



CHAPTER FIVE



Understanding the History, Context, and Experience of the Nova Scotia Home for Colored Children

Introduction

Guided by the symbol of Sankofa, the Restorative Inquiry was mandated to look back to the past to fetch what is needed to move forward. Through our research and processes, we sought to learn from the past – to come to understand not only the facts about what happened, but why it happened – and then to determine what matters about what happened to inform the way forward to a better future.

In particular, the Inquiry was mandated to:

EXAMINE the experience of the Nova Scotia Home for Colored Children (NSHCC, the Home) as part of the history and legacy of systemic and institutionalized racism – both historic and current – in Nova Scotia.

EXAMINE and seek to understand the experiences of former residents within the NSHCC and the legacy and impact of these experiences for former residents, their families, and communities.

EXAMINE the experiences of former residents within the NSHCC for what they might reveal about issues of institutionalized child abuse and prevention and protection in the future.

INQUIRE into how the history and legacy of the NSHCC has impacted not only African Nova Scotian communities but all peoples in Nova Scotia and consider how to address this harmful legacy. To reveal, reckon with, and address this part of the harmful history and legacy of anti-Black racism in the Province of Nova Scotia.

EMPOWER those involved in, and affected by, the history and legacy of the NSHCC to learn about what happened and the contexts, causes, circumstances, and ongoing legacy of the harms related to the NSHCC.

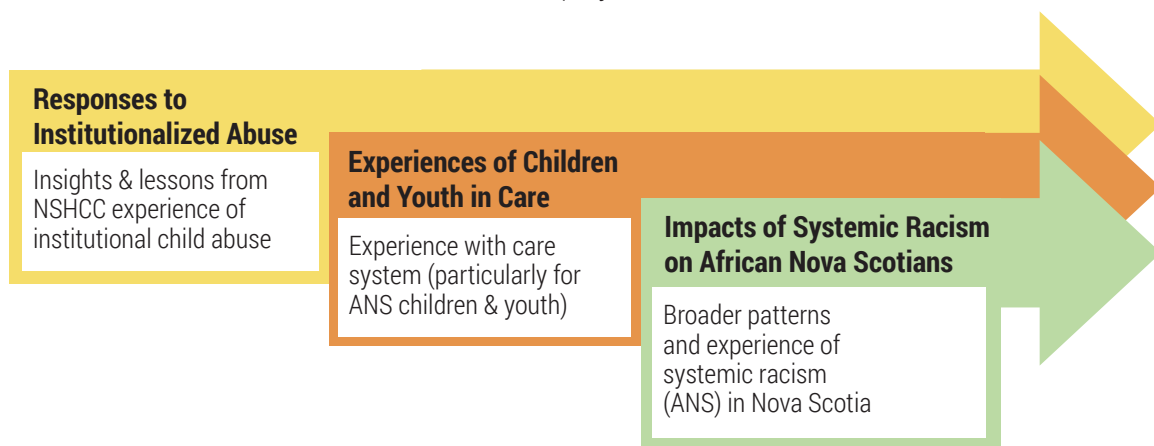
EXAMINE the role and contribution of various systems, sectors, and institutions in the harmful history and legacy of the NSHCC, including, for example, education, justice, health, and community services.¹

Chapters 3 and 4 of this report offer an overview of the relevant history of the NSHCC and the response to abuse as former residents came forward to seek justice for their experiences at the Home.

The Inquiry was not mandated to produce a definitive and exhaustive history of the Home or the related issues and influences that shaped the history, operations, and impacts of the institution. We have attended to the issues most central to the story of the Home, as well as the contexts, causes, and circumstances influencing it to support learning, understanding, planning, and action among parties within this process. This work requires a robust and complex understanding of what matters most about what happened in order to ground action aimed at making a difference for the future. This commitment has guided the Inquiry's approach to the

task of examining the history of the Home throughout our work and in this report. Rather than simply compile and catalogue facts about what happened at the Home, we have sought (in this report and throughout the Inquiry processes) to find and provide information in a way that will support an understanding of what matters about what happened from the point of view of making it matter for the future.

This chapter considers this history and seeks to understand the contexts, causes, and circumstances of what happened with the Home. It does so with particular attention to the three issues central to the mandate of the Inquiry.



