Frontline Reflections of Restorative Justice in Winnipeg: Considering Settler Colonialism In Our Practice

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Abstract

Based on the reflections of frontline workers, this paper explores restorative justice programming in Winnipeg, Manitoba and critically raises questions around settler colonialism, the justice process, and the "participant" "worker" relationship. Within settler colonial theory, the criminal justice system is seen as a colonial project that continues to disproportionately control and confine Indigenous Peoples. In theory, restorative justice is an alternative to the criminal justice system because of its emphasis on addressing harms rather than doling out punishment, yet it too is constrained by an ongoing settler colonial system. Exploring how workers understand settler colonialism and the restorative justice difference in their work and in their relationship with participants, this thesis argues that, to its detriment, restorative justice theory has not adequately considered settler colonialism. Bringing together Peace and Conflict Studies theories of relationship building and emerging critical theories of settler colonialism, this project explores frontline hopes for and critiques of restorative justice programming in an urban setting. Grounded in a critical constructivist research paradigm, data was collected through one-on-one interviews and focus groups with ten frontline workers who are program coordinators, victim offender mediators, and community workers. Framed by the writer's own experience as a frontline worker, the collected narratives offer critical, yet hopeful insight into restorative justice theory and practice, particularly within settler colonial contexts.

Table of Contents

Chapter One: Introduction

Though the abstract may seem complex the idea behind this thesis is straightforward. To explore whether theories of settler colonialism are relevant for thinking about restorative justice practice. Settler colonialism is a new concept to me; it's not one that I have spent university papers thinking and writing about and only very recently has it become something I have thought about in connection with my work outside of academia. Although I hesitated to use it for this research because I wondered if it was too abstract and theoretical to be helpful in framing conversations with other frontline workers, I was interested in exploring its relevance for my (our) work. What I found was that settler colonial theory did connect with what frontline workers said about their work, sometimes explicitly and in other cases more indirectly. I also found that the narratives of frontline workers offered a context that challenged settler colonialism, both as a process and as a field of study.

As a frontline worker for a restorative justice organization, my aim for this paper is to take the language of academia, specifically theories of settler colonialism, and filter it through the experience of frontline workers doing restorative justice work. In the case of settler colonial societies (such as Canada), where Indigenous peoples are disproportionately represented in the criminal justice system the ongoing nature of colonialism (not post-colonial or neocolonial) is evident. Programs that embrace restorative justice seek to offer an alternative to the punitive nature of the criminal justice system by focusing on repairing the harms created by crime and trauma. In theory, restorative justice as an alternative (and often times supplemental) approach to the criminal justice system, aspires to create a different paradigm or space, where the offender is not seen as the problem. While the criminal justice system has been criticized for producing and maintaining racialized space (Razack 2002, 2006), restorative justice has not experienced the

same level of critique.[1] This thesis is an exploration of how frontline workers experience their work within restorative justice programs both as unsettling the criminal justice system and settler colonialism and as limited because of those same systems. I argue that restorative justice theory has not adequately come to terms with settler colonialism, and that doing so is a necessary task.

Although a natural audience for this project is the academic community, the true motivation and thoughtfulness behind this thesis comes from a desire to build on the dialogue that is already taking place among individuals and communities working for justice within Winnipeg. Furthermore, because I believe this project has as much to do with creating greater understanding within the current reconciliatory moment in Canada as it does with contributing to academic theory and practice, my audience is also my family and friends, individuals engaged with, and in pursuit of reconciliation.

Dad: Did you know your great-great-grandmother was the first White woman in our municipality?

Me: ...?

Settler colonialism is a specific form of colonialism; it refers to colonization where "settlers come to stay" (Wolfe 2006). Therefore, land and land occupation is key to settler colonialism. For all settlers, regardless of whether one lives in an urban centre or rural community, land is a defining part of the history and current relationships with Indigenous peoples. Having grown up in rural Manitoba where my father, his father, grandfather, and great-grandfather farmed, land as a resource, as a sacred place, as privatized and colonized, and as my home is a conflictual and significant part of my story. What is the full implication of saying that my great-great-grandmother was the first White woman in our municipality? In remembering my

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[1] Theorists such as Juan Tauri have challenged restorative justice in settler colonial societies. Their work, in part informs the theoretical foundations of this project.

father first telling me this I can say that I do not honestly remember what my response was, but I do remember feeling conflicted. Thinking all at once of what I knew of colonization and residential schools and everything I did not know of what my great grandmother's experience might have been like as the first White woman in the area, I felt guilt, confusion, even pride.

When I use the term settler colonialism in this paper I use it to emphasize the ongoing nature of the colonial experience for all people, both Indigenous and non-Indigenous. I name it not as a way to add legitimacy to settler colonialism or to assume a never-ending settler colonial system, but as a means of understanding how to resist settler colonialism, particularly in regards to the justice system. It is important to understand settler colonialism as an overarching term that is relevant for many different contexts but also to understand the particularity of settler colonialism within those contexts. The experience and understanding of settler colonialism of people working for restorative justice in Winnipeg is quite unique, yet there may be engaging and hopeful ways forward in connection with others' struggle in different settler colonial contexts.

A Note on Terminology

The term settler is one of many used to describe the identity of someone whose history connects them directly to past and ongoing conquest of land and people through colonization. In the article, "Unsettling Settler Colonialism: The Discourse and Politics of Settlers, and Solidarity with Indigenous nations," Corey Snelgrove, Rita Dhamoon, and Jeff Corntassel (2014) interrogate settler colonial studies use of the term "settler." Corntassel reflects that settler can become a complacent term and that there are many Indigenous words for settler.

> For example, yonega is a Tsalagi (Cherokee) term for white settlers, which connotes "foam of the water; moved by wind and without its own direction; clings to everything that's solid." Wasicu is a Dakota term for settlers, which means "taker of fat." In the northwest, hwunitum is a Hul'qumi'num and

SENĆOŦEN word for settler, that some have described as "the hungry people". None of the above terms are positive reflections of settler society and represent the lived experiences of Indigenous nations amidst settler occupation (17).

The point that Corntassel makes is that using Indigenous words for settler redirects the focus towards Indigenous understandings of the impacts of settler colonialism rather than centering the conversation on what it means to be a settler (17).

Rita Dahmoon (2014) reflects on the discussion within settler colonialism around the term 'settler' saying, "there has been an anxiety that has long existed among non-Indigenous peoples about how to be accountable about being on colonized land. The anxiety about 'settler' is just a recent manifestation of that" (14). Furthermore, although settler is often used in an attempt to signal an original and ongoing occupation, it also does not inherently acknowledge the rights and resistance and narratives of Indigenous Nations (Snelgrove et al 2014, 16). Therefore, it is crucial to move beyond an anxiety that begins with a "performative declaration" (15) of being a settler, towards writing that relies on Indigenous critiques of settler colonialism. Within these critiques is the potential to transform settler colonialism and ensure its relevance to other fields of study, such as restorative justice.

The term "re-settler" comes from Native poet and academic, Emma Larocque (2011), who understands "that Native peoples were the original settlers, in the sense of being a deeply rooted and settled Indigenous presence on this land we now call Canada; therefore, I refer to all other state-created Canadians as immigrant 're-settlers'" (7). I am compelled to use Larocque's term to describe myself because it seems to inherently challenge the notion of *terra nullius* not only in regards to the history of first-contact in Canada but specifically my ancestors' history of 'settling' on the land where I grew up. Martin J. Cannon and Lina Sunseri (2011), editors of *Racism, Colonialism, and Indigeneity in Canada*, say that the term *terra nullius* conceptualized

Turtle Island as a "land imagined empty and unoccupied" (xvi). Larocque argues that not only was the land "occupied" but that Indigenous peoples were settled on the land. Therefore, 're-settler' is incompatible with the concept of *terra nullius* because it acknowledges the presence of Indigenous peoples on the land prior to European contact.

I only began to concretely understand the implications of the term *terra nullius* through writing this thesis which led me to ask questions of my father, great aunt, and other members in my hometown. I asked them what they knew about the "early years," following the European settlement of the land in our area in 1878. Through this process, I realized that the idea of *terra nullius*, which always assumes an erasure of Indigenous histories, had been alive and well in my own imagination despite having learned both within and outside of academia that the term was used to give legitimacy to the settler colonial project in Canada. Although I knew of the colonial history in Canada and had begun to question what it meant to live on colonized land, I had understood that only in an abstract way. I had not considered deeply that the physical land where I had grown up was being used and was meaningful to Indigenous peoples less than 150 years ago.

Terminology is always limited and limiting within academic writing, particularly as a White re-settler talking about research and theories that impact Indigenous peoples. Following Indigenous criminology scholar, Lisa Monchalin, I use the term Indigenous, acknowledging, as she does, why it is problematic.

> Indigenous peoples encompass a wide range of diverse cultural groups and practice a wide variety of traditions… In Canada alone, there are 86 different Indigenous languages spoken today. These languages are reflective of unique histories, cultures, and identities linked to family, community, the land, and traditional knowledge. Languages are fundamental to identity, so considering as one group Indigenous peoples who speak distinct languages is not only very restrictive but also a very inaccurate depiction of who these peoples and nations are and how they should be represented. (2016, 1)

Language has been a powerful, racializing tool under settler colonialism. I use the word racialized to indicate how policies such as the Indian Act established institutionalized racism where racial categories were created to control what it meant to be Indian (Cannon and Sunseri 2014, xviii). Although considered more acceptable language today, First Nations, Native, and Aboriginal are all still state based meanings. The historical significance of these terms and why using them is loaded is historically names have been constructed as a way of creating racial categories, categories that were/are dictated by the state rather than by Indigenous peoples themselves. I acknowledge that by using these terms I am implicated in this history of the Canadian nation-state representing Indigenous peoples.

Restorative justice has a long and rich history beyond its contemporary emergence in Western theory and practice. As a response to the discontent with the criminal justice system's process of doing business, restorative justice advocates sought an alternative response to addressing harm created by crime. Rather than state sanctioned punishment of an individual, restorative justice is "centered on specifically nuanced concepts of harm, obligation, need, restoration, healing, reconciliation, reintegration, participation and – when appropriate – forgiveness" (Pavlich 2005, 2). In reviewing some of the history of the emergence of restorative justice in the following chapter, it is clear that it has many different faces and "means different things to different people" (Roach 2006, 168).

The focus of this thesis is specifically the relationship between workers and participants of restorative justice programs. Throughout this project I refer to workers to indicate the individual frontline staff who I interviewed and participants to talk about individuals who

participate in restorative justice programs, acknowledging that these are limiting categories but are used to clarify meaning within the text.

Chapter 2 provides a brief overview of the history of settler colonialism in Canada as well as the beginning of contemporary restorative justice. Chapter 3 details the theoretical and methodological underpinnings of the project and makes connections between restorative justice, relationship building, and settler colonialism. I decided to interview frontline workers because in exploring these topics with coworkers I had already found that there was a significant amount of critical engagement happening in relation to the topic, although I could not find literature which reflected that experience at a theoretical level. Chapter 4 outlines the methodological approach. Using a critical, constructivist paradigm, I approached interviews with an aim of discovering how workers understood their work, specifically, how they considered ongoing colonialism within the justice process. In Chapter 5 I present the information I collected from frontline workers who shared their experience working in restorative justice programs through interviews and focus groups. Their narratives reflect that restorative justice programs act as resistance to the isolation and injustice created by settler colonialism through the criminal justice system but are also limited and constrained as workers attempt to facilitate restorative justice with participants of the programs. The final analysis chapter returns to the theory presented in Chapter 2 and offers new insight to these concepts in light of narratives provided by frontline workers.

This research has grown from my desire to understand the relevance of my great-great-grandmother's experience on the land in rural Manitoba in 1878 to my experience in Winnipeg in 2016 attempting to work for justice in a way that restores human dignity and relationships. I believe there is a deep relevance in our experiences, but I do not believe it is immediately or meaningfully apparent. In fact, I believe the relevance between the specificity of my experience

and that of my ancestors has been minimized in a way that serves a settler colonial agenda and that that agenda stands in direct tension to the pursuit of restorative justice. It is my hope that this research is not a self-serving project (although it is framed in terms of my own experience) but one that challenges restorative justice theory and practice to be accountable to participating in and upholding injustices of settler colonialism.

Chapter Two - Historical Context

One enters a room and history follows; one enters a room and history precedes. History is already seated in the chair in the empty room when one arrives. Where one stands in a society seems always related to this historical experience. Where one can be observed is relative to that history (25).

Dionne Brand, *A Map to the Door of No Return*

In exploring how workers see themselves, their work, and their relationship with participants, the telling of history is the foundation that determines "where one can be observed" in the context of the criminal justice system. In the same way that an individuals' social history, written by a case worker at a point in that person's life, is incomplete, oversimplified, and detached from the stories that make up someone's lived experience, so too is the following overview of settler colonialism and restorative justice in Canada. The emphasis on certain events or narratives is meant to create context for the ideas presented in the following chapters.

A Brief Overview of Settler Colonialism in Canada

The telling of Canada's history has largely functioned to erase the histories of Indigenous peoples (Lawrence 2011, 68). Controlled by European settler scholarship, this telling of history has tended to emphasize "settler" and minimize "colonial", neutralizing the criminal and barbaric practices and policies of settler colonialism from contact to present (Lawrence 2011, 69). Therefore, dispelling the myth of Canada as a peaceful settler nation through a retelling of history is crucial to understanding settler colonialism and relations between Indigenous and non-Indigenous peoples and the government of Canada today. It is also important to identify the ways Christianity, patriarchy, and the racialization of Indigenous peoples through Eurocentric institutions sustains and is sustained by a settler colonial system. In this brief history of Canada, I draw on writing from scholars who identify as Indigenous, particularly Mi'kmaw scholar, Bonita Lawrence, and editors of *Racism, Colonialism, and Indigeneity in Canada* (2011), Lina Sunseri

and Martin J. Cannon, acknowledging that the suppression of Indigenous histories through the silencing of Indigenous peoples has been a powerful tool in settler attempts to control Indigenous peoples (Cannon & Sunseri 2011, xiv).

Cannon and Sunseri begin their collection of essays by sharing the significance of the Two Row Wampum Belt in the historic relationship between Indigenous and non-Indigenous peoples in Canada. Wampum were used to formalize agreements and specifically the Two Row Wampum formalized the nation-to-nation agreement between Indigenous peoples and settler peoples in Canada. The Two Row Wampum which has two purple beaded rows separated by three white beaded rows symbolizes two separate, but coexisting jurisdictions. The policies of settler colonialism in Canada have repeatedly broken the agreements held sacred by the Two Row Wampum by using government programs, coercive assimilation, and outright violence to impinge on the rights and jurisdictions of Indigenous peoples (Cannon & Sunseri 2011, xiv).

In, *When the Other is Me: Native Resistance Discourse, 1850-1990*, Emma Larocque (2010) identifies "three major periods and phases of colonization: pre-Confederation, consisting largely of epidemics, explorers, missionaries, fur traders, and expansionists; Confederation, which effectively ended Native independence through displacement and legislation; and the post-World War II era, which roared in modernization"(75). As a form of mercantile colonialism, the fur trade in Canada created a climate in which Europeans and Indigenous peoples were relatively equal trading partners. As opposed to settler colonialism, where settlers seek to control land and natural resources, the success of the fur trade was dependent on alliances and dependence between European and Indigenous traders (Williams 1994, 983). However, the fur trade had a significant impact on relationships between Indigenous Nations as it destabilized the intertribal political landscape (Williams, 983). As pressure to survive became linked with a dependence on

the fur trade there was increasing warfare among Indigenous Nations (Lawrence 2011, 70). The significant military resistance Indigenous Nations posed to Crown authority was ongoing throughout the 17th-19th centuries, however the need to trade undermined these efforts (Lawrence 2011, 75).

