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# Refusing reconciliation with settler colonialism: wider lessons from the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission

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## ABSTRACT

The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC) is one of the more recent examples of the truth and reconciliation model being used in a settler colonial context. This article argues that the MWTRC highlighted a historical and continued refusal by Wabanaki people to ongoing systems of white settler violence especially in the form of Native child welfare. Examining the MWTRC through the lens of refusal allows for a critical analysis of the ways in which the MWTRC subverts neoliberal reconciliation models that leave colonial structures unchallenged and unchanged. The MWTRC, as a process founded and led by Wabanaki and settler social workers and Wabanaki survivors of the child welfare system, actively refused reconciliation with settler colonialism. Instead it sought a process predicated on a relationship that accepted the realities of historical and continued oppression of Wabanaki people and sought long-term transformative change for Wabanaki people. Relying on two years of conversations between the authors and the community of Wabanaki and settler individuals who initiated and partook in this process, this article offers an analysis of the MWTRC and how its strategy of refusal denied settler colonial co-option of a Wabanaki-centred process.

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reconciliation; settler colonialism; truth and reconciliation commissions; refusal; Indigenous; child welfare

This article focuses on a truth and reconciliation commission that operated in the state of Maine in the United States and in sovereign Wabanaki Tribes – the Penobscot Nation, the Passamaquoddy at Sipayik (Pleasant Point) and Motahkomikuk (Indian Township), the Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs – over the course of 27 months between 2013 and 2015. The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC) was set up with the intention of examining state child welfare institutions and how their policies had enabled the continued colonisation, and genocide, of Wabanaki and other Native people in Maine. The MWTRC was originally initiated by a group of Wabanaki and settler social workers, community activists, and survivors as a way of examining child welfare practices

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following the passing of the Indian Child Welfare Act (ICWA) of 1978<sup>1</sup> and the forced transfer of Native children into non-Native families and environments. It is an important process, not only because of the historic nature of the Commission – as the first government-endorsed (both state and Tribal) truth and reconciliation mechanism in the United States – but because ultimately, as this article will argue, the Commission reflects a historical and continued refusal of settler colonial attempts to erase Wabanaki people from their lands.<sup>2</sup>

Prior to the passing of the Indian Child Welfare Act (ICWA) in 1978, Native children in Maine were 19 times more likely than non-Native children to be removed from their homes.<sup>3</sup> Although that number decreased following ICWA, considerable discrimination against Wabanaki parents and families remained, and it was this continued discrimination that the Commission examined. Ultimately, the aim of the Commission was not to seek a reconciliation between Wabanaki people and the settler colonial state or individual perpetrators of these crimes. For the MWTRC to have claimed that it completed such a task would be something Damien Short describes as ‘a settler state citizenship-based result which fails the indigenous sovereignty challenge’.<sup>4</sup> Rather, the final report of the MWTRC only actually discusses a theoretical notion of reconciliation, and only briefly on one page, noting that ‘many Wabanaki people’ had voiced during the mandate of the Commission that ‘it was too soon to hope for reconciliation’. ‘Moving towards systemic reconciliation’, as the report notes, would have to be something that made ‘cultural and emotional sense first of all to Wabanaki people’.<sup>5</sup> Notably, in a letter from the Commissioners that served as the preamble to the final report, they noted that the report should be seen as ‘refusing’ the silence that permitted the perpetrated harms in the first place.<sup>6</sup> Indeed, Kanien’kehá:ka scholar Audra Simpson highlights how refusal can act to reject existing external state and institutional structures and to instead call forward ‘the prior’, i.e. all that preceded, and desires now to supplant settler colonialism.<sup>7</sup> We would argue that refusal can also be seen as a rejection of a framing of reconciliation that has developed and been perpetuated, under a neoliberal framing of reconciliation. Within this framing, the discourse of struggle against systemic violence has been largely replaced by a focus upon the ‘ethical rejection of physical violence’ which in turn depoliticises the structural, and physical, discrimination and oppression that settler colonialism perpetuates.<sup>8</sup> We therefore argue that a refusal of reconciliation with the settler state and society is also a wider rejection of neoliberal settler colonial governance frameworks and, in terms of the MWTRC, this manifested in two ways: first in the MWTRC’s mission to make space and to amplify the truths of Wabanaki and other Native survivors of the Maine child welfare system, with the intention of initiating a longer-term journey towards transformative systematic and societal change; and second, on the need for white settlers, in particular, to reconcile with their identities as the beneficiaries of genocide and dispossession. To begin this analysis, we first give an overview of the politics of refusal, before outlining the ways in which we aimed for our research methodology to be both reactive and reflexive. We then outline the ways in which there has been Wabanaki refusal of settler colonial child welfare practice to contextualise the work of the MWTRC. We will then move on to look at the Maine Indian Claims Settlement Act and the lessons it provided in how settler colonial-led redress can co-opt reparative

processes. This then leads into an analysis of how the MWTRC prioritised transformative change and its refusal to centre settler colonial well-being.

## The politics of refusal

At the heart of this article lies a politics of refusal: a refusal by Wabanaki people to acquiesce to state child welfare policies, and a refusal to reconcile in the ways that neoliberal reconciliation praxis might suggest.<sup>9</sup> Within settler colonial contexts, neoliberal reconciliation processes call upon the individual victim to heal, the individual perpetrator to confess (with or without retribution), and for all to reconcile under generative political, economic, and social structures of colonisation, which remain uncritiqued, unchanged, and in-place.<sup>10</sup> What is important to consider here is neoliberalism's reliance upon the individual as an amorphous generalisation – their gender identity, racial identity, age, sexuality, economic situation subsumed into an individual 'rational actor' with the qualities that make us human stripped away. Without these qualities, the tools of the neoliberal peace can be transported anywhere, a standardised 'flat-pack' (i.e. liberal democratic governance, market-based reforms) to be assembled anew.<sup>11</sup> Refusing such standardisation can be thus a challenge to neoliberalism in that those who are negatively impacted by the exercise of power can take action, or refuse to, on their own terms and in their own political space.<sup>12</sup> Indeed neoliberal reconciliation processes can, ultimately, be seen as an interventionist policy designed to provide yet another opportunity for the settler colonial state to alter non-Western societies deemed to, in their view, be in crisis into neoliberal societies that function far closer to the Western model. Roland Paris describes such projects as '*mission civilisatrice*' – 'a reminder of the European imperial powers' duty to colonise dependant populations in order to 'civilise' them'.<sup>13</sup>

Refusal is a concept that is increasingly used within academic literature describing behaviour that is linked to that of 'resistance' but which is also fundamentally different to it. As Bhungalia notes it is not to say: 'I oppose you' but rather<sup>14</sup>:

'your power has no authority over me' ... Refusal denies authority *presumed* and in so doing, reconfigures the relationship between dominated and subjugated itself.