Central Issues Framing the History of the Nova Scotia Home for Colored Children

The Restorative Inquiry was established in response to the abuse former residents experienced at the Home. The abuse, however, was part of a broader story of the experience of former residents within systems that were meant to care for them. Though the central point for the Inquiry was the abuse experienced by former residents, a full understanding of the impact and legacy of this abuse requires a recognition that the origins of the Home are grounded in the province's racist history. This history contributed to the conditions and circumstances that generated the need for care and fundamentally shaped the nature and scope of the care offered. This context, and the related assumptions and structures, resulted in the failures of care, as well as the abuse and harms experienced by former residents, their families, and the African Nova Scotian community more broadly.

It is helpful, in our bid to understand the significance of the history of the Home, and the response to abuse, to start our analysis with attention to systemic racism. As defined and discussed further in this chapter, systemic racism is an important contextual lens through which to examine and appreciate the other central issues of the Inquiry: the experience of the care system and institutional abuse (failures of care).

It is important, however, as we proceed, to be reminded that it is not possible or helpful to treat these central issues as separate and distinct from one another. As the history of the Home and the experiences of former residents' attest, these issues are deeply intertwined. The story of the Home is not a simple one. It cannot be reduced to a single or overriding issue. This is why the Inquiry approached the three issues as overlapping and intersecting and recognized that it is their interrelation that produced the complex story of the Home as an institution and the experience of former residents.

The story of the NSHCC is intertwined with the *story of child welfare* in Canada and reflective of *patterns of institutional abuse of children*. It is also deeply embedded in the *history of systemic racism in Nova Scotia*. It is, at once, a story of each of these and the intersection of all these histories. It is also a story of resilience and self-reliance of the African Nova Scotian people and of former residents on their journey to light.

As the previous chapters reveal, and this chapter examines, the story of the Home is embedded and reflective of these intersecting histories and developments in society over its 100-year history. The history of the Home cannot be abstracted from the larger stories of:

- the African Nova Scotian people – their resilience and perseverance – expressed through different strategies advanced in the face of a racialized society and racism
- racism (individual, institutional, systemic, structural) in Nova Scotia throughout history and ongoing today
- changing ideas and perceptions of men, women, children, families, and caregiving
- developments in the ideas and systems of child welfare in Nova Scotia and, more broadly, in Canada/North America
- the legal response to allegations of institutional abuse and failures of care more broadly

It is neither the objective nor the role of this report to consider each of these histories and issues in detail. Rather it seeks to consciously recognize and consider the influence and connections in a bid to offer a picture of the complexity and significance of the Home, its history, and legacy. Attention to the complex and relational nature of the issues, experiences, and impacts has been essential throughout the Inquiry process to understand and identify what is required in order to move forward in a better way.

Part 1: Systemic Racism

The mandate of the Restorative Inquiry clearly compels attention to the experience of the Nova Scotia Home for Colored Children (NSHCC) as part of the history and legacy of systemic and institutionalized racism, both historic and current, in Nova Scotia. The history of the Home is a powerful and instructive example of racism in Nova Scotia. Understanding the racism that informed and influenced the history of the Home requires an appreciation of racism that goes beyond individuals and individual acts. Clearly, the experience of the Home for those most affected must be understood through the lens of racism to fully appreciate the harmful and lasting impacts. However, the experiences of racism were often not at the hands of an individual but were ever present in the systems surrounding the Home and the operation of the institution itself.

Senator Murray Sinclair explained in his testimony in 2017 before the Senate Standing Committee on Canadian Heritage as part of its study on how the Government could take action on systemic racism and religious discrimination:

People have a hard time understanding what systemic discrimination is and what systemic racism is. This is because it's not the kind of racism that comes necessarily from the behaviour, words, and actions of individuals, other than the fact that they are guided by the system in which they are functioning. The phrase that I always like to use is that systemic racism is the racism that's left after you get rid of the racists. Once you get rid of the racists within the justice system, for example, you will still have racism perpetrated by the justice system. This is because the justice system follows certain rules, procedures, guidelines, precedents, and laws that are inherently discriminatory and racist because those laws, policies, procedures, processes, and beliefs – including beliefs that direct individuals on how and when to exercise their discretion – come from a history of the common law, which comes from a different culture, a different way of thinking.²

Racism was a structuring influence and factor shaping the systems of care, the Home, and the experience of former residents within the Home.