At the same time as the fur trade was creating a divide and conquer climate among Indigenous Nations, settlers engaged in deliberate tactics to weaken and eliminate the Indigenous population. "In the Great Lakes region, chemical [introduction of alcohol] and germ warfare were used by the British as the primary means to acquire land and impose control" (Lawrence 2011, 75). In combination with sweeping disease epidemics that devastated First Nations communities, these situations were capitalized on by missionaries who came to "harvest converts" (Lawrence 2011, 73). This series of deliberate actions were all part of a settler colonial agenda. Quoted by Lawrence (2011), Winona Stevenson on this colonial agenda states, "mercantilists wanted our furs, missionaries wanted our souls, colonial governments and later, Canada, wanted our lands" (70).

The history of settler colonialism is one of land seizure and occupation. In some cases in Canada, land was settled through negotiating treaties between Europeans and First Nations and sometimes land was simply occupied. In the cases where treaties were signed, the process often ignored informed consent by Indigenous peoples and in many cases was marked by fraud (Canada 2015, 1). The treaties, such as the Royal Proclamation of 1763, are the foundation of relations between Indigenous and non-Indigenous peoples and the government of Canada (Borrows 1997). Underpinned by the Royal Proclamation, the sentiments expressed in the Treaty of Niagara (1764) through the exchange of Wampum belts and further negotiated through treaties signed between representatives of the Canadian government and First Nations leaders

represent a "positive guarantee of First Nation self-government" (Borrows 155). Monchalin (2016) describes the nature of treaties in Canada and the role they were to play in defining relationships between settlers and Indigenous peoples.

> Throughout the 1700s, various peace and friendship treaties were made. Many were about peaceful coexistence, so they define the respective rights allocated to Indigenous peoples and settlers to enjoy and use lands. They outlined various other rights and responsibilities as well, including recognizing Indigenous people's original title to lands (82).

Treaties sought to legalize guidelines for how land and people were governed and through this process often treated Indigenous peoples as a single entity.

The status of Indigenous peoples in Canada historically has been defined in and through legal policy that categorizes all Indigenous peoples ignorant to differences of culture and language (Cannon & Sunseri 2011, xvi). Through processes such as legal enfranchisement and the Indian Act, the "Canadian state treated all Indigenous Nations as one 'Indian Race'; their oneness constructed by virtue of otherness" (Cannon & Sunseri 2011, xvii). In other words, Indigenous Peoples were homogenized as one race that was seen as inferior to the European race. Legal enfranchisement of 1857 was a policy whereby Indian men of "good standing" could give up their legal status and become non-Indian in the eyes of the state i.e. giving up Indian status meant becoming 'civilized' (Cannon 2011, 90). According to Algonquin Anishinaabe-kwe writer, Lynn Gehl (2015), enfranchisement was "the process of stripping Indigenous peoples of their treaty rights and conferring Canadian citizenship on them. It was a state mechanism of assimilation and genocide." This policy continued into the 20th century and is another example of both a racialized and patriarchal government policy (Cannon 2011, 91).

Control of land and people through settler colonialism is implemented and legitimized by government policies. The residential school system in Canada fractured families and

communities through the forced removal and assimilation of children. The mandate of these schools were to "kill the Indian" in the child by separating children from their parents and home communities, splitting up siblings upon arriving at schools, and forbidding children to speak their language.

The Truth and Reconciliation Commission of Canada (TRC) report (2015), which examined the effects of the residential school system stated that "the most harmful impacts of residential schools have been the loss of pride and self-respect of Aboriginal people; [and that] virtually all aspects of Canadian society may need to be reconsidered [for reconciliation]" (vi). The TRC process of hearing stories from those who were witness to residential school abuse, many of whom were survivors, found that conditions were harsh and many children experienced sexual and physical abuse, calling the residential school "institutionalized child neglect" (3). Residential schools were built on a Eurocentric Christian assumption of the superiority of European civilization and the inherent 'salvation' of cutting children off from their families and culture. The history of residential schools in Canada is being recognized within academia as "colonial genocide" (Woolford and Benvenuto and Hinton eds. 2014).

The post-World War II phase of settler colonization was characterized by significant increases in urbanization and industrialization and today "Native peoples continue to lose massive amounts of ecological space and resources to megaprojects to extract or produce hydroelectricity, lumber, gas and oil, and uranium and other minerals" (LaRocque 2010, 76). In Manitoba, the re-engineering of waterways through hydro development in the North is a devastating example of the continued exploitation of Indigenous resources and lands and the impact it has on communities. The stories of what hydro development has done to the communities and families who relied on the land for survival and the preservation of traditional

ways is devastating. A coworker once told me of a story he had heard from Sandy Beardy, an elder from Cross Lake who said; "Before Manitoba Hydro, I could fill my family's table bountifully; meat and berries off the land, fish from the water. When Manitoba Hydro came, it was like a madman came and dumped a slop pail on my family's table."[2] This is just one example of the way settler colonialism functions on multiple levels through the occupation and destruction of land and resources.[3]

From a perspective that addresses the settler colonial foundation of Canada the focus is shifted from addressing an Indian Problem[4] to addressing the "settler problem" (Epp 2003). Overrepresentation of Indigenous peoples within not only the criminal justice system but child welfare system and healthcare system can no longer be understood as related to Indigenous peoples and culture but as a symptom of intentional settler colonial policies and interventions.

The Aboriginal Justice Inquiries of 1991 and 1999 sought to interrogate the reasons for the over representation of Indigenous peoples at every level of the criminal justice system, naming a colonial history as a significant factor. Although Indigenous people constitute only 3% of the Canadian population, 27% of those admitted to provincial custody in 2008/09 were Indigenous (Dauvergne 2012, 11). In Manitoba, where incarceration rates are among the highest of the provinces, Indigenous people comprised 70% of inmates in provincial prisons, although Indigenous people comprise only 15% of the population in Manitoba (Office of the Auditor General 2014). Additionally this overrepresentation is on the rise; in 1990/91 Indigenous people

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[2] Paraphrased. I heard this story through my participation in the Interchurch Council on Hydro development. Will Braun recalled this story from Sandy Beardy.

[3] It is important to note that although the devastation of Manitoba Hydro projects in Northern Manitoba is clear, the current political and economic implications are complex and fragmented. Some individuals and some communities are in partnership with Manitoba Hydro in order to secure an economic benefit from the projects while others speak out against current and future development.

[4] I follow Andrew Woolford in omitting scare quotations around Indian Problem in order to differentiate between when I am quoting another source. Woolford also capitalizes the term to point to the "problematization of the Indian dominated settler colonial thinking since the onset of mass European settlement." (2015, p. 301)

constituted only 46% of incarcerated adult offenders in Manitoba (Office of the Auditor General 2014).

In the article, "The Colonialism of Incarceration", Robert Nichols argues that the term overrepresentation is "highly ambiguous and malleable" and that statistics of overrepresentation are regurgitated throughout multiple disciplines as a starting point for talking about the problems with the criminal justice system or social issues more broadly (440). Rather than talk about these statistics as evidence of a social problem, he advocates understanding statistics of overrepresentation (and the use of the word itself) as political, rather than only social (441). When we look at the statistics of overrepresentation within Manitoba specifically, it is crucial to acknowledge the high percentage of inmates awaiting trial on remand who have not been convicted of a crime. Although jail sentences over the past two decades have remained relatively stable, the number of inmates on remand has nearly tripled from 15 years ago (Marcoux and Barghout 2015). This offers a critical lens to view statistics of overrepresentation and challenges the connection between the court system, the jail system, and rates of crime.

Telling a history of Canada that challenges settler colonialism requires a deconstruction of European settlers as benevolent peacemakers and of colonial institutions as "civilizing projects" (Regan 2010, 83). Instead, naming the residential school system as genocide, as one example of deconstructing historical accounts of settler involvement with Indigenous peoples, is central to this project. However, it is also important to frame this history in the context of past and continued Indigenous presence. Stated in the TRC report (2015),

> […] despite the coercive measures that the government adopted, it failed to achieve its policy goals. Although Aboriginal peoples and cultures have been badly damaged, they continue to exist. Aboriginal people have refused to surrender their identity (6).

It is impossible to understand the justice process today, including efforts at restorative justice, without identifying the racism and injustice inherent within the system because of Canada's history as a settler colonial nation. In retelling this history, we acknowledge how historical narratives are maintained, colonization is not over, and that reconciliation requires abandoning a peacekeeper mythology (Razack 2004) and wrestling with Canada's settler colonial history and present.

Sources of Restorative Justice in Canada

Restorative Justice is a broad term used to describe many different processes, goals, and values, but is meaningful in the context of this project because of the specific ways it is thought about and practiced by those I consulted. Any discussion of the emergence of restorative justice in Canada cannot be divorced from the politics of implementing certain processes and the rhetoric and justification surrounding that implementation within a settler colonial context. The following is a brief summary of the contemporary re-emergence of restorative justice in Western legal systems, which leads to the specific ways it is defined within the parameters of this project.

Using the term *contemporary* restorative justice indicates that the values and processes attached to this movement have historical roots with many cultural and religious traditions beyond its emergence in the last several decades. In Canada, sources of restorative justice include various Indigenous and faith-based traditions but are not often understood in terms of settler colonialism. In regards to the use of Indigenous tradition within restorative justice, Emma Laroque reflects that "much of what is unquestionably thought to be tradition is actually syncretized fragments of Native and Western traditions which have become highly politicized because they have been created from the context of colonization" (Laroque 1997, 76). An assumption of this project is that restorative justice practice in Winnipeg is fragmented and

politicized just as Laroque suggests and therefore both its specific expression in different contexts and how it fits into a broader socio-political landscape is important. To that end, how it is understood by workers is significant in how it is experienced by participants. Identifying some of the multiple sources and early experiments of restorative justice in Canada are helpful in framing those understandings.

Emerging out of increasing critiques of the criminal justice system in the 1970s and 1980s, restorative justice advocates pointed to the downfalls of a system labelled "costly, inefficient, alienating, arbitrary, inaccessible, and inappropriately focused on the interests of lawyers and judges" (Pavlich 2005, 5). Early restorative justice then, sought to implement a process that was more appropriately rooted in addressing the harms caused for all parties as well as the root causes of the offense. Processes and ideas labeled restorative justice have had many names including, informal justice, community justice, and alternative dispute resolution (ADR) all intended to reflect a different way of doing justice from the legalized, formal criminal justice system.

One of the earliest examples of contemporary restorative justice in Canada, is the Victim Offender Reconciliation Program (VORP) founded in 1974 in Kitchener, Ontario and associated with the Mennonite faith tradition. Through the program, offenders were given the option to set a restitution plan alongside the victim (who was given the option to participate) or to have the court set the restitution (Peachey 1989). In 1979, Mediation Services was established in Winnipeg and continues to offer mediation to the community including victim-offender mediation diversions from the Crown. Onashowewin Justice Circle (OJC), an organization that incorporates traditional teachings in their programming, was created in 2002 as part of the Aboriginal Justice Strategy. Not all expressions of restorative justice include both victim and

offender. OJC facilitates conferencing circles and mediation with victims and offenders (OJC uses the language of persons harmed and persons who have harmed) but also supports offenders through cultural counselling and workshops. Programs that offer support to offenders as they reintegrate back into the community, such as Circles of Support and Accountability, which also began in Ontario in the 1980s and has since been used around the world, is considered a restorative justice model despite not directly including victims.

Where processes of restorative justice differ, the values and goals are still often consistent. In other words, programs that seek to support offenders such as prison visitation are governed by the *values* conception of restorative justice despite not being part of the *process* conception of restorative justice (Morrison and Ahmed 2006). In 1990, Howard Zehr wrote that rethinking the justice process required a changing lens or a new set of values where crime was seen as a violation of human relationships rather than a violation against the state (181). Using this lens, crime creates a responsibility to repair harm and reconcile relationships rather than blaming and doling out punishment to an individual. The values of restorative justice laid out by Zehr do not necessarily include both victim and offender and wider community, instead the focus is on the repair of relationships.

The theory and practice of contemporary restorative justice is often compared and contrasted, even homogenized with Indigenous justice forms. At the same time that critiques of the criminal justice system were emerging in North America, critics were taking note of the examples of Indigenous forms of justice provided by legal anthropologists around the world (Pavlich 2005, 5). For Chris Cuneen (2004), an Australian criminologist specializing in Indigenous peoples and the law, there is a problem with comparisons made between restorative justice and Indigenous forms of justice.

> Often the claims which link restorative justice practices to indigenous peoples are trivializing and patronizing. They deny the complex effects of colonial policies which have, at various times, sought to exterminate, assimilate, "civilize," and Christianize Aboriginal peoples… They also deny the complexity and variations in indigenous dispute resolution processes. (345)

We should be wary of identifying connections between contemporary restorative justice and Indigenous forms of justice because of the complex social and historical differences between these two forms (Woolford and Radner 2008, 67). There are many examples in the last 25 years where Indigenous justice forms (as "restorative justice") have been appropriated by the formal legal process in inappropriate and colonizing ways (Tauri 2009). For example, Woolford and Radner (2008) point to the state's unsuitable use of sentencing circles with Indigenous communities that have no history of using sentencing circles as a means of seeking justice (67, 68). Even in cases where certain justice processes are consistent with a community's historical traditions their functioning within the formal legal system is still situated within the state apparatus (Woolford and Radner 2008, 67); the same state responsible for ongoing settler colonialism.

Maori criminologist, Juan Tauri, shows how historically, merging the idea of restorative justice with that of Indigenous justice has been useful for the state in "advancing the perception that the state-centered justice system was culturally sensitive and responsive to the needs of Indigenes" (4). Additionally, restorative justice became a "fashionable theoretical and policy vehicle" to address the problem of Indigenous overrepresentation (4). Another reason Tauri offers for why we should be wary of the state's use of restorative principles or the standardization of restorative justice, specifically in addressing overrepresentation, is that it gives power to the state (14). Therefore, the (re)discovery of restorative justice by the Western legal

system has particular significance within settler colonial contexts and must receive ongoing and careful critique (Tauri 2009).

In parallel with the emergence of specific restorative justice programs in North America were efforts at reforming the criminal justice system more broadly, particularly in regards to Indigenous overrepresentation. Laprairie and Dickson-Gilmore (2005, 58) talk about two waves of reform within the justice system. The first wave was cultural sensitivity programming that was based on the assumption that Indigenous overrepresentation was a result of discrimination within the system as "culture conflict" (58). In this wave, cultural training and education for individuals within the system was seen as a way of reducing discrimination and consequently overrepresentation. The second wave of reform was a process of replacing non-Indigenous people working within the system, police officers, lawyers, judges etc. with Indigenous people, seen as a process of "Indigenization" (59). They argue that in both waves, superficial reforms give the "appearance that the state is reforming the system when, in fact, the programs in question involve little, if any, significant change to the system" (62). Although reforms to the criminal justice system are not the same as restorative justice programs, they are both responses to problems within the criminal justice system.

The purpose of offering a brief overview of the emergence of contemporary restorative justice is that although its definition has been and continues to be broad, encompassing many different processes and ideas, it has always been held as an alternative to the criminal justice system. Therefore, it is an important part of understanding a restorative justice identity. In the following chapters I will interrogate further the idea of a restorative justice difference both to identify the potential of restorative justice initiatives but to also be critical of the same in light of a settler colonial history.