As Simpson highlights, refusal is a stance, but it is also a theory of the political.<sup>15</sup> Examining the MWTRC through the lens of a politics of refusal thus allows for a critical analysis both of an ongoing refusal of settler colonialism by Wabanaki people, but also of the ways in which the MWTRC subverts the neoliberal. The MWTRC, for example, saw settler colonialism as both the problem and as the starting point. It ultimately refused to allow white settlers who engaged with the process to see themselves as innocent of white supremacist and settler colonial advantages and desires.<sup>16</sup> In place, white settlers could either deny their inherent complacency to white supremacist and settler colonial structures, or they could take accountability and help dismantle such structures. This initial 'refusal' of a neoliberal reconciliation approach, whereby complacency to violent structures of domination is not accounted for, allowed for the development of a process, and an aftermath, geared towards the sovereignty and self-determination of Wabanaki people. As Prasse-Freeman notes<sup>17</sup> when examining the work of the refusal writing collective (RWC, i.e. Audra Simpson, Carole McGranahan, Elisa Sobo and Erica Weiss writing for *Cultural Anthropology* in 2016) refusal is identified as an

attempt ‘to construct a plane of equivalence’ on which, for example, Indigenous peoples living within the settler colonial state ‘present themselves as equally sovereign as those states that envelop and oppress them’.<sup>18</sup> Thus as Emejulu and van der Scheer note ‘refusal becomes a collective politics of possibility to imagine and make real alternative social orders and relations... a collective politics of hope, solidarity and radical equality’.<sup>19</sup> Refusal also offers a way to challenge settler sovereignty by both refusing ‘official channels of recognition sanctioned by (inter)national institutions, even while it works within those same channels of recognition in order to reach broad audiences’.<sup>20</sup>

Carole McGranahan talks of four elements of refusal,<sup>21</sup> each of which can be seen within the MWTRC process, as well as within the historic and ongoing interactions of Wabanaki Tribes vis-a-vis the settler colonial state. First, McGranahan talks of refusal as a potentially ‘generative’ process which rather than ending the possibility of change actually creates that possibility. Wabanaki REACH, an organisation composed of Native and settler child welfare advocates that was created at the outset of the MWTRC, was critical in not only assisting the truth-seeking and truth-telling processes throughout the mandate, and refusing settler colonial co-option of the process, but it also continues to work to this day in supporting the ‘self-determination of Wabanaki people through education, truth-telling, restorative justice, and restorative practices’.<sup>22</sup> Second, and related to this, McGranahan talks about refusal as being ‘social and affiliative’ producing or reproducing community. As we will demonstrate, the mechanics of the MWTRC created a community of experience that bypassed the state. Third, McGranahan, similarly to Audra Simpson, reminds us that refusal does not equal resistance.<sup>23</sup> Emejulu and van der Scheer note that ‘refusal politics does not consent to the usual binary of domination/subjugation that resistance politics requires to animate action. Rather, refusal radically flattens relations between different individuals and groups and works from a position of *a priori* equality’ the ‘plane of equivalence’ that was mentioned earlier.<sup>24</sup> We can see this reflected in the initial coming together of Wabanaki and settler community organisers and social workers, and also in the ways in which the process developed – not by or with the state, but rather by this same community. The state was not leading the process in any way, either on its own or through settler social workers. The political space created by the process, both literally and figuratively, was thus external to the state governance space, allowing for collaborative critique. Finally, and again, refusal is about hope and the beginnings of the possibility of change – it is about an act of what McGranahan referred to as ‘willfulness [that] generate[s] both political alternatives and ethical critiques’.<sup>25</sup> The entire MWTRC process is thus a reimagining of neoliberal models of reconciliation that are so often focused upon sovereign parties as defined by the sovereign parties themselves. The MWTRC is a clear refusal to reconcile to settler colonialism, instead asserting the sovereignty and self-determination of Wabanaki people. Moreover, this refusal of colonial practice was something that we also aimed to replicate as much as possible as academic researchers and as the next section will highlight, our aim was to mirror this concept of refusal within our own methodological praxis.

### **Attempting a reactive and reflexive methodology**

This article is based upon 30 semi-structured interviews with individuals, both Native and white settler,<sup>26</sup> two focus groups, as well as periods of engagement at various levels between the authors and those involved in the MWTRC. The vast majority of

these were conducted in-person by Collins across Maine during 2-3 week visits, and over the telephone, between 2013 to 2015, with Watson conducting supplementary in-person interviews in Maine during spring 2014.<sup>27</sup> The research process included interviews with Wabanaki and settler community organisers, Wabanaki child welfare advocates, social workers from the Department of Health and Human Services (DHHS), survivors, MWTRC Commissioners and Commission workers, current and former state and Tribal representatives, and Wabanaki Tribal Chiefs.

Our aim as researchers was to document and to understand the inception, intentions, and desires of the MWTRC, working with those involved in the construction and implementation of the MWTRC in order to do so. We were aware prior to the beginning of the research that the MWTRC was a potentially ground-breaking truth-seeking process – even just from a preliminary observation that this was the first government-endorsed Truth and Reconciliation Commission in the United States. As time and learning progressed, we became increasingly aware that the daily violence waged by settler colonialism and its structures made the exercise of research inherently problematic, especially given the role that some of the past research done by others has played in uplifting colonial ideologies and structures, such as patriarchal white supremacy. It was our aim then, in active collaboration with those involved in the MWTRC, to highlight not only the process itself, but to reinforce the importance and necessity for Wabanaki people, and Indigenous peoples at-large, to dictate how and when their truth-seeking, healing, and change should take place. Tuck and Yang helped us to articulate our methodology at the time with their concept of ‘refusal’.<sup>28</sup> They state, ‘[a]cademe’s demonstrated fascination with telling and retelling narratives of pain is troubling, both for its voyeurism and for its consumptive implacability’.<sup>29</sup> Thus in countering the academic tradition and market of pain obsession, researchers must practice active refusal. This is more than merely saying ‘no’. Refusals are, as Tuck and Yang highlight, ‘attempts to place limits on conquest and the colonization of knowledge by marking what is off limits, what is not up for grabs or discussion, what is sacred, and what can’t be known’.<sup>30</sup> Practicing active refusal to normative practices in academia as a methodological praxis allowed us to further understand the utility of the MWTRC not only as a truth-seeking process but as a demonstration of Indigenous sovereignty in spite of the settler state. As Audra Simpson notes:<sup>31</sup>

this form of refusal is not to operationalise nor to genuflect to recent formulations of alternative methodology such as ‘radical indigenism’ – something that is neither radical nor indigenous but rather, in the name of ‘tradition’, structuring yet another expectation of a culturally ‘pure’ indigenous subject. Rather, ... to think about ‘sovereignty’ – a construct which is always a bestowal and as such is deeply imperfect but critical for these moments in Indigenous/Settler State relations – is to think very seriously about needs and, basically, involves a calculus ethnography of what you need to know and what I refuse to write in.

The methodology we used placed a priority upon recognising that we, as researchers, were not there to take and hoard knowledge as part of the research process. Rather, we were there to learn from, and work with, the community surrounding the TRC process, and produce outputs that would accurately reflect the process as it had taken place.<sup>32</sup>

As researchers, we attempt to be cognisant and active observers of our own positionality, and of the ways in which this may influence how we navigate the multiple power relations that inform the research process and the knowledge production that comes from it. Penobscot scholar Rebecca Sockbeson has written compellingly of the endurance of Waponahki (Wabanaki) epistemology against repeated attempts to undermine Indigenous knowledge. Indeed, her work highlights the racism inherent in the academy, noting ‘the systemic racism and the oppression that prohibits our knowledge being transferred, and Western knowledge being perpetuated, is the same systemic racism that places Western knowledge in a superior position to Indigenous knowledge,<sup>33</sup> if Indigenous knowledge is even given a reference as knowledge’.<sup>34</sup> Sockbeson’s words resonate, especially as neither of us is Indigenous and both of us were educated within elite UK higher education institutions. Moreover both of us have spent the majority of our adult lives outside of settler colonial state borders while still maintaining working relationships with its many institutions, and while living within a society – the UK – whose industrial growth and political development have been based on white supremacist colonialism, including hegemonic Western-centric academic practice that has been, and largely remains, deeply hierarchical, privileged, and exclusionary. What is more, both of us self-identify as Queer and hold strong ties to our Celtic ancestries, while in socio-economic terms, Collins grew up in two different white settler middle class households in Western New York on unceded Onöndowa’ga lands and Watson grew up in a Doric-speaking white and then underclass household in Aberdeen, Scotland. In recognising the earlier arguments vis-à-vis pain and refusal we should also note that as people who have experienced and continue to grapple with our own past traumas, we were uncomfortable with the notion of partaking in what Lnu Mi’kmaq water and land defender Barbara Low called ‘genocide porn’ in reference to the public proceedings of the Truth and Reconciliation Commission of Canada.<sup>35</sup> We understand this to mean the observing, reinforcing, and claiming of narratives of pain, especially where those participating in these acts opt out of thinking reflexively and critically about their own complicity and contributions in its production. Through active and personal relationships with individuals in the MWTRC and the community surrounding it, which lay at the heart of the research access that we were granted, we were aware that Wabanaki and other Native narratives of pain were off-limits to this voyeurism of the white settler gaze in whatever form and spaces they visited. Finally, given that the work of the MWTRC and Wabanaki REACH refused to view white settler society through a lens of innocence, it was clear that both of us as white researchers were not exempt from this established culture of accountability. Indeed, it was incumbent upon us to challenge our identities as beneficiaries of settler colonial and white supremacist structures and violence, and this work still continues to date.