The Inquiry has benefited from existing scholarly and practical consideration of definitions of systemic racism in our work. It has been essential to understand racism beyond the individual level and to appreciate its structural, systemic, and institutionalized expressions. There are many different definitions and explanations of these ideas that provided insight for our work.

Early and influential attention was given to the idea in the United Kingdom as part of the Inquiry into Matters Arising from the Death of Stephen Lawrence in 1999. The Commission for Racial Equality (CRE) offered the following explanation in their submission to the UK Inquiry:

Institutional racism has been defined as those established laws, customs, and practices which systematically reflect and produce racial inequalities in society. If racist consequences accrue to institutional laws, customs or practices, the institution is racist whether or not the individuals maintaining those practices have racial intentions.³

The Inquiry concluded in its final report:

Taking all that we have heard and read into account we grapple with the problem. For the purposes of our Inquiry the concept of institutional racism which we apply consists of:

The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.

It persists because of the failure of the organisation openly and adequately to recognise and address its existence and causes by policy, example and leadership. Without recognition and action to eliminate such racism it can prevail as part of the ethos or culture of the organisation. It is a corrosive disease.⁴

Their definition was focused at the level of an organization, perhaps in response to their mandate to consider the issue in the context of policing. It is, however, equally relevant at the level of systems and social structures. What is particularly significant for the work of this Inquiry is the way in which the definition recognizes the operation of racism beyond the individual level. Doing so paints a much more layered and dynamic picture of how racism operates. In response to this Inquiry Report, a team at University College London considered the notion of institutional racism and identified seven (7) factors that contribute to its complexity:

1. Institutional racism occurs at many levels inside and outside an organization.
2. It is intersectional; the impacts of institutional racism are linked to other forms of marginalization and discrimination.
3. Institutional racism is fluid; it changes over time and changes to ensure that the disparities continue.
4. It is linked to the ideology of an organization; for instance, the rise of evidence-based medicine led to disparities because the system had not produced evidence for interventions that would work equally for racialized populations or for interventions that would promote health equity.

5. The problem is organizational; though organizations are made of humans and people make decisions, institutional racism lies in the processes and policies of an organization. It is in the swim lanes that are developed to marshal behaviour in an organization. It is in the differential action of the laws, processes, and practices of organizations.
6. Because institutional racism lies in the fabric of organizations, institutional racism can occur in organizations that do not intend to discriminate.
7. Last, institutional racism lies not only within organizations but in the links between organizations. Organizations should understand that they are responsible to try to decrease disparities even if they are because of the actions of another organization. For instance, if there were increased rates of incarceration for African Caribbean youth in forensic mental institutions because of increased police charging of this group, that would not excuse the National Health Service in the UK from needing to have a strategy to decrease these disparities.⁵

Throughout the work of the Inquiry, we have sought to recognize and reveal the complex and deeply embedded ways in which racism structures and influences society and the systems and institutions in and through which we regulate, serve, and support children and youth, and their families and communities.

...the shift from an individual focus to the collective level. This shift draws careful attention to the ways in which racialized and racist assumptions are embedded in the structures and operations of institutions, systems, and societal structures.

This definition considers the idea of institutional racism; however, it is important not to be fixated on the term in ways that limit the insight that is most significant: the shift from an individual focus to the collective level. This shift draws careful attention to the ways in which racialized and racist assumptions are embedded in the structures and operations of institutions, systems, and societal structures.

It has been helpful in the work of the Inquiry to consider these different descriptions of racism as a means of recognizing racism as it exists at these various levels. It is not our contention that these are categorically distinct or different types of racism. We do not seek to distinguish one from the other with precision. Indeed, the terms are often used in tandem or interchangeably, reflecting the deep interconnection and overlap in these ideas. The use of different terms seems to contribute to confusion about what is meant by these terms. We do not think there is significant

value in parsing words – especially since, in this case, they reflect a common attempt to draw attention to the ways in which racism needs to be understood and addressed beyond the level of individual behaviour. The use of different terms brings attention and clarity to the various ways in which racism operates at this deeper level. Throughout the work of the Inquiry, we have sought to recognize and reveal the complex and deeply embedded ways in which racism

structures and influences society and the systems and institutions in and through which we regulate, serve, and support children and youth, and their families and communities.

We have come to understand that racism can operate at institutional, systemic, and structural levels. We use all of these terms to examine the history and experience of the NSHCC. For further clarity, the following explanations have been helpful in our examination of the various expressions and impacts of racism in the history of the NSHCC and the experience of former residents.