Chapter 3: Theoretical Foundations

The theoretical foundations of this project bring together knowledge from settler colonial studies and restorative justice theory. Analyzing frontline work within restorative justice, as opposed to more meso- or macro-levels of analysis, comes from a desire to understand the strength of restorative justice practice at a person-to-person level. Critical analysis of the ways government policy and funding influence restorative justice practice is essential and I include those ideas as they relate to my research, however my primary interest for this thesis is that it directly relates to the experience of frontline workers. Approaching analysis of frontline work from a settler colonial perspective is intended to bring understanding to the areas that deserve more critical reflection. I believe that the theoretical exchange between settler colonial theory and restorative justice theory and practice is not one-sided; the reflections of restorative justice workers also shed new light on settler colonial theory and push the field of study to be relevant for those working for justice.

Between me and the other world there is ever an unasked question: unasked by some through feelings of delicacy; by others through the difficulty of rightly framing it. All, nevertheless, flutter round it. They approach me in a half-hesitant sort of way, eye me curiously or compassionately, and then, instead of saying directly, How does it feel to be a problem? they say, I know an excellent colored man in my town; or, I fought at Mechanicsvillle; or, Do not these Southern outrages make your blood boil? At these I smile, or am interested, or reduce the boiling to a simmer, as the occasion may require. To the real question, How does it feel to be a problem? I answer seldom a word.

- W.E.B. Du Bois in *The Souls of Black Folk*

The first time I read this quote, by way of reading Cornel West (1993), I immediately thought of my work within social services. It shifted my lens of how I related to participants and

made me consider the ways individuals within the justice system, which may include restorative

justice programs, are confronted with Du Bois' unasked question. As one example, I think of a

young man I met who was about my age, at a vigil outside of the law courts in Winnipeg. The

vigil was a part of a series of events organized in response to the death of Errol Greene who had

been awaiting trial at the Winnipeg Remand Center. At the end of the vigil he shared about his

anger towards the criminal justice system because of his experience with racist treatment by

guards and separation from his family. It was an incredibly powerful moment for us to listen as

he spoke; his words were filled with so much emotion and truth given the circumstances. When I

spoke with him afterwards, he thanked us for listening, saying how appreciative he was that he

had the chance to be heard. His experience of not being able to be heard meaningfully while at

the same time being treated with violence and racism, is an experience replicated over and over

throughout the justice system. I engaged workers to think about how their work in restorative

justice may contribute in more subtle ways to the same kind of silencing of individuals within the

system, such as how we respond to participants' expressing anger; do we listen to what they are

expressing or do we ask them to leave programs? Through this process, the gaze is turned toward

those entrenched within the system, who are subtly reconfirmed again and again as the problem.

What strikes me most about Du Bois' framing of the experience of the racialized Other

(he begins by positioning himself in relation to the "other world"), was that the unasked

question, "how does it feel to be a problem?" was veiled by those asking the question behind

other, more acceptable questions. In other words, it was not what was said, so much as what was

not said. When it comes to the justice system, individuals and institutions within the system have

learned to cloak the injustice of racism and colonialism behind more benevolent, "delicate"

language. One worker highlighted an example of this by pointing out how Winnipeg police

documents read like social work documents. The 2016 Winnipeg Police Service Business Plan is entitled "A Culture of Safety For All" and advocates that "achieving crime prevention through social development requires strengthening synergies between a diverse partnership of community and government agencies" (5). Nowhere in this document is there mention of how the Winnipeg police force will deal with racial profiling in its practice, nor is there any move to take responsibility for addressing accusations of police brutality. The well intentioned language of "strengthening synergies" is arguably an empty commitment if it does not also include a commitment to these other aspects of policing.

Benevolence is defined as the disposition to do good; an act of kindness; a generous gift. In his book, *This Benevolent Experiment: Indigenous Boarding Schools, Genocide, and Redress in Canada and the United States*, scholar Andrew Woolford (2015) examines how boarding schools were represented as a benevolent settler colonial experiment in addressing the Indian Problem. Although many have exposed the myth of the Indian Problem and instead argue "colonial problem" (Monchalin 2016) or "settler problem" (Epp 2003) are more accurate terms to talk about the devastating social impacts of colonization, colonial mentalities that position Indigenous people as a problem to be fixed or reconciled are still widely held. To that end, it is important to interrogate the way those mentalities are at work within the justice system.

Chris Cuneen (2004) states that "restorative justice has been as much a globalizing force as traditional Western processes. The potential to overrun traditional Indigenous customs and laws is as real with RJ as it is with the retributive or rehabilitative models" (347). He is referring to the development and implementation of restorative justice programs, which he argues have largely ignored the rights of Indigenous peoples in the same way that the criminal justice system has done (347). Whether it is called criminal justice or restorative justice, the programs and

policies that uphold these justice systems should be critically examined in terms of their relation to colonial power structures and whether they continue to treat Indigenous people as though they are the problem, regardless of how benevolent the approach.

Defining Restorative Justice

Although there is much literature around restorative justice and what constitutes restorative justice practices, there is no agreed upon definition of restorative justice (Daly 2006, 135). However, the lack of an exact definition does not necessarily detract from making connections between settler colonialism and restorative justice theory and practice. Therefore, I offer a broad definition now with the assumption that throughout this paper it will gain specificity, particularly through frontline narratives. One of the critical distinctions in defining restorative justice is the difference between process and values, which was highlighted in the previous chapter. A definition of restorative justice that includes a concern for "creating social arrangements that foster human dignity, mutual respect, and equal well-being" (Sullivan and Tifft 2006, 388) resonates with the values held by frontline workers, although it says nothing of the specific processes they facilitate. This distinction between a "values conception" and a "process conception" (Morrison and Ahmed 2006) allows for thinking about restorative justice as both a vision for restoring human dignity and at the same time including processes such as victim offender mediation and conferencing. Sometimes restorative justice includes bringing together victim, offender, and families or community members but restorative justice programs may also focus solely on support for individual victims and offenders after they have been through the justice system. With this understanding in mind, that restorative justice refers both to broad values but also specific processes, it is crucial to understand both conceptions as political and historical within a settler colonial context.

The United Nations study (2014) that examines access to justice in the promotion and protection of the rights of Indigenous peoples focuses on three main areas; restorative justice, Indigenous juridical systems, and access to justice for Indigenous women, children and youth, and persons with disabilities.

> The flexible and participatory nature of restorative justice processes, along with their inherent similarities to customary law, mean that they may provide a vehicle to support the use of indigenous justice systems and hence facilitate indigenous self-determination. Practices such as mediation are useful tools that can bridge the gap between formal legal systems and grass-roots justice work. However, features of some restorative justice processes may undermine their ability to support access to justice and self-determination, including "top-down" imposition and the possible politicization of these processes" (18).

The UN frames the conversation of restorative justice and Indigenous peoples using the language of rights and self-determination. Chris Cuneen using the same language, offers a critique of restorative justice.

> A central problem in the way restorative justice programs have developed has been that Indigenous rights have been ignored, in particular the right to self-determination. Restorative justice programs *may* fit with indigenous claims to greater autonomy and control over the exercise of justice systems. However, indigenous human rights should be seen as integral principles to the development of restorative justice programs (Cuneen 2004, 347).

This is a fundamental point of analysis because it pushes the question, does restorative justice allow for Indigenous self-determination? In *Therapeutic Nations: Healing in an Age of Indigenous Human Rights,* Dian Million (2013), a Tanana Athabascan scholar, challenges UN-based definitions of self-determination. In defining self-determination she cites Roger Maaka and Augie Fleras (2008) who argue that self-determination is an "inherent Indigenous autonomy which honors 'distinctive ways of looking at the world' and recognize 'that Indigenous peoples alone possess the right to decide… what is best'" (74). Although self-determination signals a collective right, the definition offered by Maaka, Fleras, and Million for me creates space for

thinking about these ideas in the lives of individuals. However, rather than use self-determination (to avoid indivdiualizing a collective right), or self-representation (which has legal connotations), I use autonomy and self-expression throughout this paper to talk about the idea of participants being able to use their own voice to talk about themselves and to construct their own identities in relation to others.

Settler Colonialism and the Justice System

Theories of settler colonialism emerged because of a need to distinguish between settings of post-colonialism, where independence from a colonial power was gained, and that of settler colonialism, where the colonial power never left. The distinctions made by settler colonial theorists initially focused on issues of land and resources and labor[5], but recently critiques within settler colonial studies seek to expose the ways settler colonial studies has actually reaffirmed and given legitimacy to continued settler colonialism. For example, Macoun and Strakosch (2013) reflect that settler colonialism is primarily a settler framework.

> While this movement [settler colonialism] may be animated by and in sympathy with major developments in critical Indigenous theory and global Indigenous activism, SCT remains a largely White attempt to think through contemporary colonial relationships. Like us, most settlers who use the theoretical framework are concerned to disturb rather than re-enact colonial hierarchies, and seek to contribute to Indigenous political struggles. (426)

Another critique is that settler colonialism faces Indigenous peoples with only two options; "be coopted or hold a position of resistance/sovereign" (Snelgrove et al 2014, 9). It is to this second critique that I return to in the analysis chapter of this paper.

In grounding this project within settler colonial studies, a helpful framework to structure the experience of frontline workers is Andrew Woolford's (2015) concept of the "settler colonial

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[5] Patrick Wolfe's *Settler Colonialism and the Elimination of the Native* and Lorenzo Veracini's *Settler Colonialism: A Theoretical Overview* are foundational examples of settler colonial scholarship.

mesh," which he uses to analyze residential schools as tools for assimilation and genocide in North America.

> I conceptualize settler colonial practices of assimilative education as a series of nets that operates at macro-, meso-, and microsocietal levels. These nets tighten or slacken as they stretch across space and time, and when brought together, one on top of the other, they form a settler colonial mesh, which operates to entrap Indigenous peoples within the settler colonial assimilative project. (3)

Woolford points out that the deployment of assimilative education techniques through residential schools was not a uniform process, but was dependent on multiple factors across micro, meso, and macro levels in society, so that each school, and even each child's experience was particular (98). Therefore, the extent to which schools "succeeded" in their assimilative experiment was dependent on staff, parents, children, and communities but also government policies and societal constructions of the Indian Problem. The nature of the settler colonial mesh is such that there is space for resistance within the different levels and because of this resistance, Indigenous peoples were not extinguished through the genocidal and assimilative techniques of the residential school system (5).

Although the residential school system and the criminal justice system have marked differences, the idea of the settler colonial mesh is helpful in understanding a specifically settler colonial system. The settler colonial mesh at work in restorative justice programs reveals how relationships held between participants and workers are influenced by factors such as program policies and requirements, which are shaped by the aims of government funding bodies, who align with or are influenced by macro understandings of crime and justice within society. These constructions are not only social but political as well.[6] Illustrated by the experience of frontline workers, although there are opportunities to resist the forces which constrain Indigenous peoples through the system, the overall settler colonial mesh still holds. Even though restorative justice

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[6] As when "tough on crime" mentalities are used in service of political platforms.

programs and the criminal justice system may have different values and processes, both are constrained by this settler colonial mesh. When I talk about a settler colonial agenda, I am referring to the ways in which the settler colonial mesh has worked and continues to work to erase Indigenous histories, homogenize Indigenous cultures and languages, control conceptions of Indigeneity, genocide Indigenous Peoples, destruct Indigenous governance systems, and control resources through the occupation of land.

Although there are many critiques of the criminal justice system that see it as a system which is extremely costly and does little to reduce crime and make communities safer, the ideas that I wish to raise are centered around the ways the criminal justice system, including restorative justice, supports this settler colonial agenda. Restorative justice is often held up as being different or as succeeding on those points where the criminal justice system so obviously fails. Rather than make efficiency the primary measure[7], the criticism which I build on in this project is the criminal justice system as an unjust system within settler colonial contexts because it remains a colonial project.

Jaun Tauri and Ngati Porou (2014) take Nicholas Thomas' theory of "colonial project" to understand the nature of the criminal justice system and how it treats Indigenous populations in settler colonial contexts. They point processes within the criminal justice system which are "foundational to the state's attempted eradication, and eventual socio-economic marginalization, of Indigenous peoples" (21). To understand the criminal justice system as colonial, it is important to first identify that there is little connection between the increase of individuals within

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[7] An important example of why attempts to prove efficiency are not necessarily the most effective means of securing funding or establishing restorative justice as legitimate is Circles of Support and Accountability (COSA) programs in Canada. The federal government conducted a national review of COSA programs in 2014 and found that for every $1 spent, $4 were saved and that recidivism was decreased by 80%. Still the Conservative Federal government cut the program entirely. Clearly calls for funding based on efficiency are alone not enough. Instead there is need to look critically at the source of funding itself.

the criminal justice system – the type of influx that justifies the need for more jails – and fluctuations in crime (Nichols 2014, 441). As an example, at the same time that Canada's federal government advocated and introduced "tough on crime" laws in 2013, Canada had its lowest crime rate in several decades (Nichols 2014). Therefore, the idea that there are more Indigenous peoples in prison because Indigenous peoples and communities are more prone to crime must be understood as a broader colonial scheme that has been used to legitimize the racialization and targeting of Indigenous peoples within the justice process.

According to the Office of the Correctional Investigator, in Canada (2012), Indigenous offenders…

> …serve disproportionately more of their sentence behind bars before first
> release.
> …are under-represented in community supervision populations and over-
> represented in maximum security institutions.
> …are more likely to return to prison on revocation of parole.
> …are disproportionately involved in institutional security incidents, use of
> force interventions, segregation placements and self-injurious behaviour.

Although the criminal justice system is not focused solely on Indigenous peoples, it should be critically appraised for the specific experience of Indigenous people within the system. It should be criticized as a colonial project not only because Indigenous people within the criminal justice system are overrepresented. Rather we should be critical of how the criminal justice system is connected to broader social and political settler colonial goals of controlling Indigenous people. Given the interconnectedness of restorative justice within the criminal justice system it is important to build on growing literature which holds restorative justice practice and policies accountable to the same settler colonial analysis used by Tauri and Porou to critique the criminal justice system.

Interrogating the Restorative Justice "Difference"

When people ask me what I do, I usually end up spending some time defining restorative justice, or to avoid a longer and more exhausting conversation, sometimes I simply say I work in social services. The fact that restorative justice is not common language shows that the dominant form of justice, and for many people the only form of justice, is the work being done by the criminal justice system. Often the most natural way to describe what restorative justice does is to contrast with it the more familiar methods of the criminal justice system. Since the emergence of contemporary restorative justice, the literature has also tended to define restorative justice as that which is not the criminal justice system. Howard Zehr's foundational text, *Changing Lenses:A New Focus for Crime and Justice* (1990) set up two columns in which the retributive lens was contrasted as embodying opposing values with the restorative lens. In *Governing Paradoxes of Restorative Justice*, George Pavlich (2005), challenges this method of defining restorative justice and argues that the idea of the restorative justice "difference" is paradoxical because restorative justice still rests on the main assumptions of the criminal justice system. So although values that were laid out by Zehr and others emphasize crime as a violation of people and relationships rather than a violation of the state and in promoting reconciliation over punishment, Pavlich (2005) contends that these "restorative governmentalities" still exist within a criminal justice framework (11).