To some, articulating our own positionality and the ways that it informed our own research may open us up to charges of Western performativity. However, our aim here is to begin to respond meaningfully to the call by Kouritzin and Nakagawa, that in order to:<sup>36</sup>

embrace non-extractive positions, researchers will need to be honest with themselves about and disclose ‘integrity’ factors such as the usage of research results and consequences what (dissemination), who (responsibility), and when (justification). It is imperative that researchers disclose as much as possible about themselves, about their beliefs and assumptions, about their relationships.

We add our voices to the call for what Kouritzin and Nakagawa label a ‘Journal of Positionality’, an open-access peer review collection of biographies that make us as researchers ‘vulnerable’, in the same way we have intentionally or unintentionally made those who engage with us in our research vulnerable.<sup>37</sup> We feel that this is important to say because being open about positionality is part and parcel of unlearning dominant colonial practices within the academic system.

### **Wabanaki refusal to settler colonial child welfare practice**

Settler colonialism persists as an ‘exogenous colonialism’ that desires settler permanence and the dispossession of Indigenous peoples of their lands.<sup>38</sup> The goal, then, of this form of ongoing colonisation remains, ultimately, the annihilation of Indigenous peoples<sup>39</sup> as well as the securing of the future of settler colonial society through the perpetual accumulation of land and the generation of wealth, which is in turn facilitated by the use of chattel labour.<sup>40</sup> The biopolitics of settler colonialism in the United States engages in a white supremacist racial capitalism that deems Black, brown, and Indigenous bodies as objectifiable and disposable. Children have not been exempted from this and the child welfare system has a long history as a means of population control within the American settler colonial state, with its assimilationist pedagogy aimed at breaking the bonds between family, community/Nation, and land. For settler colonialism, breaking these bonds in the name of assimilation became a cheaper and more productive form of annihilation than war and physical extermination. The mantra ‘Kill the Indian, Save the Man’, in the words of Henry Pratt, who founded the Carlisle Indian Industrial School in 1879, clarifies how settler colonial child welfare practice maintains bodies for labour while annihilating Indigenous identity. In the case of Maine, the MWTRC found that the forced transfer of Native children from their families and communities to white foster and adopted families was not dissimilar and that it amounted to ‘cultural genocide’ when it reached its conclusion.<sup>41</sup> For the MWTRC, these acts of genocide committed by settler colonialism and its structures, and its relationships of power were, and are, normalised to white settlers across the United States as ‘Native people have experienced or continue to experience cultural genocide’.<sup>42</sup> As one of the Commissioners of the MWTRC, then-Maine Secretary of State Matt Dunlap noted, genocide ‘has manifested itself as a continual drumbeat in this country for 500 years’ with the settler colonial state ‘caring for genocidal behaviours as part of our birth-right, without really even realizing it’.<sup>43</sup>

Darren Ranco (Penobscot) a Professor at the University of Maine at Orono makes this connection between the forced removal of children, settler colonial annihilation and land accumulation:<sup>44</sup>

Genocide ... it’s not just a systematic killing of groups of people, it’s preventing them from existing as a group. So when you think about the removal of children, which then alienates them from their cultures and their communities and their sort of relationship to the land, which as Indigenous peoples is you know foundational. And I mean between land and kin, really ... those are the primary meanings of Indigeneity in the way I was taught it. So for us then the child welfare system as being such a fundamental, having such a fundamental role in preventing us to continue to exist as communities, as kin. And then these people, who they have removed from our communities, their relationship to resources and so forth, that is a clear part of a genocidal, you know, orientation of the colonial apparatus.



This ‘genocidal orientation’, as Ranco articulates, which Wabanaki Tribes in Maine have been subjected to, predates the official establishment of the American settler colonial state. The Indigenous peoples along the eastern coast of the now-countries of Canada and the United States were some of the first in North America to experience such genocidal policies with very many examples of violence, both ‘direct’ and ‘structural’, eventually resulting in the loss of over 90% of the Wabanaki population. By 1755 the colony of Massachusetts, which at that time had jurisdiction over the colonial settlements of present-day Maine, enacted the Phips Proclamation which placed a bounty on Penobscot lives of twenty pounds for every scalp of a female or male Indian under the age of twelve years brought in as evidence that they had been killed. These documents are a significant part of Wabanaki history and evidence of settler colonial intentions.<sup>45</sup> As Chief Kirk Francis of the Penobscot Nation said, when we asked why the Phips Proclamation hangs on his office wall:<sup>46</sup>

It represents not only a very atrocious time of genocide against our people ... an ethnic cleansing ... but it also represents the resiliency of the Penobscot people and the fact that we’re still here, and we are thriving.

Throughout the research period, the Phips Proclamation was often referenced as evidence of the ‘genocidal orientation’ and its enduring tactic to target Native children. However, as Chief Francis articulates, the Proclamation in the hands of Wabanaki people today is also evidence of the failure of settler colonial genocide. The history of white supremacy and settler colonialism, however, remain ever-present. Similarly, Donald Soctomah, the tribal historic preservation officer for the Passamaquoddy Tribe at Motahkomikuk, who was the former Passamaquoddy Tribal Representative to the Maine State Legislature, pointed out:<sup>47</sup>

You know that happens all the time when our people go out to fish and they’re near non-tribal fisherman. The non-tribal fisherman will say you don’t belong here and make racist remarks ... Things like that happen all the time. All you have to do is, whenever there is a tribal article in the newspaper you go to the comment sections. The comments section is a breeding ground for all these racists. There are a lot of them around here. Not in the community but all around us. All the way to the big house in Augusta [the Maine State House where the House of Representatives meets]. When I served there, I had one of the representatives stand up during a debate. He stood up and said he was ashamed of all of the representatives of the state. He said that the racial stuff he heard in its hallways, that he’d rather resign right now than hear it again. And that’s right in the minutes during the debate.

Though the history of white supremacist, nationalist, and nativist social movements in the State of Maine is well documented,<sup>48</sup> it must also be seen as a wider reflection of settler colonialism in Anglo-settler states (e.g. United States, Canada, Australia, New Zealand) at large, where descendants of British colonisers placed themselves at the top of settler society. Geopol scholar Aileen Moreton-Robinson conceptualises this as ‘white possessive logic’ where ‘whiteness operates possessively to define and construct itself as the pinnacle of its own racial hierarchy’.<sup>49</sup> She goes on to state ‘in the race war with Indigenous people, patriarchal white sovereignty pathologizes itself through the tactics and strategies it deploys to maintain subjugation’.<sup>50</sup> In the context of Maine’s history, the forced abduction, transfer, and assimilation of Native children

follows a white possessive settler colonial logic to pathologise, in this case, the welfare of children, in order ultimately to possess Wabanaki lands and erase Wabanaki people.