- ▶ **Institutional racism:** The term institutional racism is often traced to Kwame Ture (formerly known as Stokely Carmichael) and Charles Hamilton in their 1967 book *Black Power: The Politics of Liberation*.⁶ They used the term to address the ways in which racism is built into the structures of social institutions through policies and practices. The Aspen Institute defines it as “the policies and practices within and across institutions that, intentionally or not, produce outcomes that chronically favor, or put a racial group at a disadvantage.”⁷ Institutional racism can then be intentional, overt, and direct (designed to achieve racist objectives and outcomes) as in the example of apartheid, Jim Crow laws, or the Indian residential school system. Institutional racism can also be unintentional, implicit, and indirect – a product of a racialized society. This enables racism to operate and continue even without overt actions of individuals within institutions. Another way in which institutional racism is sometimes used is to contrast individual racism with the ways in which the assumption and logic of racism can be institutionalized – meaning established at the level of practice or custom – as part of the ways in which things work. It is not, thus, narrowly concerned with the structure of institutions as entities.
- ▶ **Systemic racism:** The term systemic racism is sometimes used to draw attention to the ways in which racism can exist in how institutions interact within a larger system. The claim that racism can be systemic is not inconsistent with, and, in many cases, is not different from, the idea of institutional racism. Rather, it is an attempt to ensure attention is paid to the ways institutions operate within larger system structures that is relevant to an understanding of the way racism works. It is sometimes difficult to recognize the impact of racism as being greater than the sum of individual institutional expressions because the institution’s role in systems is obscured by a siloed and fragmented approach to governance and service delivery. It has been particularly important, through the work of the Inquiry, to pay attention to the collective impact of institutions at systemic levels from the perspective of those who are the subject of regulation and governance. From this vantage point, the impact of the systemic nature of institutional racism becomes clear.

► **Structural racism:** This term is also often used interchangeably with both institutional systemic racism. It similarly reflects the way in which racism is embedded at a foundational level in the ways in which institutions and systems are structured through law, policy, procedure, practice, and culture. The word “structural” is often used to point to the broader social context out of which, and in which, institutions and systems operate. It speaks to the significance of the racialized structure of social life. The Aspen Institute explains, “[s]tructural racism is not something that a few people or institutions choose to practice. Instead it has been a feature of the social, economic and political systems in which we all exist.”⁸ It draws attention to the fact that race structures individual identities, relations, and assumptions and understanding of one another in ways that inform our social fabric and the culture of groups, communities, organizations, systems, and institutions. The term “structural racism” also encompasses the societal relations between groups.⁹

Those who experience systemic racism often face the burden of proving it is racist, and absent a single source, such as an individual person or policy or intention, it is a difficult, if not impossible task.

It is difficult for people to grasp racism when it operates at this level. Racism is still largely understood through the lens of individuals and as an individual action or behaviour. It makes it difficult to recognize racism if we only look for the individual racist or racist act. Of course, individual racism exists. We are not making the case that society has moved past this expression of racism. But it does not only exist at this level, and the pervasiveness of this individual understanding of racism often hinders the work of revealing and addressing racism in Nova Scotia. This is not to suggest that we should ignore individual experiences of racism. In fact, attention to the experiences of those affected (rather than simply focusing on identifying those who are to blame) requires a recognition that there

can be harm – victims – without an individual who intended or caused the harm. The impacts are no less personal or devastating when there is no individual to blame. Indeed, the focus on racism as an individual act has sometimes caused further harm to those who are impacted and harmed by racism that cannot be attributed to an individual. It obscures the nature of their harm as racist and/or resulting in disbelief or denial of the racism.

Those who experience systemic racism often face the burden of proving it is racist, and absent a single source, such as an individual person or policy or intention, it is a difficult, if not impossible task. It is also the case that when and where there are individual acts of racism, the impact such acts have on people of colour is amplified because of the systemic nature of racism. This, too, is often missed or misunderstood in the understanding and response to the impact of racism. The story of the Nova Scotia Home for Colored Children and the impact and legacy of this

experience requires contextualization within a deeper, structural analysis of racial injustice. It requires our careful attention and commitment to understanding racism at this collective level if we are to be successful in our efforts to address it.