Pavlich (2005) uses restorative governmentalities to refer to the mentalities and rationales used for "calculating and instituting justice in one way rather than another" (14). What is governed, who is governed, who governs, and what constitutes appropriate governing are framed by restorative governmentalities. Pavlich (2005) argues at the base of these governmentalities is the "imitor paradox", which refers to "how restorative justice modalities that claim to be

substitutes for something else often end up imitating the very thing from which distance is sought," (14) i.e. the criminal justice system. The restorative justice difference then is real in the sense that it employs different values and processes but is superficial in the sense that it stands in as "substitute for and imitator of criminal justice concepts and institutions" (Pavlich 2005, 14). He argues that on the one hand, restorative justice claims to be a distinct alternative, independent of the criminal justice system (17). On the other hand, restorative justice is positioned as an appendage to state governed criminal justice, thus furthering the agenda of state justice (20). All of the individuals I interviewed work for restorative justice organizations that receive funding from the government and whose caseloads in large part are based on diversions from the Crown.[8] Therefore, Pavlich's ideas concerning the imitor paradox are useful in engaging with worker's experience about how they see their work in relation to the criminal justice system.

I intend to expand on Pavlich's ideas of the imitor paradox to help think through justice systems within settler colonial contexts. I argue that in settler colonial settings, such as Winnipeg, we should be critical of restorative justice, as Cuneen is, that it has the same potential for ongoing settler colonial control as the criminal justice system. Of the four organizations I worked with for this research, whether restorative justice programs are situated within the formal sentencing process or whether they are programs that seek to support those harmed by crime (or in some cases a combination of the two), funding and supervision is funneled through the government. At the same time, narratives offered by frontline workers also provide resistance to the idea of an imitor paradox and provide concrete expression of the ways in which restorative justice programs because of their unique approach to justice, create space for individuals and

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[8] In the justice system, diversion is an attempt to divert individuals from becoming further entrenched in the system so is used most often for youth, first time offenders, low-risk offenders, and those living with mental illness.

their networks to resist settler colonialism. I maintain a "critical hope"[9] by engaging workers to be critical of their work held up alongside hope that there is opportunity for these programs to transform and be transformed.

Relationship Building and Identity

The workers I consulted with for this project work for organizations that all identify as restorative justice but whose specific programs look very different from one another. This supports the fact that restorative justice is used to define a broad range of processes and approaches to justice. One of the main ideas I asked workers to reflect on throughout the interviews was relationship building within their work and later through the focus groups, understandings of identity and self-expression. I was interested in understanding how workers related to participants and the challenges they faced as they worked to support participants.

Relationship building is a term that gets used in many different ways by various different actors; the common denominator, I think, being the intent to show concern for human welfare. In Winnipeg, police cruisers are flanked on both sides by the inscription "building relationships," not-for-profit agencies talk about the importance of relationship building as a foundation for the delivery of services, and restorative justice programs talk about intentionally creating space for relationships to be restored and built. Therefore, an aim of this research is to gain a specific understanding of what relationship building means to frontline workers in the context of their work. I offer a brief summary of my own understanding of relationship building to illustrate why I believed it to be an important idea to pursue in this thesis.

My first understanding of relationship building, particularly in the face of conflict, came from Jean Paul Lederach. As a student of peace and conflict transformation, I was moved by

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[9] In Unsettling the Settler Within, Regan uses Paulo Friere's concept, 22.

34

Lederach's understanding that "when relationships collapse, the center of social change does not hold. And correspondingly, rebuilding what has fallen apart is centrally the process of rebuilding relational spaces that hold things together" (Lederach 2005, 75). The relationship between Indigenous peoples and non-Indigenous peoples, as mediated by the state through various means of control, has been a fractured relationship and that is why I find the idea of relationship building within a justice setting to be such a critical area of study and practice. Drawing on Zehr, Lederach's (2005) ideas about restorative justice places relationship building at the center of the process.

> These [restorative] practices assume that the capacity of people to heal and "restory" their identities and relationships requires more than the rule of law expressed as a remote bureaucratic concern. Healing requires proximity that touches the web of community life, which includes both the recent events and the lived histories of a community. The locus of the initiative is therefore placed in the context of actual relationships and community (145).

Although the kind of relationship building that gets talked about in restorative justice generally refers to the healing or restoring of those relationships which have been harmed by crime, I wish to explore the nature of the actual relationships that are created through restorative justice programming.

Drawing on conversations with Akum Longchari, human rights activist from Nagaland, Lederach summarized that for Longchari the challenge of colonial history is how "in the present, interdependent peoples 'restory,' that is, begin the process of providing space for the story to take its place and begin the weaving of a legitimate and community-determined place among others' stories" (Lederach 2005, 140). One way to see restorative justice in settler colonial texts i.e. within histories of violence and dispossession, is to see it as a process of "restorying." At an individual level, participants are given the chance to talk about their experience using their own words is a powerful opportunity for restorying as it allows them to frame their experience and

their identity in a way that shatters the fixed identity of either victim or offender. The aim of my research was to understand how that process may be supported by relationships with workers in restorative justice.

Some restorative justice programs offer more or less sustained supportive relationships based on the nature of their work but expressed by the workers I interviewed, restorative justice holds the potential for the beginning of a restorying process to take place; space is created for relationships where individuals can be honest about the challenges in their life and their experiences of injustice. It is important to note that although workers shared stories that highlighted how their relationship made a difference in the lives of participants, there is a limit to the ability of workers to reflect on the experience of participants. Therefore, this research looks at workers' perceptions of their own practice of building relationships within the constraints of the justice system.

The idea of relationship and identity in the context of this thesis is nuanced. As noted by Snelgrove, Dhamoon, and Corntassel (2014), "the framework of settler colonialism has fostered over-characterizations of binary positions" (9). Indigenous and non-Indigenous is one example of a binary that gives legitimacy to settler colonialism as an organizing structure (9). Because of my focus on settler colonialism in this paper, at many times I use categories of Indigenous and non-Indigenous and I acknowledge that that is problematic but also am at a loss for alternatives. I also use categories of "worker" and "participant" but want to be clear that I interviewed Indigenous and non-Indigenous workers who work with Indigenous and non-Indigenous participants. I want to avoid the binary that establishes non-Indigenous people as "helpers" and Indigenous people as being "in need of help."

In response to news of more fatal shootings of Black, unarmed men in the U.S., an article was posted by Regina Shands Stoltzfus (2016), Assistant Professor of Peace, Justice, and Conflict Studies at Goshen College, Indiana where she reflected on building relationships in the context of systemic racism. Speaking of the difference between justice and love, Shands Stoltzfus reflects that "the systemic nature of oppression means that oppression functions despite the good will, intentions, and yes, the love, of many, many people. And at the end of the day I am more interested in my son coming home alive than I am with someone learning to love him" (Stoltzfus 2016). What I took away from her reflections in the context of my research and work was that building relationships is the easy part of resisting settler colonialism. However, the genuine *love* that comes from personal relationships can mask the real work that needs to be done in pursuit of *justice*. I think those words are hard to define and even harder to define in isolation from one another, but the idea that Shands Stoltzfus planted for me was that relationships across ethnic and cultural lines between workers and participants, although powerful, do not in and of themselves challenge systems of injustice. Jeff Corntassel (2014) states that, "relationships are essential in order to maintain accountability and to resist repeating colonial and other relations of domination, as well as, in very strategic terms, in supporting each other's resistance" (23). The challenge of restorative justice is to create relationships that are simultaneously about love and justice in pursuit of "supporting each other's resistance."

This chapter has brought together three concepts, settler colonialism, restorative justice, and relationship building, that together represent a gap in academic literature. I argue that although restorative justice and settler colonialism have not received sufficient attention in terms

of their relevance to the other[10], they are being negotiated and thought about in a multitude of

ways at a very micro level by individuals engaged in doing alternative justice work. The

following chapters begin to push at the question: Can we talk about restorative justice as having

the potential to "unsettle" settler colonialism through attention to identity formation and the

building of relationships?

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[10] Emma Larocque's article, "Re-examining Culturally-Appropriate Models in Criminal Justice Applications" following the Hollow Water case is an important early example, before settler colonialism as a field of study gained popularity.

Chapter 4: Methodology

> How do I tell my story this time? It depends on what I am ready to learn about myself and the world around me, what my purposes are, and who I think my audience will be. (Ellis 1997, 119).

To think of my thesis as a story brings at once a feeling of relief in the writing process but also complex anxieties about legitimacy, credibility, or as my undergrad classmates termed it in peace and conflict studies, "fluffiness." That reaction is informed by interactions both within academia and in the community. In seeking guidance from different practitioners in the community engaged in similar work, I have sometimes struggled to verbalize how I see my research as a student progressing alongside my frontline work in the community. After some dialogue in one such meeting with a community practitioner, he noted, "it sounds like you're trying to make your thesis academic *and* emotional." Not intending to discredit the pains I was going through to try and do ethical research, the comment nonetheless reinforced my own internalized understanding that emotional ≠ academic or that the two are mutually exclusive. My hope is that my approach to this research demonstrates my growing understanding of how centering my experience gives greater legitimacy to the research. Furthermore, an exploration and openness to hearing others' stories creates a dialogue that is made fuller and more accessible when narrated and represented through my own experiences.

My approach to this project comes from the persistent call I have felt to understand settler colonialism within restorative justice, and more broadly, within the helping field. My approach was to engage frontline workers of restorative justice programs in Winnipeg to be critical about their work and the larger systems that create and sustain injustices directly related to their work. A significant influence in shaping my approach is the work of Paulette Regan in her book, *Unsettling the Settler Within: Indian Residential Schools, Truth Telling, and Reconciliation in*

Canada (2010), where she seeks to engage settlers about their identity as settlers within a colonial history in Canada as a means to "unsettle, then transform" (13). It is my hope that this project and the methods I used are one step in a process towards unsettling and transforming theory and practice within my sphere of influence. I center myself with the hopes of directing attention towards the experience of workers and being critical of our practice and how we relate to individuals within the criminal justice system.

This research project uses a qualitative approach to understand what workers in restorative justice programs think about their work and their relationship with participants of those programs. Qualitative methods were used with the assumption that a "'natural' alliance" exists between qualitative methods of data collection and practice (Brown and Strega 2005, 5). The data collected through this project consists of transcribed conversations between myself and other workers through semi-structured, in-depth interviews and conversations in two focus groups that I facilitated. Given the importance of these conversations, my goal was to learn how to create space for ethical dialogue where history could be expressed and acknowledged, dissonance was valued and explored, and connections between workers were created in and through the conversation. A critical constructivist paradigm structured the process and autoethnography was used as a method to guide my analysis and writing.

A Critical Constructivist Paradigm

In the article, "Fiction Formulas: Critical Constructivism and the Representation of Reality" (1997), Joe Kincheloe talks about the importance of researcher self-reflection within critical research. Citing Yeakey (1987), he states that

> knowledge of self, of positionality (one's location in the web of reality), creates a consciousness that empowers researchers to choose between models of inquiry that avoid power relations and depersonalize knowledge and models

that use intuition and emotional empathy to uncover fibers of power in modes
of representation and narrative formats (59).

This captures well my experience through the research process as I attempted (struggled) to do

research that was critical and anti-oppressive that also contributed new ideas to how we do

restorative justice. Learning how to both be critical and talk about power relations to other

workers and at the same time be open to understanding their position and what it might tell me

about my research topic was a challenge. The real question, and one that still hangs in my mind,

is if and how those conversations in the context of this research actually have the potential to

make things better for the people in the programs where we work. Because I engaged with

workers and not participants, I hesitate to think about this research as transformative for

participants, instead I see it – and the critical constructivist approach I took – as a starting point

for workers, and specifically for myself, to be able to start thinking differently about our practice

both at an individual and organizational level.

Taking a position of ongoing critical self-reflection was less of a commitment and more

of a natural process that extended from the work and writing I have already done on these ideas.

However, the more intensive work of a thesis (compared to other projects and papers I have

done) has created a greater appreciation for the small and subtle ways power is at play in how I

conducted my research and the way I write (Kincheloe 1987, 58) and who I choose to source

(Tuck, Yang & Fernandez 2015). I became aware that the deconstruction of my own ideas and

about the dominant modes of thinking at work in my ideas (eurocentricism for example), is itself

an ongoing process. Subsequently, the reconstruction and re-presentation of those ideas

following the conversations I had with other workers has challenged me further to reflect on the

way I write and the way I convey my ideas.

Although workers were asked to reflect on multiple facets of their work including wider systems that impact their work, an important topic I explored was relationship building. One-on-one interviews and focus groups were effective tools in engaging workers on how they understood components of their work. An assumption of this research is that relationships are socially constructed and contingent on individual experience. Although I had my own understanding of the role of relationship building in my work, I entered into the process of data collection open to different understandings about what constitutes relationship within restorative justice programs. I engaged workers in their subjective understanding of the relationship (as a key part of their work) and attempted to allow space for multiple and diverse experiences to be expressed.

Developing my voice throughout my post-secondary education has been more about learning (unconsciously) to copy other authors' style of writing and regurgitate certain information than it has been about unpacking how I know what I know and the methods I use for expressing understanding of ideas in the context of my own story. Using a critical constructivist approach to this research has been an attempt to consciously develop my voice in writing in a way that connects with my work, captures the complexity that was identified by engaging with other workers, and attempts to address power at play in our work.

Autoethnography as a Tool of Critical Constructivism

Autoethnography is a research method that combines components of autobiography and ethnography and "seeks to describe and systematically analyze personal experience in order to understand cultural experience" (Ellis, Adams & Bochner 2011). Emerging in response to traditional social science research claims about conducting objective research and discovering "facts", autoethnography seeks to change the role of the author from a detached narrator of

collected data to an involved subject with emotions and values that heavily influence the collected data (Ellis et al. 2011). For this reason, autoethnography is complimentary to a critical constructivist approach to research as it creates the opportunity to be explicit about the researcher's process of self-reflection and deconstruction.

Emma LaRocque's reflections on voice in writing has offered incredible insight into the meaning I attach to using an autoethnographic style. I use my own voice quite regularly throughout this thesis to tell stories and and to analyze and reflect on my own thoughts or reasons for including certain ideas. Writing about the meaning of Native writing as resistance literature, she states that, "voice is not primarily about oneself or even of 'one's people' (a favorite colonial expression) it is more a recognition of the relationship between power and knowledge which then reveals positionality" (Larocque 2010, 28-29). Although she is speaking to other Indigenous writers, her ideas about positionality and its relation to gaining power through creating knowledge i.e. writing, has been a central consideration at every stage of this process.

Regan (2015) uses autoethnography, calling it "settler storytelling" in her work, not to center settler experience or ways of knowing, but to offer counter-narratives where the settler storyteller is a "vulnerable 'not-knower'"(28). In the same way, the themes I asked workers to reflect on are themes that I have struggled with and which are by no means reconciled in my work. To ask them to express their frustrations, their insecurities, and their questions while veiling or even minimizing my own seems incongruent with good qualitative research. A challenge throughout this process has been to accept the limits of being a "not knower." Rather than attempt to be conclusive about the impact of settler colonialism and restorative justice (as my traditional academic instinct would have me do), I have attempted to ask questions that

explore the structure of restorative justice that makes it more susceptible to injustice and ongoing settler colonialism. Incorporating autoethnography has offered a way to do that by creating space to use academic theories to analyze not just collected data but to critically engage with my own stories of working in the field and of the research process.