Wabanaki people have established a history of refusal in submitting to the pathology of child welfare policies and practices. In a 2014 interview, Chief Brenda Commander described a threshold-breaking incident in 1997 whereby police and white settler social workers were caught attempting to remove two Native children from a home on Maliseet lands:<sup>51</sup>

So I went into the home and the mother was there. They were trying to remove two teenage girls and I said ‘what’s going on?’ and the [Department of Health and Human Services Supervisor] said ‘we have an emergency protection order’ and I said ‘can I look at it?’ and she threw it at me. She threw it at me and it fell on the floor and it wasn’t signed by a judge. ... So I kind of went in their little circle and we stood there and it was a little uncomfortable and I said, ‘you guys need to leave’. And they didn’t say anything and they just all looked at me, like, ‘who cares what you say, we’re not going to leave’. And so I just stood there and I said ‘look you guys we don’t want any trouble, we don’t want anything happening. [These are] our lands and I really am trying to be nice about it. I am asking you guys to leave’. And one of the workers said to me, the head supervisor had walked down the driveway, and she goes ‘No, go tell our supervisor that. Go tell her that you want us to leave’. I said ‘no, I am not leaving this spot. If I have to stand here all night long I am not leaving’. I said ‘I am not leaving. You guys are leaving’. So one of them walked down to the supervisor and said ‘she’s asking us to leave’ and [the supervisor] really got upset and started waving her hands and saying ‘you are going to pay for this, you are going to be sorry Chief Commander’. And they left. So that happened. That was the first time that we really stood up to them.

Chief Commander’s refusal of the settler colonial child welfare workers was an assertion of sovereignty that catalysed a wave of action that ultimately resulted in a commitment to work toward full implementation of ICWA in Maine. This also remains an example of refusal and how that concept can work ‘in everyday encounters to enunciate repeatedly ... that ‘this is who we are, this [is] who you are, these are my rights’.<sup>52</sup> Later, in 2001, the then-Tribal Representative for the Penobscot Nation to the Maine House of Representatives, Donna Loring, reinforced the prevalence, and significance, of child removal when she became one of the first to publicly deem the actions and complacency of the Maine government with regards to the forced transfer of Wabanaki and other Native children as ‘genocide’.<sup>53</sup>

Today in Houlton, the Houlton Band of Maliseet Indians faces an unprecedented taking of their children by the state, twenty-nine children in the past five years. I see this not only as a failure on the part of the DHS to place Indian children in extended families, but also a failure on the part of the judicial system to implement the Indian Child Welfare Act. The loss of that many children to a tribe numbering approximately six hundred members is nothing less than genocide. When an Indian [T]ribe loses its children, it loses its future.

In 1999, the Maine Office of Child and Family Services invited representatives from the Wabanaki Tribes to form a working group – the ‘Indian Child Welfare Act Workgroup’ (ICWA Workgroup) – in order to improve the state’s compliance with ICWA. The ICWA Workgroup held trainings with DHHS workers to not only ensure compliance with ICWA but to challenge white settler innocence within the DHHS system. As noted in the final report of the MWTRC,<sup>54</sup> a former DHHS worker testified that the ICWA trainings were an awakening: ‘this person grew aware that the child was “part of the tribe and ... for the welfare of that child to have a healthy, well-

functioning tribal community, I could see that. ... As the presentation evolved, I started realizing, ‘Oh, my God! What this is saying is that I’ve been an agent – among other things – I’ve been an agent of genocide.’” Through the course of its mandate this workgroup recognised the need to connect the harmful practices of the past to the present well-being of Wabanaki children and families, a process that resulted in creating the impetus for a truth and reconciliation commission that would focus upon the experiences of Native children in the state welfare system – and importantly that would recognise that the process would be one of true collaboration between the Wabanaki Tribes and the state. As Passamaquoddy citizen Esther Anne, a key architect of the TRC, noted regarding her initial hopes:<sup>55</sup>

We said collaboration, so let’s collaborate, truly from the beginning. It also helped everybody let go and really think about what’s this TRC going to do. Are [the Commissioners] going to come in here and tell us what we already know? ... [A]ll these hundreds of years has not gotten us to the change and healing we want, and this truth and reconciliation process, to have this independent and autonomous commission will have that integrity and will give that validation that we need.

Out of the ICWA Workgroup, the Commission was made a reality over the course of approximately fourteen years, from conceptualisation to the beginning of its mandate. However, the Commission would be designed in a way that avoided the mistakes of the past in working with the state of Maine. As the next section will demonstrate, settler-led approaches to recognition and reparation, especially the Maine Indian Claims Settlement Act, have demonstrated themselves to be not only incongruous with Wabanaki ways of coexistence and respect, but also have retained a historically asymmetrical relationship of power between the state and Wabanaki Tribes.<sup>56</sup>

### **Lessons on refusal from the Maine Indian claims settlement act**

Two centuries of Maine-Wabanaki relations are best characterised by paternalistic attempts to assimilate the Tribes into the settler population and eradicate them completely. As the state of Massachusetts split to form the state of Maine in 1820, treaties with the Wabanaki were transferred over to the newly-formed state government, beginning a relationship that kept the Wabanaki as ‘wards of the state’. In the 2022 Report ‘One Nation Under Fraud: A Remonstrance’, Donna Loring summarises this relationship:

My ancestors viewed the signing of the Treaty in 1820 as a last effort to survive as a tribe and keep their sovereignty in the face of overwhelming odds ... The Treaty would preserve future generations. Maine saw the signing of the Treaty as the creation of a document not of sovereignty, but of surrender. The ink was not even dry on the Treaty before Maine asserted guardianship over the tribes and treated the Wabanaki people as wards of the State. The State considered the tribes as “paupers” and “imbeciles” and proceeded to institutionalize the control it exercised over the tribes through the appointment of “Indian Agents” – government officers purposed as the gatekeepers for all land transactions with the lumber barons, and the treasurers for all funds dispersed to the tribes for their everyday needs.<sup>57</sup>

Loring here articulates another refusal from Wabanaki people, one that, in being coerced into a paternalistic agreement with the State of Maine, also refused the erasure of Wabanaki identities and histories in order ‘to keep their sovereignty’ and ‘preserve future generations’. Simpson states, ‘Regardless of intent, regardless of interpretation, [treaties]

represent agreement and recognition; they are forms of covenant-making that bind. And that is where consent is bound with recognition and its refusal, symptomatic of truth itself and a mechanism for other possibilities'.<sup>58</sup> However, as the 2022 report demonstrates, through discovery of 'the Indian Papers', what the authors term as Maine's own 'Nixon Tapes',<sup>59</sup> the Wabanaki Tribes had to continuously resist erasure beyond this agreement with Maine as 'it was agreed that the State should endeavor to dissolve the tribes'. The report is a testament to the systematically oppressive relationship the Wabanaki people had to endure, resist, and survive since the creation of the state of Maine. With the rise of Pan-Native resistance and the shift in policy from the Nixon administration in the early 1970s to end the Termination Era, an approximately 30-year period of consecutive presidential administrations seeking a dissolution of the relationship between federal government and federally-recognised Tribes, a new era of federal legislation was ushered in that upheld aspects of Native sovereignty (e.g. the Indian Child Welfare Act; American Indian Religious Freedom Act; American Indian Arts and Crafts Act) and sought redress for broken treaties and land dispossession. However, the state of Maine and its settler populace would resist this federal interference to uphold the sovereignty of Wabanaki people. Federal legislation not only carried the potential to upend paternalistic relationships between state governments and Indigenous Nations, but also placed settler lands and the nature of their acquisition under review.