Insofar as these are different expressions of the idea that racism is embedded in the way things work and in how we think things should work, which term we use does not matter. Drawing upon the definition offered by Dr. Kwame McKenzie of the Wellesley Institute, we think that key to all three definitions – institutional, systemic, and structural – is the idea that racism occurs when an institution (or set of institutions working together as a system of social structures, norms and patterns) creates or maintains racial inequality. This can be unintentional and does not necessarily mean that people within an organization are racist. It is often caused by hidden institutional, systemic, or societal biases in policies, practices, or norms that privilege or disadvantage people based on race. It can be the result of doing things the way they've always been done, without considering how they impact groups differently.¹⁰

The use of a variety of terms is helpful if it shifts our focus in ways required to address the problem. For this reason, the Inquiry uses these terms interchangeably to assist in our understanding of the operation and impact of racism in shaping the NSHCC, the system of care within which it operated, and the experience and responses to the harm and abuse that resulted.

As a result of the complexity and multi-leveled nature of racism, it is not uniform or static in its presentation or experience. It is tied to and influenced by the different positions and histories of groups and communities within society. As the Canadian Senate Standing Committee on Canadian Heritage recognizes, “[v]arious racialized communities may experience racial discrimination differently based on their specific history of exclusion and marginalization in Canada and the stereotypes that have developed about their community members.”¹¹ We know this is true in the case of the NSHCC. The racism reflected in and affecting this institution is rooted in the unique history and experience of the African Nova Scotian people.

A. NSHCC: An Example of Institutional, Systemic, and Structural Racism in Nova Scotia

The complex understanding of racism as it exists at individual and broader levels helps make sense of the complex story of the NSHCC. It explains how people can operate within systems and institutions and be part of producing and reproducing racism unintentionally and may be unaware of its impacts. It also makes clear that those who are victims of racism can participate in the very systems by which their harm and oppression is achieved. This was the case with the Home. It was evident in some of the strategies adopted by the African Nova Scotian community in support of the founding and operations of the Home, including the alliances struck with influential leaders in the white establishment. It was also evident in the ways the Home marketed itself to garner support from the white community.

This concept helps overcome a significant barrier to viewing the NSHCC as an example of racism in Nova Scotia. The failure to understand systemic racism has led some to struggle to recognize the NSHCC as an example of racism because the abuse that former residents described came at the hands of African Nova Scotian employees and the institution was the vision of leaders of the African Nova Scotian community. Even for those who acknowledge the racism that impacted the Home, the failure to appreciate the systemic nature of racism has led to inaccurate or misplaced assumptions or interpretations of its history. For example, many believe the Home must have been controlled by the white majority in order to be a racist enterprise. Others identify racism in the fact that the Home had to be established because there was no place for Black children in the care system and/or in the claim that the Home was underfunded relative to other child caring institutions because it served Black children. These simple accounts of racism are attractive (although painful and difficult) because they are framed by a familiar and accessible narrative of racism.

As the examination of the history of the NSHCC reveals, however, these simple stories are not accurate. This does not mean that the claim of racism is wrong – it is clearly not. The story of the Nova Scotia Home for Colored Children is one of racism. But it is not a simple one; understanding the racism requires a more nuanced and complex account of the structure of society, systems, and the institution itself. The lens of racism as institutional, systemic, and structural invites us to look again at the history of the NSHCC and the story it tells of the operation, impact, and legacies of racism in Nova Scotia.

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Through the Inquiry process, we have come to examine and re-examine the significance of elements of the history of the NSHCC. This analysis has been foundational to the work within the Inquiry to learn from this past to inform the way forward for a more just future. An examination of the history of the Home through this lens requires then a more nuanced consideration of some of the common claims and issues related to the Home. It is necessary to revisit the commonly held ideas

about the Home from this perspective to ensure it is accurate. It is also essential, if we are to fulfil our mandate and commitment to the former residents, to consider the key claims and elements – view of history – through this new lens. Only then can we come to understand the complex picture of the institution and the ways in which racism played a significant part in its operations and the experiences of former residents.