This critical, self-reflective approach to research does not end with a certain or conclusive understanding of what is at play within participant-worker relationships of restorative justice programs for two practical reasons. First, the experiences of just ten workers through a single interview and focus group, provide a limited and specific glimpse into talking about restorative justice within Winnipeg. Second, even if a more comprehensive study was undertaken with every worker of every restorative justice organization/program in Winnipeg, the data and analysis would still only present one representation or one understanding of restorative justice. Therefore, through writing this paper, I offer one understanding of the work being done, informed by ten frontline workers who shared their experiences with me. From these stories, from a process of reading other relevant literature, and from an ongoing, exhausting effort to be self-reflective and expand my awareness of my work amidst the justice process and myself as an academic, I offer ideas for the fields of restorative justice and settler colonialism.

Selecting Organizations and Workers

Punishment through the criminal justice system is predicated on social exclusion and so, in part, restorative justice programming centers on the restoration and establishment of human relationships. In Winnipeg, a multitude of community-based organizations seek to address harms by offering programs and services which address the needs of victims, offenders, and the community. To varying degrees, these programs consider the importance of programming that is

culturally rooted in Indigenous traditions and the way colonial projects such as the residential

school system, "the sixties scoop", and the child welfare system impact Indigenous offenders.

Given conversations with workers represent the central data of this project, it is crucial to

identify who they are and why I chose them. Deciding to center workers' experience as opposed

to the experience of participants' has been something I have struggled to reconcile since the

beginning of this project. My initial plan to explore ideas of restorative justice and settler

colonialism was to interview participants of restorative justice programs and offer individuals the

space to express themselves and have their experiences validated and valued. Yet I also saw the

strength of positioning myself as a worker in conversation with other workers. This does not

mean that as a non-Indigenous academic and community justice practitioner/advocate I cannot

and should not ever do research that involves Indigenous peoples who have experienced the

criminal justice system. However, in the same way that Regan (2014) saw it as "ethically

questionable to ask survivors to relive events associated with their residential school experiences

for a book that is focused on settler attitudes, perspectives, and responsibility" (29), I felt it was

similarly ethically questionable, or certainly personally conflicting, to use the stories of those

marginalized through the criminal justice system as I sought to explore the way the justice

process and workers within the system contribute to oppression and ongoing colonization.

In using the terms participants and workers throughout this project it is crucial that the

reader does not assume these are synonymous with Indigenous and non-Indigenous categories.

Eight out of ten of those I interviewed were non-Indigenous, and within that majority most were

White with a European background, however I did not set out to to hear from only White

workers. Furthermore, I am not only speaking to the relationship between non-Indigenous

workers and Indigenous participants; I interviewed both Indigenous and non-Indigenous workers

who support and provide services for both Indigenous and non-Indigenous participants. Larocque (2010) writing about settler-colonized identities says, "we find ourselves, our respective cultures, lives, and experiences, constructed and divided as diametrically opposite to each other" (4). For me the discussion of how settler colonialism relates to restorative justice practice is not one that relates only to the relationship between Indigenous participants and non-Indigenous workers but a discussion that offers insight into how we think about justice and the justice process as a whole in Winnipeg. I also do not assume that settler colonialism impacts all individuals evenly or in the same way. The impact of settler colonialism on an individual's experience is dependent on their family/community/personal history, geographic location, race, socio-economic status, ability, gender, sexuality, and sexual identity as they encounter individuals and institutions within the system. Therefore, we cannot talk about the impact of settler colonialism on individuals within the justice process without the assumption of the particularity of that encounter.

Using the term frontline to describe the individuals I consulted with is perhaps somewhat ambiguous. I consider frontline workers to be anyone whose job brings them into relationship with participants; I interviewed outreach workers, case managers, victim-offender mediators, and program coordinators. Some of the workers spend most of their day working one-on-one with participants, others have regular check-ins with participants, and others engage with participants through regular programming. For some of the workers, they have been in relationship with participants for years, while others only know participants for several months, and for some their relationship may be defined by indefinite encounters through restorative justice programs that meet participants while they are incarcerated or awaiting trial.

The main criteria for selecting organizations for this research was that they were situated in Winnipeg and were engaged in the justice system through restorative justice programming.

My interest was not necessarily on connecting with restorative justice organizations so much as it was about speaking with individuals who facilitated and worked in restorative justice programming and secondly who could reflect on theories and practice related to restorative justice and settler colonialism. I began by doing a general search of restorative justice in Winnipeg and from there I contacted the executive directors of several restorative justice organizations to see if there was a willingness and ability to support my research. My initial intent was to familiarize myself with the organizations that were new to me by volunteering, both as a way to experience the programs they offered and as a more informal way to meet workers/potential interviewees. However, given scheduling difficulties with organizations and the time constrains for this thesis coupled with confidentiality concerns and closed door processes of some of the programs, this was not possible. Instead, I continued communication with the executive directors to discuss the parameters and goals for moving ahead with my research.

In the end I interviewed ten staff from four organizations within the city; five workers from the first organization, two workers from each of the second and third, and one worker from the fourth. My goal was to have more equal participation from each of the four organizations, however there were a number of reasons why this goal was not met. One, the size of the organizations – greater number of workers results in greater options for interviewees – and the number of staff who could reflect on restorative justice in the context of the criminal justice system[11] was a limiting factor. Second, because of the confidentiality of programs and other concerns about privacy, some workers were unavailable for interviews. Third, although one

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[11] There is a varying degree to which restorative justice programming is involved with the criminal justice system, so although an individual works for a restorative justice organization/program they may not be accustomed to working with justice processes within the criminal justice system. I.e. I was not looking to interview people whose experience was with community mediation which does not directly relate to the criminal justice system.

organization represents half of the overall interviewees (five of ten workers), the five workers represent three different programs and therefore captured a greater diversity of experience than five workers who all work in the same program.

Of the four organizations, I am familiar with the staff of two organizations and so was able to identify and invite those individuals which I felt would be able to reflect on the topic. In the case of the other two organizations, after having met with the executive directors we discussed a plan for moving forward to identifying participants that would be best suited for the organization and their staff. In one case, I ended up having a conversation with a worker over the phone who showed interest and knowledge of my research topic and so we booked a time to meet on the spot. From there, this worker suggested colleagues who would be interested in sharing their experience with me. In the case of the other organization, after meeting with the executive director, an email invitation was sent to all staff to participate in my research. Meeting with executive directors and getting to know staff at other organizations alone was an important process for me as I was able to meet and create rapport with people doing similar work regardless of whether they were able to participate in the formal research process.

Attention should be given to the differences across restorative justice organizations in Winnipeg. There are Indigenous organizations in Winnipeg that are made up of predominantly Indigenous staff whose programs function to provide restorative justice programming that is culturally based. There are also a number of restorative justice organizations that are run by non-Indigenous staff and to varying degrees represent a Western approach to social service delivery. The data collected through conversations held with workers will be used in the following chapters to explore the governmentalities at work within restorative justice programs that constrain these programs and limit their ability to act as resistance to ongoing colonialism.

Why Interviews and Focus Groups?

The decision to conduct both interviews and focus groups came from my desire to hear from individual's about their experience but also to create the opportunity for workers to share their ideas with one another. I believed that a focus group setting among individuals doing similar work would offer a more natural conversation regarding the challenges we face and the areas of our work we were critical of. The choice to conduct focus groups was reaffirmed throughout the interview process for two reasons. First, as the interviews progressed a number of themes began emerging, themes that I felt had not been sufficiently or effectively explored through the interviews and I saw the focus groups as a chance to further the conversation of these themes, such as identity, history, and definitions of relationship building. Second, in many cases, workers mentioned that they needed more time to think through questions or they felt they had not been clear in responding. The group setting took away pressure from individual workers being out on the spot and also provided some collective engagement that moved the conversation forward.

Reflecting on my experience in conducting interviews and focus groups, if I were to do this research over, I would change the way I engaged in conversation. Rather than pose questions, perhaps I would share a series of my own experiences, experiences that made me consider settler colonialism in my work and in the justice process in which we could together identify settler colonialism at work and explore our own positionality in the scenarios. In some cases, settler colonialism (which was not familiar to some workers) or even colonialism was a confusing and somewhat ambiguous topic to engage with in relation to their work. Rather than ask workers if they perceived a connection between settler colonialism/ongoing colonialism and

their work/the justice process, I could have been more explicit in sharing actual experiences that for me signaled settler colonialism at work.

Transcription, Identifying Themes, Analyzing Data

Although not all of the ten workers were able to attend focus groups due to scheduling reasons, I did conduct two focus groups, each with three workers, representing three out of the four organizations. Both the interviews and focus groups were audio recorded. The process of analyzing the data began with transcribing each of the interviews shortly after they happened. When a particular idea or theme struck me while transcribing the interviews, I either wrote a brief thought paper or made a note for how that might impact interviews moving forward. I used the same list of sample questions as a basic structure for the interviews, however thoughts shared by workers in earlier interviews sometimes changed the way I asked certain questions or shifted the focus in later interviews.[12] Once all of the interviews and focus groups had been completed and transcribed, I studied the transcripts and highlighted themes that emerged and points that were raised by individual workers that were of particular interest to the topic, although not necessarily reflected in the rest of the data. Through this process I also identified inconsistencies in the way I asked questions and then considered the effect it may have had on the direction of the conversation.

In an attempt to maintain the workers' own voice and to ensure they were comfortable with what was said in the interviews, transcripts were shared with the workers through email that included highlighted portions that would be used word-for-word. All of the workers had an opportunity to give feedback on their transcript and to confirm the use of quotations. Sharing

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[12] Moving away from the language of ally/ally building is one example.

transcripts of interviews, and in due time, the completed thesis with workers allows them to feel they have been represented honestly and with dignity. (Bogdan and Biklen 2003, 47).

The writing process happened through a fairly linear process in that I wrote the majority of chapters in order. Writing the historical context and theory chapters first, allowed me to revisit the data with fresh insight. The final analysis chapter was a return to the ideas that emerged in the theoretical foundations chapter coupled with what I learned by listening to workers.

By approaching this research as a colleague I hoped to understand the differences in experience among workers and across organizations. I attempted to both engage workers in being critical but also allow space for them to express the deeply positive and meaningful connection they had with their work. As a new student of settler colonial studies, I was aware that making connections between settler colonialism and restorative justice at a person-to-person level is not immediately apparent. For this reason, our conversations often times reflected my own lack of understanding of settler colonialism and genuine curiosity to connect my own experience and what I did not know with the experience of other workers. The workers I interviewed, my coworkers and individuals from other organizations (who I now consider my colleagues), have greatly shaped this research beyond the interviews and focus groups. They are engaged with pursuing justice both within their jobs and committed to the same beyond their professional roles within their organizations. They are a powerful group of individuals; they are facilitators offering Indigenous ways of restorative justice, they are organizers advocating for abolition, they are trainers and educators seeking to increase public understanding of systemic injustice, they are parents and children working to share values of restorative justice with their families. To acknowledge this thesis as my story is to acknowledge that had any of these ten individuals

engaged in research on restorative justice and settler colonialism, it would have been a very

different story reflected in the process and the product.

Chapter Five: Presentation of Data

The following discussion is a summary of the conversations had through interviews and focus groups. The structure and emphasis of these chapters are my own, based not only on the formal data that I collected but also on the many informal conversations and experiences I had throughout the process that impacted how I understand restorative justice practice in Winnipeg. A number of themes have been constructed including how workers conceptualize restorative justice, how they think about the restorative justice "difference," their understanding of relationship building and the challenges of that work within the justice process, and how they see their work as resisting the justice system. I identified some of these themes as the outset of gathering data, such as workers' perceptions of restorative justice and the criminal justice system as well as their ideas about relationship building. Other themes that emerged from the interviews and focus groups were challenges associated with relationship building and thinking about restorative justice as resistance. Pseudonyms were created for each worker to maintain confidentiality.

Frontline Definitions of Restorative Justice

When Howard Zehr wrote *Changing Lenses* in 1990, he conceptualized restorative justice and the criminal justice system as two distinct approaches to justice that he compared by placing them in columns and highlighting the differences across the two. Since that time critics have problematized this way of thinking that measures restorative justice up against criminal justice system because it assumes that the criminal justice system is the measure by which other approaches can be criticized or acclaimed. That being said, workers that participated in this study all expressed critiques of the justice system and the ways they saw their work as in opposition to those critiques. And although workers varied on their opinions of the relatedness of restorative

justice to the criminal justice system, they all expressed in some way that they saw their work

related to, dependent on, or constrained by the criminal justice system.

One of the questions I posed in each of the interviews was, how would you define

restorative justice? I felt it was an important question to ask to frame the rest of the interview but

also to acknowledge and capture the spectrum of understanding among those doing restorative

justice. Often their definition of restorative justice was in part based on contrasting it with the

criminal justice system.

> I guess my feeling is that there is a bit of a relationship to humanity that happens in restorative justice. Where a criminal justice system can lose sight of the individual in terms of what their historical experiences have been, not only trauma based but also just experiences with other people and relationships, it's impossible for the criminal justice system to take any of that into account, its punitive based and it's not designed to be relationship based, it just can't. So restorative justice to me is the notion of actually taking some of those pieces into consideration and trying to resolve some of those issues in such a way that it can be meaningfully resolved and most often result in ways that have much more impact and long lasting than a punitive response. (April)

> I see restorative justice as an opportunity for a second chance or third chance or fourth chance in some cases. It's a way to examine behaviour, to make changes, to do what you can to repair the harm but also to demonstrate that "ya, I made a mistake, but I'm different now, or I'm learning from it, or my situation was really desperate at the time." (Debra)

In reflecting on the difference between restorative justice and the criminal justice system,

Debra said, "the two are like night and day." Alex said "the justice system is a rigid, and old, and

slow changing system and restorative justice is that little brother saying hey let's do something

different, let's shake it up a bit." Kathleen identified that restorative justice asks different

questions such as, "What happened to this person? What kind of supports does he/she have or

lack of supports? How can we be there for them so they can begin to make some change?"

Of the workers interviewed, their opinions about the justice system fell on a spectrum,

some identify as prison abolitionists while others believe in the need for the criminal justice

system. But in every case, workers brought up critiques of the criminal justice system that

assumed that restorative justice did something different.

> I think there are a number of things that I try and do to consciously be different
> from that so people see when they come in the door that this is not the same
> experience even if they are sent by the courts. It's not going to be the same
> thing, we're not going to go through a checklist, we're going to have a
> conversation like human beings and whether they're the person whose charged
> or the person whose been harmed, the first thing I want to know after we come
> up for some baselines for how they know the conversation is safe let's just talk
> about your experience. Let's not worry about what the police report says, let's
> just talk about your experience and go from there. Because you are more than
> what has been done to you or what you have done. And I think that's a fairly
> conscious choice. (Ruth)

> I'm an abolitionist so I don't believe in putting people in cages is the right
> thing to do. Do I believe there are dangerous people? Yes there are and getting
> rid of jails tomorrow may not be the best solution but if we want to build
> healthy communities and relationships and reduce crime then we need to put
> more money into making sure people have food and people have jobs and
> making sure that we're actually repairing harm created by residential schools
> and CFS and sixties scoop. (Jodi)

> I mean they're different, I think they're both looking at the same objective, I
> guess, or same goals. They want to protect society, we have rules and we are
> governed by these rules, there is safety, there is a system that needs to be
> secured. That's their understanding. Of course there needs to be rule of law,
> there is no doubt about it. You know, they have a purpose and its important and
> its vital and restorative justice processes and organizations like ours and others
> are just as important to help support that framework because not everything fits
> nicely in the justice system because situations are complex, people are complex
> and that's where we go in and we help. Fill in that gap. (Kathleen)

Sharing about an experience with a young man in a victim offender circle, Alex said that "it

wasn't about shaming him it was about moving to a better place." Based on hearing about others'

frontline experience, a critical restorative justice difference is to move beyond the shaming and

stigmatization associated with the justice system. One way that happens is creating space for

individuals to share their stories, which Alex attributed to having time with participants.