While the MWTRC remained centred on adherence, and the lack thereof, to the Indian Child Welfare Act, the Maine Indian Claims Settlement Act of 1980 (MICSA) was a historical backdrop and lesson on the limits of settler-imposed redress. Like ICWA, MICSA was passed during the civil rights-friendly years of the Carter administration and in an era of Pan-Native resistance where land claims were being negotiated across the country after decades of attempted termination of the federal-tribal relationship. Historian Maria Girouard (Penobscot), who was another key organiser of the MWTRC, documented that the Penobscot and Passamaquoddy of Sipayik and Motahkomikuk, and the Houlton Band of Maliseet Indians sought to negotiate MICSA in order to ensure their recognition and to turn the tide of an oppressive relationship with the state of Maine.<sup>60</sup> The Penobscot, Passamaquoddy, and Maliseet Tribes were awarded 'a total of \$81.5 million dollars: a \$27 million development fund and \$54.5 million to buy back land from willing private landowners'.<sup>61</sup> MICSA, like many other land claims settlements, presents a telling example of settler colonial recognition politics in two key ways. First, in order to claim ancestral lands and a relationship with the federal government, Wabanaki people had to be racialised as American Indians. They could not simply remain in the eyes of the federal government solely sovereign Nations. Simpson states 'the racialisation of Indian identity in the United States correlates to differing conceptions of Indian relationships to the state and to Indian citizenship through time. These were conceptions of recognition that moved Indian tribes away from the semi-sovereign status of "domestic and dependent nations" and into the conceptual and legal ambit of racialized minorities'.<sup>62</sup> These were also conceptions that further reinforced a liberal notion of rights that is focused on the individual rather than upon any notion of group rights. With federal recognition, Indigenous Nations are under the purview, not of the Department of State as foreign nations, but of the Department of the Interior, reflecting a domestic

and dependent status in the eyes of the US government.<sup>63</sup> Second, MICSA represents what Simpson calls ‘liberal justice’, which, as she states, involves:<sup>64</sup>

recognizing what has happened, an especially noble act, noting failure, keeping open the possibility of a prior sense of good – one that so to speak recognizes this now as an error and offers to help carry burdens.

MICSA followed this pattern in the US government recognising the Wabanaki lost lands as a result of colonisation but would not yield sovereignty to, or self-determined reparations from, the Wabanaki people. Rather, though it was the largest land claims in the contiguous United States at the time, MICSA was ultimately a buyout – or as Girouard says ‘a relief from paying any monetary judgment and relief from returning any of Maine’s land’ to the Wabanaki Tribes. Girouard goes on to note:<sup>65</sup>

They were also relieved of any wrongdoing for their mismanagement of Indian affairs and finances which had caused the tribes immense poverty for over a century. Additionally, the tribes were forced to relinquish their aboriginal claim to any other Maine lands to effectuate the financial compensation and purchase on new land.

In the end, MICSA was the result of a rushed process to avoid negotiating with the impending and anti-land claims Reagan administration, and a co-opted one that gave the state of Maine a perceived exit from historical dialogue with Wabanaki Tribes.

MICSA and its botched good intentions taught a couple of key lessons as Wabanaki Tribes sought to gain back their lands. First, Girouard documented the vitriolic response MICSA negotiations drew from the settler population across the state. The notion of reparations, especially in the form of returned lands, for the Wabanaki triggered ire from individual citizens, newspapers, industry, and the state capitol at Augusta. Girouard points to the commentary of Andrew Akins, the Penobscot Nation’s MICSA negotiator, and his account of the backlash:<sup>66</sup>

It was as if we touched a raw nerve that extended back into the innermost recesses of the true personality of the white people around here and unleashed all their deep hatred for Indians, together with their guilt for what they had done to the Indians over the years.

The backlash against MICSA conjured an extreme ‘white possessivity’ from white Mainers, a lesson being that settler coloniality was not something to only address in courts or through bureaucratic institutions, but also in the hearts and minds of the settler populace. Second, while far from providing meaningful redress and restitution, MICSA and the federal protections it offered was nevertheless a refusal of the status quo of being under the surveillance and wardship of Augusta without the federal protections afforded to federally-recognised Indigenous Nations. Nevertheless, MICSA showed how the state of Maine would seek to retain paternalistic relations despite the acknowledgement of past wrongs. As Loring notes:<sup>67</sup>

What the Act did do was solve the dispute of land ownership, but it was also a tool to keep the tribes in handcuffs, so to speak, and under state control. It was, in fact, a document that ended up being used as a tool via court decisions to maintain the state’s jurisdiction over the tribes in every area of the law, even internal tribal matters.

Certainly, the Tribal-state relationship between the Penobscot and Passamaquoddy Tribes and the state of Maine was finally recognised and the Houlton Band of Maliseet

Indians received federal recognition. Nevertheless, the power of recognition has been wielded by the settler colonial state to determine the legitimacy of Indigeneity. This is what Yellowknife Dine scholar Glen Coulthard critiques in Charles Taylor's politics of recognition and its approach to colonial-led reform. He notes that Taylor's politics of recognition 'addresses the political economy of colonialism in a strictly "affirmative" manner: through reformist state redistribution schemes like granting certain cultural rights and concessions to Aboriginal communities via self-government and land claims processes'. The result of this approach is the altering 'of some of the effects of colonial-capitalist exploitation and domination, whilst doing little to address their generative structures'.<sup>68</sup> Still, MICSA offers itself as a lesson that settler recognition politics and the institutions that uphold them will co-opt reparation and restorative justice processes, and thus require concerted refusal. MICSA set the tone that settler institutions would undermine efforts to address what Coulthard notes to be the generative structures of colonial-capitalist exploitation and domination. In the purview of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, it would therefore need to make its own space and refuse possible settler colonial co-options as it examined the child welfare system as a generative structure of colonial-capitalist exploitation and domination.

### **Prioritising transformative change**

While the MWTRC observed and took notes and advice from other truth-seeking processes, like the Greensboro TRC, the Mississippi Truth Project, and the TRC in Canada, those involved in its creation and development were determined to shape and implement an original process. From the beginning of this research, in line with McGranahan's second element of refusal mentioned earlier, we could recognise refusal in the 'social and affiliative' production of community that Wabanaki child welfare workers developed alongside settler social workers. From the initial meeting between Tribal and state representatives when the idea of a truth and reconciliation commission was first put forward, Wabanaki child welfare workers discussed the nature of such a process. Ultimately, the TRC could not become a process co-opted by settler voyeurism of Wabanaki pain and would require an informed reflexivity from settler participants, including child welfare staff. In a co-written article, key organisers of the MWTRC and collaborators stated:<sup>69</sup>

State child welfare staff at all levels of the system need to understand their role and how they have benefitted from the oppression of Native people. Understanding this begins to relieve the burden of history's legacy. True reconciliation can only occur when collaborative partners create safety so that buried truths and unheard voices can be recognized, leading to healing and a shared narrative of who we are, where we have come from, and where we are going. Working together in this way has been a contradiction to another piece of the dominant narrative that demands that we keep the past in the past.

