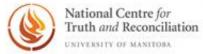
Indigenous Data Sovereignty:

Records of Residential School Experience





Centre national pour la vérité et la réconciliation

Cowessess First Nation Gravesite - photo by author, 2022.06.25

What is Indigenous Data Sovereignty (IDS)?



IDS refers to the right of Indigenous peoples to govern the collection, ownership, and use of data about Indigenous communities, peoples, lands, and resources.

"When considering the knowledge and skills needed to support strong First Nations' information governance, we start with the question, 'What is your relationship to this information?'" – First Nations Information Governance Centre

Three important details for the IDS of residential school records:

- 1. Data sovereignty is a recent concept still evolving
 - Originally the domain of private corporations and government
 - Not well established in the academy (ie Tri-Council Policy Statement)
- 2. Data sovereignty asserts control within a particular jurisdiction
 - In a colonial context we deal with opposing legal orders. How can we apply IDS within a legal plurality?
- 3. What authority within a community claims data sovereignty?



Colonial Sovereignty – Colonial Archives

Colonial Data Sovereignty

Sovereignty's Alchemy – John Borrows

The Legal Parameters of Colonial Sovereignty

Royal Proclamation, 1763

BC Lands Acquisition Act, 1861

Indian Advancement Act, 1891

Assertion of Colonial Sovereignty created Colonial Archives
Enshrining cultural, legal and spiritual authority



Colonial Sovereignty: Colonial Common Law, Records, and Indigenous Identity

- Calder et al. v. Attorney-General of British Columbia, 1973 CanLII 4 (SCC), [1973] SCR
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 - nine colonial proclamations and four land ordinances
- R. Edward Gosnell v. Min. of Lands (B.C.) and A.G. (Canada), SCC Case file 3238 (1912).
 - Attempted pre-emption of land the McKenna-McBride Commission assigned to the Malahat Peoples. Based on the Provincial Archivist's knowledge of documentary procedure.
- Cowichan Petition, 1909
 - First Indigenous claim to rights and title based entirely on Common Law language and practice



Sovereignty: Legal Pluralism and Reconciliation

Legal Pluralism: a situation where two or more legal systems coexist in the same social field. – Val Napoleon

Across what legal pluralist divide is reconciliation imagined and desired.

Reconciliation:

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
Article 27: recognizes that Canadian law must give effect to Indigenous peoples' law.

What are the mechanisms by which disagreement is considered and provisionally settled – Jeremy Weber

Survivor Inquiries and the Struggle for Identity

166 individual profiles



2020 Loggod

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•	2020 Completed:	210 individual profiles
•	2021 Logged:	460 individual profiles
•	2021 Completed:	134 individual profiles

• 2022 Logged: 401 individual profiles

NEW in November 2022: 35 individual profiles

• **2022 Completed**: 239 individual profiles

Note: Receipt of Survivor/Third Party inquiries throughout 2019 & 2020 remained consistent with an increase in 2021 of approximately 175% (individual profiles).



Collection Development Dispersed Sources: Authorities – Conceptual Understanding

Diversity of Sources:

- 104 religious repositories:
 - Sisters of Charity of Halifax
 - Presbyterian Church in Canada
 - United Church General Council
 - Les Oblats de Marie Immaculée du Manitoba / Oblates of Manitoba
- 47 Government Repositories
 - Provincial and Federal

Each possesses an archival report commenting on the records in the repository. Each possesses their own policies and procedures for managing their records.



MOA: Missionary Oblates of Mary Immaculate OMI Lacombe Canada/NCTR

3.7 To recognize that all of the Oblates records that document the administration and operation of residential schools shall be made publicly open for discovery, access, reference and use with exception of a selection of records from the subset of records known as personnel files. Discovery, access, reference and use of a select portion of this subset of Oblate records shall be articulated in a separate agreement.

5.5 Ensure all Records received from the Oblates are appropriately managed for purposes of discovery, access, use, and preservation in such a manner that the NCTR Archives are recognized as the principal repository for OMI Lacombe Canada Records which document the history of the administration and operations of residential schools.

Collection Development



<u>Difficulties of Collection Development:</u> <u>Dispersed Sources: Location</u>

Oblate records (Grandin Province):

- Provincial Archives of Alberta
- Société historique de Saint-Boniface
- Royal BC Museum (archives)
- Roman Catholic Archdiocese of Vancouver
- RC Diocese of Kamloops
- Provincial Archives of Saskatchewan
- Roman Catholic Archdiocese of Keewatin-The Pas
- General Administrative Archives Rome, Italy
- Deschâtelets Archives, Québec



1. Indigenous Research Council and Cultural Commons

Benefits:

- a. Accounts for:
- b. Cultural Heritage: Common not private property

Copyright

Licensing

c. Rights and Social Values:

Mechanism for personal law



2. NCTR Research Repositories

Benefits:

a. Storage Capacity

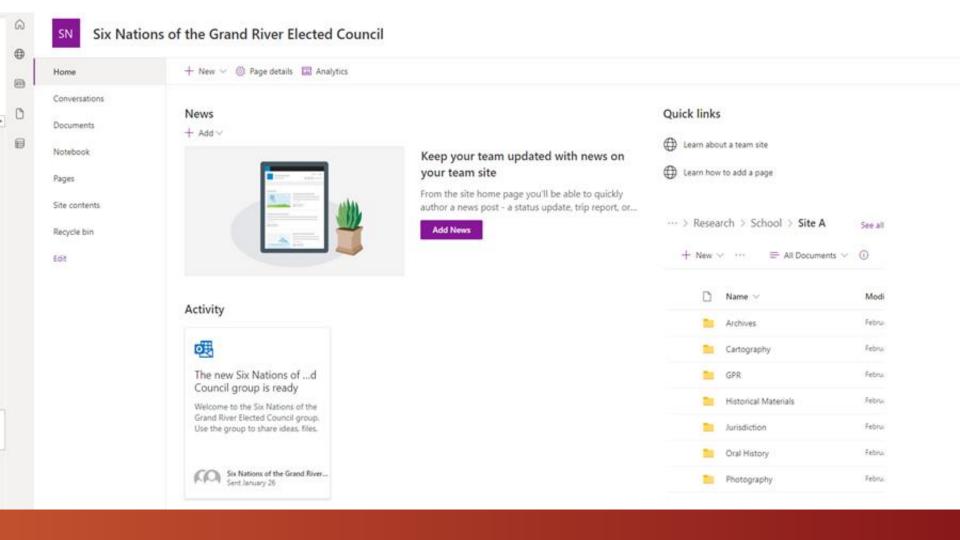
Lost files

a. IT Security

23 Researchers

b. Cost







3. Local Community Colleges

Benefits:

- a. Location
- b. Resources
- c. Local Houses of Memory (Not Archives)



4. NCTR Data Management Workshops

Benefits:

- a. Cost free (funded by a Canada Foundation for Innovation Grant)
- b. Independent research
- c. Self-determined Research Agenda



5. Redraft the NCTR Act

Article 2. "The Purpose of this Act is to set out the Access and Privacy Laws that apply to Centre records."

Article 3. "accessible...in accordance with access and privacy legislation."

Article 4 (1) "FIPPA Applies to all Centre Records."

Article 4 (2) "For certainty, records are not exempt from FIPPA."

Article 7(1) Proactive Disclosure

Trust Deed: after legislation

Administration Agreement: in accordance with legislation

Benefits:

- a. Recognize Indigenous law
- b. Highlight Indigenous Perspectives to Knowledge
- c. Special Interlocutor and relevant Legislation