> So when I look at the differences between restorative justice and the justice
> system, you have that time to sit with someone whereas in the justice system,

the victim doesn't have that time to express themselves, with us whatever it is they want to talk about we can find a way for them to talk about it and in a safe way. I think a big part of that is you don't want to re-victimize victims (persons harmed) and you don't want to victimize offenders. It's not a fire squad and that's a two-way street. (Alex)

A number of workers explained the difference between restorative justice and the criminal justice system specifically based on the programming that was offered. As someone who teaches in an education program for individuals in jail or awaiting sentencing, Jodi expressed the freedom that came for participants of the program.

Because they're allowed to structure the lesson themselves and they have more opportunity to have a say in how their day goes, whereas on the range they're told when to lock up, they're told when to eat. I try to make it a really open and welcoming environment. (Jodi)

Others talked about restorative justice as a "way of being" in addition to an alternative to the criminal justice system. Samantha reflected, "I think you need to have that [restorative justice values] first for yourself and then you can start to talk about it and actually try and help other people put it in place." Consistent with these sentiments, there was a sense among the workers, which aligned with my own experiences in the field, that you do not just do restorative justice or in some way bestow it upon participants. Instead, as workers we too are participants in restorative justice even as we are facilitators, mediators, and case managers.

Some positioned restorative justice in terms of a timeline, where their programming happens after the criminal justice system has finished its work.

We more operate on the principles where we unfortunately come after people have been through the justice system so after they've been incarcerated or put on probation and then they come to us and the restorative part kind of kicks in to support them in a way the justice system wasn't able to and keep them out of it as much as possible while still having to network with their POs. We still have to cooperate [with criminal justice system] but I feel like it's a more holistic, more trying to repair harms, repair relationship, involve as many people as we can rather than isolating and punishing. (Brianna)

Chris also expressed that the power of the program he worked for was limited and came in only after the damage by the criminal justice system and other systemic violence was done.

> I don't really think about it [justice] at work. I mean we're sort of at the ass end. We just collect the fucking broken bones, it feels like. I mean I don't think of the participants as broken bones but you know once they've been sort of sorted and dissembled we get to see them but we're not super involved in the actual justice system. (Chris)

The idea that restorative justice comes after the criminal justice system is specific to the experience of workers whose programs are not involved in sentencing but "kick in" after sentencing has occurred. That is reflective of the diversity of restorative justice programming where some offer alternatives to the court process, where an agreement is settled through victim offender mediation, others supplement the court process, and as others come in to offer support for those who have been through the system.

Encouraged by the fact that my questions focused on understanding setter colonialism in the justice process (I would specifically ask workers if they saw settler colonialism in their work), workers offered critiques of the criminal justice system as an ongoing colonial system.

> [The criminal justice system] is a place where people are just managed with not a lot of thought in terms of making reparation in terms of all of the damage we've done to them as a society. So… I feel like all of those systems have very strong colonial influences and I think jails are the most explicit expression. (April)

> I don't think it [the criminal justice system] should exist, because I do think it is just an extension of colonialism… It's just a way to control a population to keep them confined to a certain area and keep them down and exploited, while keeping accessing their land and resources. (Brianna)

Kathleen hesitated in talking about the justice system as colonial, because of the varying experiences she has had within the justice system.

> Some judges are awesome, some lawyers are very very good, some Crowns, I've noticed some Crowns who are real advocates for restorative justice who divert a lot and then you've got the regular ones who, you know, may not have

experienced restorative ways or processes or don't have connections or maybe they've had bad instances that just reinforced a negative stereotype for them, so I guess that can happen as well. I don't know if it's the system. I think it's just human make up, maybe it's from colonialism, maybe it's, there could be so many different factors right? I don't know if I can label the whole justice system as that [colonial] because I've seen a lot of variations. (Kathleen)

Although, not all workers talked explicitly about the criminal justice system as colonial, one

worker who did, also talked about that colonialism in relation to restorative justice.

Restorative justice as sort of a coping mechanism to the colonial punitive prison system that does exist… Thinking of things as coping is like dark and defeated and sad but … I see the relation between restorative justice and the justice system that exists and obviously [the criminal justice system] still has ultimate power but that, ya, restorative justice is like a way of coping and resisting and part of its resistance is being alongside that justice system and being like, "I promise to not act this way." (Krystan)

The idea of restorative justice as resistance was also expressed by April.

Some of us are pulling our practice from a traditional background and some of us are pulling our practice from the academia, education world so there are lots of places where we are pulling it from but at the end of the day it's still a resistance to a system that we don't want to operate in. (April)

The words, "a system that we don't want to operate in" is a sentiment that seemed to be

an assumption of my conversations; those working in restorative justice could not see themselves

working within the criminal justice system. And although workers were critical of their own

work and upfront about that work's relatedness to the criminal justice system, most were clear

that restorative justice offered something to participants that had the potential to support them in

ways the criminal justice system does not.

I'm an abolitionist so I don't believe in putting people in cages is the right thing to do. Do I believe there are dangerous people? Yes, there are and getting rid of jails tomorrow may not be the best solution but if we want to build healthy communities and relationships and reduce crime then we need to put more money into making sure people have food and people have jobs and making sure that we're actually repairing harm created by residential schools and CFS and sixties scoop. And it's easier for the larger population of Canada who are white and who haven't had as many of the barriers as people in jail

have to blame the Aboriginal population without seeing the whole picture. (Jodi)

That's the thing, this is the crime you commit and this is the sentence that fits that crime. You have somebody who steals cause they want to sell it for drugs or someone who steals because they want to feed their kids. Those stories are going to be very different but the outcome is going to be the same. What about helping this woman support her kids? What about getting this person to a drug treatment program? I would like to see the system help those in need instead of penalizing them like child apprehension. Poverty shouldn't be a crime. (Alex)

It's a snowball effect. I remember having this one file… youth, first time ever being charged, couple months later they racked up another charge without even knowing… failure to comply. Months later, not doing anything, failure to comply. Has no idea what that means, they don't know the court system, they don't have a lawyer, their parent isn't there. You miss a court date and there is a warrant out for your arrest. Legal aid or your counsel isn't getting back to you so you don't what what's going on and you're afraid. You get one mark on your record and it's almost like it's that easy to get so many after. (Kathleen)

As a culture, we have professionalized and pushed it to one side so none of us feel any individual responsibility to do anything about it or to be engaged in anyway other than calling the police. Someone else will deal with that, the professionals will take care of it and it will go away. And that's it. Nobody feels other than having the "no you can't have a group home, or half way house on my street." No one engages a whole lot with those kinds of issues on an individual level because we all think the courts can deal with that or the police know what to do. (Ruth)

The workers' reflections on definitions of restorative justice and in relation to the criminal justice system is reflective of existing literature and is important because it lays the foundation for how the workers think about justice in their specific contexts. Their reflections about the criminal justice system as a colonial system was for many an assumption while others hesitated to explicitly give it that label. However, thinking about the way that restorative justice, or specifically their practice, might support a settler colonial agenda required more conversation and thought, as it was not a commonly held idea among all of the workers. On this point, workers' understanding and familiarity with talking about settler colonialism and the justice process were fairly consistent within the organizations. I hesitate to identify this as an

organizational trend however, as there was not enough of a sample of workers across the organizations.

Frontline Reflections on Relationship Building

In discussing restorative justice theory and practice, the core idea I focused on with workers was that of relationship building. For some, the language of relationship building was at the center of how they described their work, particularly for those whose programs bring them into relationship with participants over a longer amount of time, even years. For others, the nature of their work meant that they only knew participants for a few months, however, these workers also reflected on how they related to participants and how they intentionally aimed to create supportive and safe relationships as foundational for their work.

I initially began with the intent to explore the term ally or ally building but found very quickly that it was not relevant for workers and most rejected the term. Chris said, "I don't really think that a person IS an ally. I think that you can do things that are good but I don't think you get to run through the gauntlet and then emerge an ally. I don't think you can buy your way in or work your way into that identity category." In the same vein, Krystan felt like it misrepresented her work, saying, "my position doesn't seem like it should have a name, it's centering it around describing me and it centers the ally rather than centering the person whose experience is happening… I think its referring to class and race without talking about it and gives you this noble name." After the first few interviews I moved away from the language of ally and instead focused on relationship building and later in the interviews and particularly in the focus groups, on identity formation through building relationships.

At the beginning of each focus group, I asked workers what relationship building meant to them in the context of their work. Within one focus group, trust was expressed as the center of understanding relationship building.

> I think there is a very clear recognition of the importance of particularly trust. We need to build trust with people before we can ask them to be vulnerable as they need to be in order to participate productively. If we're asking someone to take responsibility for something that they've done. They need to trust that we're going to hold that quite carefully and that they're not going to be further harmed in doing that. And the same goes for if we're working for victims. They need to be able to trust that they're going to be safe so its developing trust and some of that comes built in depending on the person, we've got credibility because we're connected with the Crowns office and for some people that's something we have to work against. (Ruth)

Ruth is talking about trust both in terms of an interpersonal relationship, that workers are "safe" people to share with but also in terms of an experience with systems. She references the Crown's office in some cases increasing legitimacy and therefore a trust in the process and in other cases workers are having to establish trust in spite of a distrust of a larger system based on an experience within that system. Chris added,

> I think it's meant to be that a lot of the people who start working, start being in the program, don't trust people who are involved in systems like that so it takes time for them to realize they won't just get kicked out if they do something wrong. So it's just a question of building trust. (Chris)

Samantha also talked about relationship and restoring trust/faith.

> This is going to sound lame but it is to me really all about relationship building and treating people not just as a number in the system being passed along to different people and very faceless, I see it as personal relationships and trying to restore… Restore their [participants'] faith in humanity, which is weird to feel like you have to do that, when people are like "I don't care, they deserve nothing" and it's like, they've been dragged through this awful system and they need to know that people can actually be compassionate and care about them and so that's sort of how I feel how you can build people up so that they can trust again. (Samantha)

Samantha's belief that restorative justice works to "restore participants' faith in humanity" adds to the conversation that part of the work of relationship building in restorative is to make amends for what's been done to someone in the criminal justice system or in other systems. For some workers' that dynamic is also wrapped up in histories of colonization and of being a White worker.

> I feel like because white people have this history of being really horrible to Aboriginal people… In a way I hope that I can repair some of that harm by having good relationships with people. (Jodi)

For Krystan the same sentiment was expressed in terms of understanding the impact that history plays in building trust in relationships. Put simply, she said, "I'm aware of myself as a White person, as a part of a history of White workers in people's lives". For workers who identified as Indigenous, the question of building trust was also a challenge.

> Not everyone is wanting to smudge but they do want to talk to a person that looks like them. Some people might come in and whether you look the same or not you have to earn their trust the same way. Maybe it's a little easier when you do look like them but being worthy of their trust isn't color coded, we all have red blood. (Debra)

> For me, working with different nations, it doesn't bother me, it's obvious that it happens and I'm okay with that. Do I feel like my experiences help me to relate to them? Yes. Not every single person that comes through the door I can connect with but it helps. (Alex)

In the second focus group, April spoke about the importance of vulnerability and creating safety in building trust in relationships.

> I think that also goes to being willing to kind of be vulnerable yourself too. There's a really unhealthy power dynamic that happens in worker relationships sometimes and I feel like it's because people aren't willing to go there and that's where things like, I think apologies are very important and critical and that if we mess up we need to let go of pride and we need to be able to be humble enough to ask for forgiveness in situations and I think… Ultimately our role is to try and cultivate safety for people and so that will look differently for every person that we work with, because everyone has that different sort of history and experience so I think you had started off by saying, that you watch

your tone of voice and being mindful of how you dress and those sorts of things. Those are not small things; those are intentional pieces that we should be doing. (April)

Debra reflected on how she acknowledges the potential for an unhealthy power dynamic in relationship with participants.

> I don't see myself as a person who is in a position of authority over my clients. They come in and we work together on issues that we need to work on to move forward because far be it for me to behave in a manner as though I haven't made any mistakes. (Debra)

Challenges in Relationship building

Of the workers who were engaged in work that brought them into relationships with participants on an ongoing basis, their commitment to relationship building also included an admission of the challenges associated with doing relationship centered work. Reflected in all of the interviews was that workers held a deep sense of ethical responsibility for their work and thought deeply about the intention and impact of their work.

> When I was younger I just wanted to help and do good and now knowing that that's a loaded way of thinking. I don't know, now it's more about trying to be humble in these bigger processes. Like you said, its beyond us but it's only going to happen if we take these incremental steps to make changes in how we relate to people. (Brianna)

> What does sacrifice mean and why are we wanting to sacrifice because in and of itself that's a weird thing. Like there's a weird implicit charity to that idea in some ways and so we feel like we're never quite doing enough because we're not doing authentically enough or genuinely enough and I feel like that is very complicated because in part the people we are choosing to support and walk alongside and be present for also don't want to be perceived as charity cases ultimately. (April)

Being critical for the reasons workers were engaged in this work came up numerous times and was often interconnected with challenges of building relationships. Chris's statement about being critical of this line of work is one meaningful example.

But there is sort of a macho mentality to being in solidarity with people who according to dominant culture are fucking caged animals, but you know that they're not that but you get to have a relationship with the caged animal and get to puff your chest about it. (Chris)

While this draws attention to the mentality of people engaged in this work for conflicting reasons, there was also an ongoing theme of workers struggling to value their work. In both focus groups, the idea of being a "superhero" came up. In the first, in response to workers having a saviour complex said, Ruth said "none of us have our boots or capes to be super heroes so we need to stop that." However, in the second focus group, the idea of superhero came up as we discussed the struggle of valuing our work and the challenges we face.

I know it's a real relationship that I feel accountable to and that matters to me, I believe my behavior matters, but I don't for a second believe, or I am surprised each time that I am told that I am meaningful to that person. When I say I have resentful frame of mind, I'm, it's like the resentment of the world and the system, I'm including myself in that, and so I'm critical of the relationship. (Krystan)

I don't take credit for what they've done… It's okay to feel like a superhero once in a while. Making change is hard, facilitating change is hard. When, we don't have to keep all the credit, but we have to take the credit for what we're doing. (Debra)

In response to this support, Krystan agreed that she often minimizes her work.

You're in the action of erasing your work you're doing and it shouldn't be erased, it is important. (Krystan)

The second focus group, composed of all women, finished with a conversation about working in the justice field as women and how that dynamic may also contribute to the struggles we face in valuing our work. Although, I had turned off the recorder at this point because it seemed that we had wrapped up, I remember distinctly the conversation we had. We had been talking at length of this idea of balancing "feeling like a superhero" and also feeling some anxiety about that bordering on an unhealthy power dynamic in our work. Debra reminded us that there are many

hard working women in this field doing ethical work but at the same time our work is largely undervalued. Thinking about our conversation further I reflected that within the criminal justice system, professionals, lawyers, judges, and police officers are often very respected members in society, those positions still being overrepresented by men.[13] Within restorative justice, our roles are not seen as professional and the field is overrepresented by women.

This conversation and others have helped me to frame these contentions within an intersectional understanding of justice. As a non-Indigenous worker, I came into this project in part as a way of understanding my position of privilege and the ways my work reinforced colonial violence and injustice but I have come to value that my identity as a female worker within this system is also crucial in addition to my identity as heterosexual, cisgender, and middle class.