Rather than the state having control of the process, it was Wabanaki child welfare workers who invited the Maine Office of Child and Family Services at the Department of Health and Human Services to join them in writing a Declaration of Intent for the creation of a Truth and Reconciliation Commission.<sup>70</sup> The result was the beginning of a collaborative, though at times tumultuous, relationship between Native child welfare

workers and settler social workers. The MWTRC obtained the signatures of the leaders of the five tribal governments – Houlton Band of Maliseet Indians, the Aroostook Band of Micmacs, Penobscot Nation, Passamaquoddy Tribe at Sipayik (Pleasant Point), and the Passamaquoddy Tribe at Motahkomikuk (Indian Township) – and the Governor of the state of Maine, and at the same time formed Wabanaki REACH to help fulfil the specific and wider goals of the TRC both within and beyond the drafted mandate. A Commission was formed – comprised of two Native Commissioners, who were not Wabanaki, and three white settler Commissioners – that would inquire into the forced removal of Native children, and those affected by that removal. Amongst other things, it was directed to ‘[c]reate and establish a more complete account of the history of the Wabanaki people in the state child welfare system’ and ‘[i]mprove child-welfare practices and create sustainable changes in child welfare that strive for the best possible system’.<sup>71</sup>

Similarly to the Truth and Reconciliation Commission of Canada, the truth-telling and healing mechanisms that the MWTRC used involved a combination of sharing experiences ‘in circle’, as well as individual testimony. In total, then, the MWTRC took 159 statements, either individually or jointly, with 95 statements being taken from Wabanaki and other Native people in Maine and 64 from white settlers and other non-Native people. These testimonies did not, however, take place in public. This is important when examining the MWTRC through the lens of a politics of refusal because the MWTRC was not about bringing testimony either into a public settler-dominated or government-controlled political space. After all, the Commission would only receive financial support from the state of Maine in the form of time commitment from DHHS workers involved in the support work of REACH. Instead, testimony was done in community, once again reinforcing the affiliative and affirmative nature of the process. Statements were given both by those who were in foster care and those who were adopted, and there were also statements made by Tribal leaders and state officials. Members of Maliseet, Micmac, Passamaquoddy, and Penobscot Tribes participated, and 27 percent of the witness statements were given anonymously. There were also approximately 15 informal interviews, including with the Chief Justice of Maine as well as with a number of nuns and priests who had served in Wabanaki communities.

The MWTRC was an iterative and adaptive process in that there were repeated visits by statement-takers and Commissioners to specific communities and this both facilitated the act of gathering additional testimony, and also meant that the process was adapted as it progressed. The formal process concluded with its 90-page report, ‘Beyond the Mandate: Continuing the Conversation’, issued in June 2015, with 16 key findings, including acknowledgment of the ‘web of interconnected causes, including the presence of institutional racism in state systems and the public; the effects of historical trauma; and a long history of contested sovereignties and jurisdictions between the state and the tribes’.<sup>72</sup> There were also 14 recommendations made by the MWTRC, many of which reiterated the need for the Wabanaki Tribes to have their sovereignty reinforced.

Moreover, the title of the MWTRC’s Final Report highlights that it was never designed to be a process that ended with the publication of the Commission’s findings, but rather was designed to be something that catalysed further conversations and outlined priorities for Wabanaki REACH. This flies in the face of settler colonial recognition politics and neoliberal processes of reconciliation where capitalist and colonial generative structures would want a clear timeframe within which truth-seeking and reconciliation can occur

with an end date in mind. The MWTRC process, then, was designed to be the beginning of a journey that would continue under the direction of Wabanaki REACH, which envisions ‘a future when Maine and Wabanaki people join together to acknowledge truth and work collectively toward equity, healing, and positive change’.<sup>73</sup> In order to do this, REACH has continued to develop since the report was published in 2015. In 2018, a Board of Directors was established, and an application made for REACH to have 501(c)(3) non-profit status. The following year it appointed an Executive Director, Maria Girouard (Penobscot), who had been Health and Wellness Coordinator for REACH since the beginning of the MWTRC. A recent REACH newsletter highlights the political space that the organisation seeks in its post-MWTRC programming:<sup>74</sup>

REACH seeks to rejuvenate the spirit that is rooted in land, ceremony, identity and relationships. We support Wabanaki people in addressing their communities’ needs and aspirations. We engage Maine people to acknowledge the full truth of the past, embrace the full truth of the present and commit to creating a just future, no matter what obstacles are in our path.

The latter is an important point. Too often the work of reconciliation resides with the communities that have been marginalised, however the real work of reconciliation needs to be done within those communities that have been the cause of that marginalisation. One of the Commissioners, *gkisedtanamoogk* (Mashpee Wampanoag), said to us before the conclusion of the TRC that there is an inherent fear amongst settlers of even participating in the process of reconciliation for fear of a settler-premised retribution. In reality, as *gkisedtanamoogk* alludes to, there is instead a call for radical transformation:<sup>75</sup>

I think that some of the fears that North Americans generally have of Indian people is not based on anything fundamental of substance but it’s based on projections. ‘We would do this, they will do that to us, we did this to them, they will do that to us’ kind of thing. And if anyone has spent any amount of time among Indian people that is not what we think about... I often classify the present capitalist economy as an economy based on death and we need to shift it to an economy based on life. I am looking at the future, that is what I am working at, something like that, where the substance of our relationship is based on humanity and life. This kind of thing, this is creepy. I don’t see any future in it. I don’t see how the United States can survive that unless we see fundamental change. Maybe that seems like a long way from the project we are talking about, ‘truth and reconciliation’, but I see it as the whole package.

The work then of the TRC was to be continued as Wabanaki REACH works ‘in neighborhoods, prisons, schools, faith communities, workplaces, universities; and in civic, political, environmental and peace and justice groups’.<sup>76</sup> The organisation also conducts workshops and organises presentations and community events in an attempt to get Mainers to explore the underlying root causes of community tensions and coalesce in order to call for needed policy reforms. This is important because, as Inwood noted in his analysis of the Greensboro TRC, doing such community restorative justice efforts effectively alters the nature of transitional justice pulling it away from the individualism inherent in the neoliberal model and engaging community ‘to reorient, restore, and redefine community in an effort to build political coalitions that can hold state institutions accountable for their role in producing the (sic) state-sanctioned neglect and death’.<sup>77</sup>



## Refusing to centre settler colonial well-being

In addition to pulling the process away from the individualism inherent in the neoliberal model, REACH has been clear that reconciliation is about de-centring settler colonial feelings and futures; prioritising Wabanaki ones; and demanding white settler accountability. These were all key themes in REACH's work. Shifting the priorities of reconciliation to be *within* communities as opposed to between them has come out of both the MWTRC and the Truth and Reconciliation Commission of Canada. Throughout our research period in Maine, it was noted repeatedly that the notion of reconciliation implies that there was the previous precedent of a healthy relationship. The truth remains that Wabanaki Tribes have never been co-partners in the governance and stewardship of the lands and waters now known as Maine, and have been on the receiving end of a settler colonial effort to displace and dispossess Indigenous peoples from their lands. Centring the well-being of a settler colonial mentality, which would continue advocating for this status quo, would fly in the face of transformative justice for Wabanaki people. This was exemplified in the MWTRC's first statement gathering exercise in November 2013 where Esther Anne (Passamaquoddy) of REACH had to counter white possessive coloniality brought in by volunteer white settler statement gatherers:<sup>78</sup>

this one volunteer statement gatherer, my heart starts to race just thinking about it, said something like 'I'm a volunteer statement gatherer and I love, I have always loved the Indians. And borrowing from their spirituality'. And I remember thinking, 'I can't keep my mouth shut now' ... I just told her that ... if they are invited to a ceremony and they witness that and have been invited to be part of that then that's one thing, but that's not meant for them to go and use and keep for themselves and replicate. The benefit is for them is to experience it, not to 'appropriate' it, I guess is the best word. And I told her that's the last thing we need. So we agreed that only a couple of statement gatherers or that the statement gatherers would all stay behind until the morning until we saw how many people showed up [to provide statements].

Pipe Carrier for the Passamaquoddy, Brian Altvater, raised concerns over the amount of people entering into the community, so leaders of the MWTRC and REACH decided that only TRC commissioners, staff, as well as Native and non-Native members of REACH would come. Esther Anne described her reaction to the settler pushback on that decision:<sup>79</sup>

The gist of what I said was, 'I am [expletive] done with taking care of you guys. This is not about taking care of white people that are coming into the Passamaquoddy community, this is about taking care of Passamaquoddy people. That's where my heart is and that's why I do this ...'

