and practice of family law?

I. TRC Calls to Action

28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

50. In keeping with the United Nations Declaration on the Rights of Indigenous Peoples, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

II. Popular Culture

In a group of 4 or 5, share with your group members the popular culture source that you found and brought to class. How have residential school issues been made visible to you in popular or other media? What did learning about them in this way offer you?

If no-one in your group found or brought a source, spend your group time talking about the ways that you have, or have not, had access to questions of colonialism in your education to date. Where and when should these issues be taught?

III. Briefing a Story

In your same groups, we move to think about some of the costs associate with generations of Indigenous children having attended residential schools in Canada. Choose one person to read aloud the story that you have been given.

Working with the methodology developed by UVic Law’s Indigenous Legal Research Unit: http://www.uvic.ca/law/about/indigenous/indigenouslawresearchunit/ brief the case using the briefing structure (which will be familiar to most of you) on the back of today’s handout. After working though the brief, ask yourselves, what principles, relevant to our work on families, family law, Indigenous legal orders, emerged in your discussions?

IV. Truth and Reconciliation

- in the largest class action settlement in Canadian legal history, the Indian Residential Schools Settlement Agreement (2006) formally acknowledged the multilayers of damage of the history and legacy of residential schools:
  http://www.residentialschoolsettlement.ca/english_index.html
- part of the settlement was a multi-billion dollar fund to find ways to enable healing, through financial and other supports to survivors, but also through funding the creation and implementation of a Truth and Reconciliation Commission and process
- established in 2008, the Commission did its work releasing its report in June of 2015
- the report has 94 Calls to Action, and travels some incredible ground:
  http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf

With attention to what you read in the survivor stories, and the work you have done for today – how do you think knowing and continuing to engage with the TRC, the history and legacy of residential schools matters to our study of family law?

For next class: Please Read Volume I pp. 14-31 and the excerpt from Fiona Kelly posted to CourseSpaces on Civil Legal Aid. How does jurisdiction matter in our understanding of how to solve family law problems and provide principled solutions? This class will be recorded given that many in our class will be attending Ab Camp 2016.
Case brief:  Name of story with full citations

Issue/Problem: What is the main human problem we are looking at within this story? What is it that the story is trying to tell us? It may be more effective to frame this as a question that one can then answer through the analysis.

Facts: What facts in the story matter to this particular issue?

Decision/Resolution: What is decided that resolves the problem? If there is no clear human decision, what action resolves the problem?

Reason (Ground/Ratio): What is the reason behind the decision or resolution? Is there an explanation in the story? If not, what can be inferred as the unstated reason? What is the “why” behind the decision or response?

Bracket: What do you need to bracket for yourself in this story? Some things may be beyond your current frame of reference but are not necessary for the case analysis. Conversations will inevitably flow from what is bracketed.