On Power and Intersectionality

Although not something I explored directly in interviews, the idea of intersectionality did come up, particularly with Chris. I was aware in our conversations that as I drew attention to my "Whiteness" and how that played a role in my work, he would add his identity as male, as heterosexual, cisgender and "all the rest". Through analyzing the data, I began to appreciate more and more this intersectional approach, particularly as I felt it gave more depth and understanding to thinking about relationship building.

> I think we have an ethical responsibility as workers to also understand their [participants'] worlds and part of that world is an inequity that is just present and it is a powerful system inequity. (April)

Inequity and injustice within the criminal justice system is something that as frontline workers we are reminded of daily. Being able to name the components of that system that create inequity

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[13] One example of this, according to a Statistics Canada report in 2015, the percentage of women in higher ranks of police services had grown from 5.5% in 2005 to 12.4% in 2015.

for participants may not necessarily point to settler colonialism, in fact settler colonialism may

also be an ambiguous term that does not help to reshape the way we approach relationship

building. Chris talked about how relationship building can take into account, or ignore, system

inequality.

> We are sort of set up to be pretty accountable to the people we work with on an
> individual basis and people, participants are allowed to not like a worker and
> then not work with them. The discussion of how we relate to participants as
> workers is an ongoing discussion. The discussion of how that's a relation
> within a settler colonial setting, that has never been addressed, at all, basically.
> (Chris)

If we are being accountable to participants, but we have not come to the point where we are

talking about how the history and ongoing nature of colonialism impacts our work, are we still

being accountable? Reflecting on the impact of 'White' organizations offering restorative justice

programming, Brianna explained how she thought about her own identity in that setting.

> At some point, you accept that you're being that, a little bit, you're being that
> white savior-y person, for better or worse that's what's happening. So I guess if
> you see social change on a spectrum these small changes are important in the
> the short term but it is important to look ahead in the big picture; it's not okay
> to function like this forever but in terms of addressing it, I don't know.
> (Brianna)

I asked Chris if he could think of an example of when he tried to intentionally acknowledge his

position of privilege with a participant.

> [A participant] was repeating the phrase 'race card'. Like he doesn't want to
> use the race card. And I asked if he knew what that meant, and he said, not
> really. And I was like, you know people bring that up when they want you to
> not acknowledge history and oppression and I was explaining it to him a bit
> and he said that he didn't think that as a native guy he'd had any stuff and I
> was like, "well get this, I've been arrested before and talked my way out of it."
> I bet that wouldn't have happened if it was you. I think that, that's maybe one
> way that I try and contextualize why we are each on either side of that power
> differential. It happens a lot with him because he's really interested in power
> and that comes across in lots of different ways but one of the ways is that he is
> interested in resistance to oppression in some ways that I'm also interested in
> so we have those conversations. To a certain degree I will have similar ish

conversations geared to the different participants with other participants…
When I approach the question of my whiteness, maleness, straightness and all
that shit, I don't want to bring that up as if that's an interesting point. Cause it's
not I don't think… I don't think it makes sense for me to be very comfortable
with my whiteness and all the rest so I don't think I will. (Chris)

Creating Opportunities for Autonomy and Self-expression

Another theme that came out in the interviews and was explored later in the focus groups

was the idea of representation. It came out numerous times through the interviews as workers

expressed the way writing and information sharing about participants through case noting and

social histories has an impact on that individual beyond the immediate relationship.

[worker's conversation with another worker about a participant] "Cause she's
so noncompliant, she's so noncompliant, it's so hard to get her to
appointments, she's noncompliant." "Well no, she's not noncompliant her
name is this. She's a human being"… So when you talk about representation, I
watch what I write in my case notes, I don't put things like "alcoholic" or
labels, I write about the situation, or experiencing this or challenges are, but
I'm not going to say they're like this. And too, I want to explain that there is a
historical thing for Indigenous people, we've had doctors, social workers,
lawyers, you name it, they've got it and they're taking notes about us. And that
follows you for the rest of your life. I don't want my notes to negatively impact
somebody. (Debra)

Krystan expressed that case noting is a dynamic that to greater or lesser extents hangs over her

relationship with participants.

I acknowledge that I must be entangled in a history of a bunch of people in
[their] life so people may not feel like I am a manager of their life but are
aware that I go back to the office and document the details of our time together
and that's not the same as a friendship. I feel like in most of the relationships I
have at [my organization] whenever that [case noting] comes up its talked
about as "I know you have to write it down." That gives me a sense that they
acknowledge that my desire is not to write it down because I want to police
them, it's for the purpose of information sharing. (Krystan)

April shared in the focus group the influence that workers have in an individual's experience

within these systems of injustice.

CFS is often the precursor to the justice system so once you come into contact with that system it's like written performance art that just follows you forever, as all of these things are said about how you act and how you interpret the world, none of which come from yourself or your own voice and so it's always so crazy to me, just because by happenstance you have come into contact with a system, and often times it is happenstance or there is some history behind it at least, or context, once you come into contact with it, the space for making mistakes has just shrunk from what an everyday person who hasn't gone through that system, they can make all the mistakes they want and they can want luxurious items and seek to get them, they can engage and "dabble" with certain drugs and alcohol and they can do this without the community at large perceiving something. But somebody who has come into contact with these systems does not get a chance to be just human. (April)

Our conversation in one focus group also identified the impact that case noting had on individuals within the criminal justice system who are constantly being written about and talked about by workers. These conversations about representation also included the ways that workers related to participants as a means of creating space for individuals to speak in their own words and represent themselves.

They're shocked when I'm having this dialogue with them and saying ok so what's difficult for you, what was going on for you at the time, how are you feeling today?" Its foreign. So for them to be able to express anything in their words is almost sacred to me. (Debra)

I talk to victims on a regular basis who, one of the questions I always ask is, what do you want to see happen? What would help make this better? And on a regular basis I hear people say, "Oh I don't know, that shouldn't be up to me, that's not my place to say." Well if not you then who better? Who knows more about what this experience was like than you? And what will make it better than you? But people have been schooled to say, "O well that shouldn't be up to me." Well it's not totally up to you but you should have a say. (Ruth)

Both of these workers reflect that participants are surprised to find workers speaking directly to them and asking about their experience. That is a powerful indicator that individuals who find themselves entrenched in these systems, are constantly not given the space to express what they want for themselves and instead for workers and other authority figures making decisions.

> We should talk about people being able to express themselves, I want for her [participants] voice to be heard whether I or someone else is there to say, "Hey, listen to her." That's stupid, that's not what we want to be working towards anyway. (Krystan)

The idea of "people being able to express themselves" and for that to be "sacred" is important and is used in the following chapter to talk about ideas of resistance to settler colonialism within the justice process.

I want to return to Pavlich's idea of the imitor paradox to suggest that at play within restorative justice practice in Winnipeg is a settler colonial imitor paradox. One of the pieces that Pavlich points to where restorative justice imitates criminal justice system is in the focus on the individual's responsibility for crime and the requirements put on the individual to make change. April reflected on this dynamic in her work.

> I think that it was born out of a desire to respond more appropriately to people's needs and so I feel like that is a true thing and I do feel there are people and programs working in restorative justice areas who are entirely different, the worry that I have sometimes is that we all still, we do still live here and we do still live in a place where some of the parameters that are laid out for us are still things that come from a place that we may not want to necessarily impose on somebody. I was thinking when you were talking, when you gave the example of the person you were working with and you were having to say, "I would like this and this to happen." And sometimes those things we "need" to happen are not necessarily what we would encourage someone to do, or we may think it's not necessarily something they can do. So AFM is a popular one and dealing with addictions issues is going to look really different for different people but we're limited and we have constraints around how we can tackle those issues. So I feel like at the heart of it there are differences but we're also still under this system that we can't entirely escape. (April)

The imitor paradox is at work in the above statement in a number of ways. For example, in the same way that the criminal justice system requires offenders to adhere to probation orders, so too do restorative justice programs enforce certain requirements such as seeking addictions counselling, regardless of whether that is a helpful program for the individual. As this worker

highlighted, we may be aware of the ways our programs imitate and are constrained by the criminal justice system, but it may feel like a system that we can't "escape." In connection with Pavlich's point about responsibility of a crime being placed on offenders, the system forces individuals to "change" their drinking habits, in many cases, criminalizing addictions but has no way holding other members of society to the same standard.

In my interview with April she told a story that for her represented the idea of "colonial nonsense." I think that idea goes hand in hand with the idea of the settler colonial imitor paradox, where people are asked to jump through hoops, and their progress is validated and analyzed based on a very Eurocentric understanding.

> We're asking other people to fit into a really White system and even though we're kind and caring sometimes those peoples' anger is pretty legitimate because they are the ones having to jump through all the hoops to fit in to what we are asking of them. (April)

> When we do exit interviews, the number one thing I hear is find more Indigenous volunteers. They don't quite say it like that but "get more people who are going to relate." (Samantha)

Indigenous workers of an Indigenous organization, also share that the constrains from the Crown impact the work that is being done or the timeline for something to be completed.

> Sometimes I have to get really firm and say, "come on we're not making any progress" and sometimes I have to pull the crown in and say, "the Crown wants to see more progress." […] A lot of times, its, here's victims' money, here's accused money, this is residential school money, everything gets compartmentalized so rather than working on the human being who could have this residential school [experience], so they're victimized also, but they've been acting out and charges and then there's alcohol or other impacting factors, housing is a huge one for a lot of people so there is a whole person, but the justice focus is over here. (Debra)

Pressure from funders also creates parameters around the work being done that may not always or often align with a restorative justice paradigm.

> We have funders that require us to meet certain bench marks and evaluations so we have to report to them so we always have to do a starting assessment to find out where their reading and writing is at and then place them in a stage, 'in a nice little box'… and depending on who the guy is, he may not even be approved for the program if he is seen as a 'troublemaker.' (Jodi)

> What I was meaning to say is that I may come in without an intention to control people but I may still be experienced as a controlling person in their life because of the fact that I'm being paid and I'm documenting things so I end up being a bridge between them and various levels of justice or government. (Krystan)

> It passes through all these hands before it gets to us and then we distribute that power financially and institutionally. (Chris)

Not all of our conversations were helpful in understanding how settler colonialism is at work in our daily practice. In part because my own lack of understanding about the nuances of settler colonialism coupled with the the fact that the language of settler colonialism is unfamiliar to many workers, sometimes made it difficult to challenge workers to be critical. However, even when conversations did not specifically revolve around settler colonialism and restorative justice, points were raised that connected with ideas relevant to this discussion; of workers feeling like a "bridge between them and various levels of justice or government," that they "are limited and constrained," and the importance of acknowledging a "powerful system inequity." To these ideas I now turn.

Chapter Six: Analysis

Since my first exposure to restorative justice as an idea and as a response to conflict and trauma, I have believed in its potential to address harm and empower people. My belief in restorative justice has grown to include an understanding that the restorative justice I have experienced in Winnipeg, has as many similarities as differences to the punitive, jail, court system, a system which disproportionately jails Indigenous people. It has become increasingly obvious that restorative justice theory and practice has not adequately considered settler colonialism and therefore is more likely to reaffirm colonial violence rather than challenge it. Therefore, the following analysis uses themes and ideas identified by frontline workers to make connections with Woolford's theory of the settler colonial mesh and Pavlich's theory of the imitor paradox as a means of expanding notions of resistance in these contexts.

Settler Colonial Imitor Paradox

Andrew Woolford's concept of the settler colonial mesh offers a framework for understanding the micro, meso, and macro levels of restorative justice. This research explored what it means for individuals to facilitate and participate in restorative justice within a settler colonial context at the level of building relationships. Although the bulk of this research focuses on this micro-level experience of restorative justice, I have also drawn attention to the interconnectedness of the layers of the settler colonial mesh. Within the literature, Juan Tauri's writing provides important examples of merging restorative justice and settler colonialism at the level of state policy and funding. Emma Laroque's article (1997), "Re-examining Culturally Appropriate Restorative Justice Models" also raises critical questions of restorative justice and claims to "traditional" models of justice. These examples, although few, are indicators of the need for both fields to consider the other; for restorative justice to understand the implications of

settler colonialism at all levels of the justice process and for settler colonial theory to be pushed to include an understanding of settler colonialism that is understandable at an interpersonal level, particularly within the criminal justice system.

Through interviewing frontline workers, I have come to believe there are connections between what Woolford refers to as the settler colonial mesh and what Pavlich calls the imitor paradox. Recall that the imitor paradox explains that the relationship of restorative justice to criminal justice is one of absorption and integration rather than one of difference (Pavlich 2005, 105). Although it has sought to define itself in opposition to the criminal justice system (restorative vs. retributive, community based vs. state based, harm centered vs. blame centered), it has also ended up relying on the foundations provided by the criminal justice system. For example, restorative justice relies on the criminal justice system's definition of crime and who is offender and victim. If we assume that the criminal justice system is constrained by the settler colonial mesh and that restorative justice is firmly within that system, what might it mean to talk about a settler colonial imitor paradox? Admittedly that is a very dense theoretical term that would almost certainly have little resonance with frontline workers. However, the ideas do relate to the views expressed by those I interviewed and their understanding of the criminal justice system and their work. So although settler colonial imitor paradox may not be an accessible frontline term, it does provide theoretical framing from which to analyze workers' experience and help us think through our work.

One of the questions I pursued in every interview was, "do you see your work as having an impact beyond a case-by-case basis?" Although that was the basic framing of the question, I altered the phrasing slightly for each interview. Asked in another way, "besides those individual cases, do you feel as though what you are doing or I'm doing or what restorative justice

programs in the city are trying to do, do you see that as being decolonizing? Or contributing to reconciliation?" Or "do you feel like your work as a non-Indigenous person, with largely Indigenous offenders, do you think that is serving some greater purpose in terms of reconciliation or decolonization or do you see it just as a relationship that you're trying to be ethical in?" It is an important question and workers' answers fell on a spectrum of those who did not see any connection to a wider reconciliation and decolonization and others who believed that the work they were doing did have the potential to contribute to broader social change. I share multiple examples of how I phrased the question because it is important to note that their answers to a greater or lesser extent reflected the way I asked the question. In looking back on how I framed the question, the choice to use "decolonizing" or "reconciliation" or "broader social impacts" all have very different meanings and might have been interpreted and understood differently by each of the workers.

One worker said that unless we were intentionally talking about decolonizing and reconciliation efforts within our organization (adding that those words are capital "D" and capital "R") then we could not assume we were working towards them. This response resonates with the well-known article, "Decolonization is not a Metaphor," in which Eve Tuck and K. Wayne Yang (2012) criticize the popularized use of the word decolonization within education spheres in a way that makes of the term a metaphor. In their words, "decolonization brings about the repatriation of Indigenous land and life; it is not a metaphor for other things we want to do to improve our societies and schools" (1). I was grateful to the worker who reminded me of this in our interview as it helped me to be critical of my use of the term in the remaining interviews.

Another response to the question, one worker believed that the model that they were using was in and of itself a powerful tool that could be applied in other places and in that way

have a broader impact. Another worker wanted to believe that the work that she was doing went beyond the individual cases she dealt with but she did not see how it did or felt it was naïve to think so. Worker's answers to these questions, taken as a part of their entire interview, were framed by comments such as, "the discussion of how we relate to participants as workers is an ongoing discussion. The discussion of how that's a relation within a settler colonial setting, that has never been addressed, at all, basically." This comment resonates with the idea of a settler colonial imitor paradox. This worker explained that the program he works for supports an ongoing attempt at building ethical relationships but ultimately the constrains of settler colonialism are not taken into account. The same worker in thinking about the differences between the criminal justice system and restorative justice felt that beyond the obvious (i.e. "we don't lock [participants] up") he was at a loss for naming differences. In part too because he expressed that he had very little experience with the criminal justice system.