'This is not a [expletive] spectator event, and this is a private sacred ceremony'. I mean really, we had a sacred fire ... it wasn't for people to come and I know that there were a lot of excitement, and [non-Native people] were like 'oh it's the TRC's first visit, I want to be there'. That's not helpful to us, for [non-Native people] to be there. What's helpful to us is, you know, keep it as small as possible. We didn't know how many people wanted to provide statements. We had a lot of people who said they would.

While constant boundary setting and defending helped the MWTRC prioritise Wabanaki and other Native survivors and their families, the onus largely fell on Wabanaki organisers to know how to navigate and assert these boundaries. Similarly, the fact that

statements were only gathered by the MWTRC Commissioners and by members of REACH represented a navigation, and a recognition, of the mechanism of testimony and its power in finding the direction for the aftermath of truth-telling and how the public narrative that reflects that truth is then constructed. In the case of the MWTRC, the lack of public testimony demonstrated that the emphasis for the MWTRC lay in uncovering the facts without any public construction of those who were affected by the child welfare system in Maine as ‘victims’, or any other label they might not identify with. This move also simultaneously spared potential violence of a white possessive gaze from settler volunteers. Any information given to the Commission thus had the potential to be relevant in uncovering the truth of what had taken place. As Penthea Burns of REACH noted at the time:<sup>80</sup>

The Commission really views every possible source of information to get the best sense of the truth of what happened – and that the process of what to do with all of that lies with the communities in the state of Maine. [Wabanaki] REACH can be part of what helps to broker people to stay in dialogue about acknowledging these truths and the implications for the government to government relationships.

The recognition that the events encapsulated by the testimonies in the MWTRC are rooted in the past, and effectively ‘name the colonial historical period from the perspective of their places and their peoples’ represents an explicit refusal towards and de-centring of settler colonialism.<sup>81</sup> Together the testimonies resulted in both an explicit naming of colonial practice for what it was and also a step towards finding a way to replace the dominant narrative with the truth of what colonialism meant for Indigenous peoples historically, and what it continues to mean in terms of ongoing oppression. In this way, naming that historical period becomes a ‘moral imperative’ (as Masalha wrote in another context).<sup>82</sup> Learning the truth about history and writing that true narrative – as a ‘Truth and Reconciliation’ process is partly designed to do – is essential to reclaiming this past.

## Conclusion

If this article is to remain true to the intentions of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission and the dozens of individuals, Wabanaki and settlers alike behind its operation, then it would be unfair to conclude that its process is over. At the time of the publication of this article, Wabanaki REACH and scores of individuals continue to carry out the mission of ‘truth, healing, and change’ in accordance with the final report of the MWTRC. The impact of the mandated Commission itself has yet to be articulated in academic form. Despite its strengths and shortcomings, looked at more broadly it remains a ground-breaking process that ultimately stands as an example of Wabanaki refusal in the face of historic and ongoing policies previously stated from the settler colonial state that Ranco identifies as its ‘genocide orientation’.<sup>83</sup>

Near the beginning of this article we discussed the nature of neoliberal reconciliation. Bowsher described the South African TRC, which is often held up as a standard, as an example of neoliberal reconciliation – as being one that ultimately resulted in a fragile and ‘individualised’ process where the mechanism of public testimony created individual victims who were in turn venerated by those who bore witness.<sup>84</sup> The result is a process that, as Bowsher powerfully notes ‘empties’ the past resulting in a ‘shared present [that

also becomes a smooth space uncomplicated by the socio-economic inequalities that continue to organise social and economic life.<sup>85</sup> The MWTRC demonstrates the necessity for seeing the potential that truth and reconciliation processes have in a different context – one that is grassroots, adaptive, and informed by those resisting, surviving, and flourishing despite the structures of oppression that are under examination, and that they continue to face. Under this characterisation a truth and reconciliation process can become something that is a refusal of the prevailing neoliberal model of reconciliation, and ultimately of settler colonialism itself. In a state-led process, the results of a TRC process can amount to being the continuation of colonialism by other means.<sup>86</sup> Reframing a truth and reconciliation process as a way to be able to refuse neoliberalism and to refuse ongoing colonisation could thus potentially lead to a reframing of the expectations of reconciliation such that the end of a TRC, which is often accompanied by the creation of a final report, is seen only as the beginning of a process of recognising the truth in a particular society, and of the process of transformation, rather than as the end, or the beginning of the end. Importantly it must also be remembered that the work of transformation is for white settler society to do, and that includes a recognition of the need for redress and reparations for the centuries of structural violence that have taken place and are still taking place.

Since the TRC ended, the wider politics of refusal practiced at large by the Wabanaki Tribes has continued for the sake of their collective futures and those of future generations. In 2015, the same year that the MWTRC concluded, the Penobscot Nation and the Passamaquoddy Tribes removed their Tribal representatives from the Maine Legislature. A year later, the Penobscot Nation went further, making this situation permanent in an arrangement that would see the Penobscot and the state interact on nation-to-nation terms.<sup>87</sup> What was created was exactly the construction of a ‘plane of equivalence’ as described earlier, where the Penobscot presented as equally sovereign to the settler colonial state, a position that was reinforced by the appointment of Maulian Dana as the first Penobscot Nation Tribal Ambassador who reasserted this plane of equivalence when she noted that ‘[w]hen tribal nations are seen as sovereign bodies we can work together toward a better relationship with other governments’.<sup>88</sup> Meanwhile, representatives of the Wabanaki Tribes gathered for the first time in 2019 to participate in the first meeting of the Task Force on Changes to the Maine Indian Land Claims Settlement Act. The Task Force released its report in 2020 on recommendations to the implementation of both the Maine Indian Land Claims Settlement Act and the 1989 Micmac Settlement Act; at the time of this article’s submission, the legislation to enforce the report’s recommendations is still pending. Meanwhile, to date, Wabanaki REACH continues to implement a variety of initiatives ranging from educating Maine settlers on histories of colonisation and acknowledging white privilege, holding healing circles for Wabanaki inmates in Maine penitentiaries, working on developing food sovereignty with Wabanaki youth, and holding wellness gatherings for Wabanaki and other Native people all around the state. The MWTRC, then, was never designed to be the end of inquiry and truth-seeking but rather the beginning of a conversation between equals, which ultimately stands as a refusal both of the policies of the settler colonial state and of neoliberal reconciliation practice. In this sense the work of the MWTRC continues, centring Wabanaki people and their relations, and ultimately refusing a future that replicates the past and present domination of settler colonial structures, both within and outside the state.

Given its ‘blindness to colonialism’,<sup>89</sup> neoliberal reconciliation so often ignores ‘the extensive and enduring harms caused by settler colonial practices and policies’.<sup>90</sup> In the end the MWTRC teaches not only the necessity of refusing such conceptions of reconciliation with settler colonialism, but also of similar truth-seeking processes prioritising the importance of, and long-term commitment to, transformative change.