Other workers believed their work was important but did not believe that it was contributing to a larger social goal. And although some saw that their work had an impact beyond a case by case basis, not all of the workers I interviewed saw an explicit connection with colonialism and the justice process. One worker offered examples of where the judge had been very fair and kind to her client and others where she could see racial profiling happening within the system saying, "I don't know if it's the system. I think it's just human make up, maybe it's from colonialism, maybe it's, there could be so many different factors right? I don't know if I can label the whole justice system as [colonial] because I've seen a lot of variations." This thinking relates back to the settler colonial mesh and the experience of individuals within residential schools.

> The settler colonial mesh could tighten and intensify for students when superintendents, principals, and staff fully embraced this project and even sought

to go beyond the call of duty in their efforts to impose assimilation. In short, though such individuals were located within a multilevel mesh that weighed on Indigenous peoples regardless of individual actions, the individual actions of staff members could have impacts on softening or hardening residential school experiences (Woolford 2015, 119).

In the same way, lawyers, judges, and restorative justice workers within the justice system can mediate the impacts of the system on individuals however, their work is still impacted by the overall constraints of the settler colonial mesh. Furthermore, although individuals or entire organizations seek to implement restorative justice principles and processes, thus softening the experience of the justice system or creating meaningful opportunities for restoring balance, the work is still situated within a broader system. As one worker says, "it passes through all these hands before it gets to us and then we distribute that power kind of, like financially and institutionally." This comment points to a significant indicator of the settler colonial imitor paradox at work, which is the source and distribution of funds.

Of the four organizations I interviewed workers from, all receive a large part of their funding from the provincial government department of justice. The real impact of this money for frontline workers is that the way it gets used can be significantly determined by the goals of the state. One worker reflected that, "everything [money] gets compartmentalized so rather than working on the human being who could have this residential school [experience]… so there is a whole person, but the justice focus is over here." Where funding comes from and the guidelines and barriers attached to that funding also indicates an imitor paradox. Money from the government, the same government which is responsible for ongoing settler colonialism may have vastly different objectives as oppose to a community funded program, which gained resources and support from individuals within the community investing in the program.[14]

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[14] Community is a contested term and has many different meanings. Pavlich (2005) argues that the idea of community within restorative justice is a utopian understanding that is seen as a cure-all for many kinds of social

Relationship Building as Resistance

Entering into this research I wanted to avoid a problem-oriented approach, so rather than begin with the overrepresentation of Indigenous people, I began with relationship building through restorative justice programs as a strength to build on. After interviewing workers, the specific kind of relationship building necessary to challenge the settler colonial imitor paradox is based on building workers' capacity to understand a settler colonial agenda at work in their practice. I suggest that this kind of relationship creates space for resistance and involves an acknowledgment of history and the nature of the settler colonial mesh.

Based on my conversations with frontline workers, I think about resistance in this context in two different ways. I think about resistance as an indirect process where interconnected ties between individuals and across systems and communities challenge the death and isolation of the justice system through the building of relationships. I also talk about resistance as a process whereby individuals directly counteract the violence and colonialism of the justice system by asserting their rights and speaking with their own voice about their own identities. Both of these forms of resistance were reflected in the stories and experience that workers shared and both could be more or less supported at an organizational level.

Resistance to the system based on relationships is exemplified by one worker who said that when people start being a part of the program, "they don't trust people who are involved in systems like that so it takes time for them to realize they won't just get kicked out if they do something wrong." A program having the power to not kick someone out, is resistance to the

problems and particularly the kinds of problems that result from the criminal justice system (84). Other definitions of community, particularly within criminal justice define "in the community" as simply anything outside of jail. When I talk about a community funded program, I mean a program that does not receive funding from the government and therefore does not report to a government funding body.

justice system.[15] In another case, a worker said that without even having the chance to get kicked out in the first place, some men were excluded from participating in the school program she coordinated in jail if they were seen as "troublemakers" on their range. Of course the idea that someone could be excluded from a program because they are seen as making trouble or not adhering to the rules, is true for all people, however we know that within the Canadian justice system, Indigenous people are overrepresented.[16] This resistance can be supported at the level of an organization's policy but is also strengthened by providing access to resources for individuals who are made vulnerable within the system. Programs that support people with resources like food, finding housing, and healthy relationships provide resistance to the criminal justice system, which criminalizes poverty and homelessness while jail isolates individuals from their family and communities.

The other kind of resistance, where individuals who are labeled offenders and victims within the system speak out against the system, involves autonomy and self-expression. The idea of self-expression was powerfully conveyed by one worker, who said, "for [participants] to be able to express anything in their own words is almost sacred to me." She had brought this up in relation to the problem of workers coming in and talking for participants and the great care she would take to redirect that power, of speaking for themselves, towards participants. As another worker said, "we should talk about people being able to express themselves, I want for her [participants] voice to be heard whether I or someone else is there to say, 'Hey, listen to her.'" This idea is crucial because it does not assume that the point of the relationship is meant to be

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[15] If individuals do not meet certain requirements by funders or are no longer seen as a "fit" for the program, their funding may be cut.

[16] In the article, the *Colonialism of Incarceration*, Nichols' highlights the ways that Indigenous offenders are problematized and segregated within the system.

one of dependence, of a worker being there to stand up for or speak for participants,[17] rather the

sentiment expressed by this worker is that the relationship is actually dedicated to the goal of

having participants express themselves.

In an article exploring the impact of an Aboriginal cultural learning center in Australia,

Lainie Schultz (2015) defines self-determination in relation to identity and relationships.

> Self-determination should not be understood merely as the possession of
> political and economic autonomy or authority, but as referring as well to the
> ability to know and define oneself, and to engage that self-knowledge in
> association with others. With this, the pursuit of self-determination includes a
> pursuit of particular chosen identities, and so of relationships that reflect a
> positive awareness of and engagement with those identities.

Key to Schultz's definition of self-determination is that it assumes the idea of relationships, of

expressing oneself and one's identity in relation to others. Although I use the term self-

expression and autonomy, an important question we can ask of any justice process within a

settler colonial setting is, does it allow the pursuit of self-determination for participants?

I categorized this a more direct kind of resistance, because it involves the individuals who

are controlled and constructed through the system as victims and offenders pursuing and

expressing their own identities. This kind of resistance can also be supported more or less by an

organization and by worker-participant relationships within an organization. For example,

organizations that offer workshops for participants that allow them to connect with their own

identities and learn their rights (for example in how they deal with police officers) are powerful

tools in building the capacity of participants to resist the system. Reflecting on the circle process,

one worker said,

> Whether we get really deep down or there's a lot of intense sharing, at least it
> can teach them how to take care of themselves, how to calm down when a

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[17] It is important to note that the ability of individuals to express themselves is a spectrum. For some individuals because of any number of cognitive abilities, there may be different meaning for those individuals who require assistance from support people to speak or express themselves.

> memory comes up, able to help them to be able to stabilize themselves in the
> moment and recognize and maybe stop holding on to a lot of that, even if they
> don't know what it is.

Another example, presented in the previous chapter given by the worker who had a conversation with a participant about the term "race card," shows how relationships built on a commitment to acknowledging history can create an understanding that the relationship is situated within an unjust system. In many ways these are minute examples, but are more significant when we think about the number of participants and workers connected to justice programs within Winnipeg.

The impact of talking about resistance as happening in multiple ways through relationships within restorative justice relates to the idea that within settler colonial contexts Indigenous people are faced with the polarizing choice to either be co-opted or to hold a position of resistance (Snelgrove et al, 2014). I think of the question posed by Regan (2010), "what would it mean in concrete terms for the settler majority to shoulder the collective burden of the history and legacy of the residential school system?"(2) Rather than talk about resistance to settler colonialism as the role of Indigenous organizations or Indigenous offenders, what would it mean for workers to be engaged in a process of collectively resisting settler colonialism through restorative justice processes? Could it happen through government funded (and to some extent) controlled programs within the system? The burden of resisting settler colonialism through the justice system would not fall on the shoulders of Indigenous organizations or Indigenous workers, but would be held up by an interconnected series of relationships among workers and between workers and participants. One goal being to create space for individuals to speak for themselves about themselves and for that to meaningfully impact the way workers relate to participants.

Importantly, workers also work at other nodal points of the settler colonial mesh. Workers expressed being engaged not only in their daily work in relationship with participants but that they also take their roles seriously in speaking back at government funding and challenging policy or sit on boards and criticize heteropatriarchy and capitalism. Therefore, relationship building as resistance is a specific kind of resistance that makes sense only in the context of other action that seeks to challenge injustice within the system.

Do Reforms to Restorative Justice Lead to Systemic Change?

I want to return to an idea raised in the theory chapter, of the distinction between relationships of "love" and those of "justice." In a recent interview, Mariame Kaba (2016), a prison abolitionist and organizer from Chicago, talks about the difference between reformist reform versus non-reformist reform. She talks about reformist reforms as the kinds of reform which put more barriers in front of those entrenched within the system and those attempting to dismantle the system. An example she gives is relationship building between cops and young people. She argues that the problem is not that we need more relationship building the "problem is complete and utter power imbalance and oppression and you can't change that with basketball." This represents an example of the real difference between relationships of love (perhaps "like" is more fitting) and those of justice. That is, relationships between those who are oppressed within the system and those who are implicated as workers within the system can and do exist in ways that reaffirm the oppressive nature of the justice system.

On the other hand, a non-reformist reform is one which Kaba says allows one to actually see their way towards dismantling a system, or in Lederach's (2005) words to "imagine something beyond what is befalling us" (4). Kaba's distinction between the kinds of reform we see resonates with the two waves of criminal justice reform outlined by Dickson-Gilmore and La

Prairie (2005); cultural training for workers and later, the indigenization of the workforce. Both cases can be seen as a superficial "reformist reform." In talking about the nature of reformist reforms, Kaba offers the example of calls to divest from police and then goes on to talk about the hopeful potential of restorative justice.

With this in mind, an important question to ask of our work is, in what ways to do the relationships we build within restorative justice programs allow us to see how we might dismantle the system and in what ways do our relationships simply create more barriers towards that goal? I think undoubtedly this raises more foundational questions. Is the goal of our work in restorative justice primarily to dismantle the criminal justice system? Is the goal of our work primarily about resisting settler colonialism? Based on the reflections of ten frontline workers in Winnipeg, the answer is far from unanimous. Only two talked explicitly about their belief in the need to abolish the prison system (as one worker said, rather than focusing on making services at the end of the pipe less white we should be focusing on emptying jails). One explicitly talked about the need for both the criminal justice system and restorative justice programs. No one explicitly talked about removing restorative justice programs from their current place within the justice system.

If we (I) am to talk about restorative justice as resistance then the goal of resistance must be clear. Is the goal of resistance to combat the the death and isolation of the criminal justice system by visiting individuals in prison and offering community supports? Given this is an important part of the kind of restorative justice I am a part of, I see this as an important goal. However, I also want to make room within restorative justice theory and practice to think about the long-term potential of restorative justice in resisting settler colonialism through the justice system. In both cases, the goal of resistance can be supported by relationship building between

participants and workers but does require us to intentionally think about the nature of those

relationships.

Chapter Seven: Conclusion

At the beginning of this paper, I talked about the history of my ancestors settling on land in rural Manitoba in 1878. I argued that my great great grandmother's experience connected to my own experience of working for justice in Winnipeg, but those connections were masked by a settler colonial agenda in complex and confusing ways. One way I have understood that connection, is that the erasure of Indigenous histories (Lawrence 2014) through dominant narratives of settlement in Canada masks the need to learn about who was living on the land before the arrival of my ancestors. In other words, if the idea of *terra nullius* is taken for granted*,* then interrogating the story of my great great grandmother as the first white woman in our municipality is a less obvious task. But if we begin to unsettle dominant historical narratives, as I attempted to do in the historical context chapter of this thesis, then we necessitate a process of asking questions about Indigenous histories on the land. In so doing, we create a context for talking about resistance and the criminal justice system because we are able to address the historical foundation of those systems.

Throughout the analysis and writing of this thesis, a question that has emerged is, what does it mean for us as workers to acknowledge the settler colonial imitor paradox? I do not think that it is as complex as the term suggests, and it does not necessarily mean understanding the nuanced theory offered by Woolford and Pavlich. It is actually something that workers are already thinking about and doing in small, but significant ways. Not every worker has the same understanding of colonialism and the justice system, or their own history, but these ten frontline narratives taken together offer insight into how we resist the system and the work still needing to be done in understanding the location of restorative justice and our practice within the system. This theory then is not only instructive for restorative justice, it offers instructions for how we

challenge settler colonialism collectively in connection with supporting individuals' self-expression and autonomy through the justice process, both as Indigenous and non-Indigenous workers. Settler colonialism as a theory needs to relate to the experiences of work being done on the ground, work that has the potential to challenge settler colonialism but that often unintentionally reaffirms settler colonialism.

Woolford's concept of the settler colonial mesh has been used to frame the justice system in Winnipeg, which includes both the formal criminal justice process and restorative justice programs. Building on the current literature that rejects constructing criminal justice and restorative justice as opposites, Pavlich's imitor paradox was used to understand the connectedness of restorative justice to the criminal justice system within this settler colonial mesh. Narratives of frontline workers were brought in to understand the settler colonial mesh and the imitor paradox at the level of participant-worker relationships within restorative justice programs. Although I think there is need for this same project to happen with interviewing offenders, there is also great value in the same research being done in other settler colonial contexts where restorative justice programs are happening. Understanding how frontline services are delivered, how restorative justice is facilitated, and the relationships at the base of that work creates a way forward in understanding how to resist the settler colonial mesh at all levels.

The significant use of the word resistance throughout this thesis comes directly from workers' use of the term to describe restorative justice in our conversations in one of the focus groups. Because of the entrenched nature of restorative justice within the criminal justice system, it seems more appropriate to talk about restorative justice as having the power to unsettle and resist rather than reconcile, as the former indicates an ongoing nature and avoids, as Leanne Simpson (2011) warns, the idea that once we have dealt with past historical wrongs such as those

committed in residential schools, we can move on (22). However, the use of the word resistance needs also to acknowledge the singular importance and nature of Indigenous mobilization and resistance to the state as distinct from the kind of collective resistance talked about here. Talking about Indigenous people having a voice within the justice process is not the same thing as talking about Indigenous self-determination. I want to avoid using the term resistance (in a similar fashion to the word reconciliation or decolonization) in a way that "placates the guilt of settler Canadians and neutralizing Indigenous resistance" (Simpson 2011, 24).

Pavlich (2005) asserts that naming the paradox of restorative justice is not meant to deny the efficacy or achievements of restorative justice, but to name the paradox in order to "open the analysis up to the complexities and seductions involved when attempting to calculate justice in excess of dominant criminal justice images" (15). In the same way, I do not mean to frame restorative justice within the settler colonial mesh as a means of discrediting restorative justice work. I name it as such because I want restorative justice theory to reflect the reality of the experience of doing restorative justice. I believe deeply that within my own work there is a need for these ideas to be expressed, challenged, and understood concretely in the context of doing restorative justice.

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