## Notes

1. The purpose of the Indian Child Welfare Act (ICWA) is ‘... to protect the best interest of Indian Children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture ...’ (25 U.S.C. 1902). ‘Indian Child Welfare Act’ US Department of the Interior, Indian Affairs. <https://www.bia.gov/bia/ois/dhs/icwa> [Accessed 12 October 2022]
2. See Patricia Burke Wood and David A. Rossiter, ‘Aboriginal Sovereignty and the Northern Gateway Pipeline: The Politics of Refusal’, *The Canadian Geographer / Le Géographe canadien* 61 (2016) for an examination of Indigenous positions on the politics of refusal of the Northern Gateway Pipeline in Canada.
3. Indian Child Welfare Act of 1977: Hearing Before the United States Senate, Select Committee on Indian Affairs, Ninety-fifth Congress, First Session, on S. 1214 (August 4, 1977).
4. Damian Short, ‘Reconciliation and the Problem of Internal Colonialism’, *Journal of Intercultural Studies* 26, no. 3 (2005), 273.
5. Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation*, (2015), 17.
6. *Ibid.*, (2015), 10.
7. Audra Simpson, ‘Consent’s Revenge’, *Cultural Anthropology*, 31, 3 (2016), 330.
8. Josh Bowsher, ‘The South African TRC as Neoliberal Reconciliation: Victim Subjectivities and the Synchronization of Affects’, *Social and Legal Studies* 29, no. 1 (2020), 43.
9. See, for example, Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (New York: Verso Books, 2019). For an examination of the link between neoliberalism and transitional justice processes see: J. Bowsher, ‘“Omnes et singulatum”: Establishing the Relationship Between Transitional Justice and Neoliberalism’, *Law and Critique* (2018).
10. Josh Bowsher. The South African TRC as Neoliberal Reconciliation: Victim Subjectivities and the Synchronization of its Affects. *Social and Legal Studies*. 29, no.1 (2019): 41-64
11. Roger Mac Ginty, ‘Indigenous Peace-Making Versus the Liberal Peace’, *Cooperation and Conflict* 43, no. 2 (2008), 145.
12. See G. Ne Deleuze and M. Foucault, ‘Intellectuals and Power’, in *Language, Counter-Memory, Practice*, ed. D. Bouchard (Oxford: Blackwell, 1977).
13. For a wider discussion, including of Roland Paris’ work, see the Introduction to Redia Bereketeb, *Alternatives to Neoliberal Peacebuilding and Statebuilding in Africa* (Abingdon, Oxfordshire: Routledge, 2021), 3.
14. Lisa Bhungalia, ‘Laughing at Power; Humor, transgression and the politics of refusal in Palestine’, *Environment and Planning C: Politics and Space* 38, no. 3 (2020): 387.
15. See Audra Simpson, *op cit.*
16. Burke Wood and Rossiter, ‘Aboriginal Sovereignty and the Northern Gateway Pipeline’, *op. cit.*
17. Elliot Prasse-Freeman, ‘Resistance/Refusal: Politics of Maneuver under Diffuse Regimes of Governmentality’, *Anthropological Theory* 22, no. 1 (2020), 12.
18. Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham: Duke University Press, 2014), 11.

19. Akwugo Emejulu and Inez van der Scheer, 'Refusing Politics as Usual: Mapping Women of Colour's Radical Praxis in London and Amsterdam', *Identities: Global Studies in Culture and Power* 29, no. 1 (2021), 16, 17.
20. Margaret Franz, 'Usurping the Contract: The Geneva Campaign (1923–1924) and the Refusal of Settler Sovereignty', *Communication and Critical/Cultural Studies* 16, no. 4, (2019), 290.
21. Carole McGranahan, 'Theorizing Refusal: An Introduction', *Cultural Anthropology*, 31, no. 3 (2016), 322.
22. Wabanaki REACH, 'Mission, Vision, and Values' <https://www.mainewabanakireach.org/mission> [Accessed 12 October 2022].
23. McGranahan, 'Theorizing Refusal', op cit. 323.
24. Emejulu and Scheer, op cit, 16.
25. Ibid.
26. Note that all interviews with settlers were with those who identified as white and with European ancestry.
27. See Richard A. Krueger and Mary Anne Casey, *Focus Groups, A Practical Guide for Applied Research*. 3rd ed. (Thousand Oaks, CA: Sage Publications, 2000) for an overview of the utility of focus groups as a method of qualitative research.
28. See Eve Tuck and K. Wayne Yang, 'R-Words-Refusing Research', in *Humanizing Research: Decolonizing Qualitative Inquiry with youth and Communities.*, ed. D. Paris and M.T. Winn (Thousands Oaks, CA: Sage Publications, 2014).
29. Ibid, 227.
30. Ibid, 225.
31. Audra Simpson. 'On Ethnographic Refusal: Indigeneity, "Voice" and Colonial Citizenship.' *Junctures-the Journal for Thematic Dialogue* (2007), 72.
32. Collins documents the learning curve of our methodological approach in his blog article for Wabanaki REACH, 'Decolonization Means Playing Bingo' (2021), [https://www.wabanakireach.org/decolonization\\_means\\_playing\\_bingo](https://www.wabanakireach.org/decolonization_means_playing_bingo); In the end, we produced several academic and non-academic outputs in collaboration with those involved in the MWTRC, and on 25-26 June 2015, we hosted a two-day workshop 'From Doctrine to Declaration: Rescinding the Doctrine of Christian Discovery and Implementing the UN Declaration the Rights of Indigenous Peoples in the United States' at the Carnegie Endowment for International Peace in Washington DC, <https://www.youtube.com/channel/UCgOjZBGT7FAPqG3QJG17DYA>; We should note that we were guided, too, by Linda Tuhiwei Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (Zed Books, 1999).
33. In addition, there is a dilemma that remains for any researcher seeking to take, as we do, an approach that is collaborative in nature in that disciplinary traditions still require the 'objectifying' of those with whom the researcher is collaborating. Explaining how a researcher was granted access to any community process requires a description of behaviour that can easily become instrumental – 'I did this in order to get that' – negating the objective of approaching the research process in a fundamentally different – and emancipatory – way. Bishop noted something similar in his examination of 'Kaupapa Maori Research' when he noted that 'the preoccupation with neutrality, objectivity and distance by educational researchers has emphasized these concepts as criteria for authority, representation and accountability and has distanced Maori people from participation in the construction, validation and legitimation of knowledge'. In terms of this present research then, there were certain key assumptions that were made by the authors both prior to the 'fieldwork' taking place and in our ongoing interactions. These assumptions are central to our own academic practice, part of an ethical landscape that we believe is necessary in guiding our research and teaching practice but, importantly, are not a mantle that we assume as an instrument in order to facilitate community engagement. Russell Bishop. 'Kaupapa Maori research: An indigenous approach to creating knowledge'. In N Robertson (Ed). *Maori and psychology: Research and*

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  39. See Patrick Wolfe, 'Settler Colonialism and the Elimination of the Native', *Journal of Genocide Research* 8, no. 4 (2006): 387–409.
  40. Tuck and Yang, 'R-Words-Refusing Research', op cit., 224.
  41. Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation*, (2015).
  42. Ibid, 68.
  43. Matt Dunlap, Interviewed by Bennett Collins, (September 2014).
  44. Darren Ranco, Interviewed by Ali Watson, (April 2014).
  45. For a further discussions, ee R. Sockbeson, 'Maine Indigenous Education Left Behind: A Call for Anti-Racist Conviction as Political Will Toward Decolonization', *Journal of American Indian Education* 58, no. 3 (2019), 105–29; Bonnie D. Newsom and Jamie Bissonette-Lewey, 'Wabanaki Resistance and Healing: An Exploration of the Contemporary Role of an Eighteenth Century Bounty Proclamation in an Indigenous Decolonization Process', *Landscapes of Violence* 2, no. 1 (2012), Article 2.
  46. Kirk Francis, Interviewed by Bennett Collins, (September 2013).
  47. Donald Soctomah, Interviewed by Bennett Collins, (August 2014).
  48. See for example, Darren Ranco, 'Major Episodes in Colonial Racism in Maine State Indian History and Policy' Maine Historical Society (2021) [https://www.youtube.com/watch?v=IL2gFr8V400&ab\\_channel=MaineHistoricalSociety](https://www.youtube.com/watch?v=IL2gFr8V400&ab_channel=MaineHistoricalSociety) [Accessed 12 October 2022].
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63. The US Supreme Court decision *Cherokee Nation vs Georgia* established recognised Indigenous Nations as 'domestic dependent nations', in the words of Chief Justice John Marshall. See Robert Miller, 'A New Perspective on the Indian Removal Period', *Tulsa Law Review* 38, no. 1 (2002), 181–194.
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## Disclosure statement

No potential conflict of interest was reported by the author(s).

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