B. The History of the NSHCC Through the Lens of Systemic Racism:

The history of racism in Nova Scotia contributed to the very notion of a home for colored children. As discussed in Chapter 3, the experience of anti-Black racism in Nova Scotia is not uniform – the history and experience of historic African Nova Scotian communities in Nova Scotia has resulted in unique experiences of racism in the province, and these experiences rest at the core of the history and experience of the NSHCC. Black communities in Nova Scotia have a history that reaches back over 400 years. From these very initial stages, Black loyalists and other Black settlers established communities to support one another in the face of inequality and adversity brought on by failed promises of land and opportunities.¹²

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The settlement at Birchtown and the other Black communities established a pattern that would become typical in Nova Scotia. Black communities were comprised of family groups who relied on each other for comfort and support. They were forced to locate away from white communities to remain unmolested, but close enough to them so that markets and work opportunities could be accessed. Community leaders had to continually petition the government for the land and provisions that were promised to them. ... Family, church and school became the hallmarks of all Black communities in Nova Scotia.¹³

The Nova Scotia Home for Colored Children was initially envisioned as an institution to support “uplift” of African Nova Scotians. It was part of “a new era of race consciousness in North

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America”¹⁴ that began at the start of the 20th century. “In Nova Scotia, Black sports clubs, philanthropic associations and social action groups, both religious and secular, had started to organize in communities throughout the province.”¹⁵ The creation of a separate institution, while obviously serving the interest of a racialized society to maintain segregation and limit the pursuit of equality by the logic of separate but equal in social relations and services, was also fed by the ethos of self-reliance, resilience, and resistance of the African Nova Scotian people. This is part of the complexity of systemic racism – it is not only marked by victimization and harm, but by survival and strength. The story of the failure of care at the NSHCC was resisted and silenced because it threatened to undermine this other positive story of the African Nova Scotian community and the place of the Home in that story.

The Home started as the vision of a “new generation of African Nova Scotian leaders [who] emphasized education as the means to fight for social justice and against discrimination.”¹⁶ This movement was inspired and influenced by similar efforts in the United States, notably the work of Booker T. Washington and his establishment of the Tuskegee Normal and Industrial Institute.

It was also inspired by the commitment to Christian nurture and charity of the historic Black Baptist churches in the African Nova Scotian communities and the AUBA. As discussed in Chapter 3, Church and the ABA, and later the AUBA, played a central role in African Nova Scotian communities. As described in the AUBA minutes in 1918, “the Colored Race in Nova Scotia has no other Institution to look up to but the Church. All our movements of uplift emanate from her, and the higher her vision and greater her foresight, the higher will the status of citizenship be for those who keep within gunshot of her aims.”¹⁷ Given the place of the Church, it was natural that the AUBA would have a leadership role in the Home. It is also significant, however, that other churches were engaged in similar child caring initiatives as a key expression of their Christian mission. This was another contributing factor with respect to the AUBA’s role with the Home, as the AUBA took up this leadership role alongside other Christian churches. In particular, the newly formed Ladies Auxiliary of the AUBA (1917) offered significant support for the vision and establishment of the Home.

...in the 19th century, churches formed the backbone of most communities. Their leaders provided spiritual guidance, they organized and provided for schools, and they were often the sole source of welfare for those in unfortunate circumstances.¹⁸

...

The AUBA became the most important religious, social and political organization in the lives of most African Nova Scotians.¹⁹

While there was clearly significant leadership in the initial vision and ultimate establishment of the Home, there was also significant compromise required. The transformation from the initial vision of an industrial school to the orphanage that opened in 1921 was the result of many complex factors. It was not simply the aftermath of the Halifax Explosion that caused this shift out of necessity (it was not because of a destroyed first Home nor an urgent increase in children in need). There was damage to the original site acquired for the Home, but even that site had been envisioned as a temporary place until the Home outgrew the space if demand increased. In a letter seeking to lease the cottage on the site of the Industrial School in Halifax, Superintendent Blois explained:

My department has been looking for some time for a house, which we might lease for one or two years, for the purpose of having a temporary home for small colored children, and it occurred to me that the Board might favorably consider leasing that house and ground for that purpose. The Legislature at the last session appropriated a sum of money for this purpose and I have been instructed by the Premier to endeavor to secure a location for temporary quarters only, until we find out the extent of our requirements.²⁰

Demand did increase ahead of the one- to two-year window – indeed, even prior to actually beginning operations on the Industrial School site. This was perhaps attributable, in part, to the explosion and to changes in the law that prohibited children and youth being resident in poor houses. But seeds of this changed vision and focus for the Home were sown well ahead of the upheaval of the explosion. There were tensions between the idea of a training institute and an orphanage from the earliest stages. This is evident in the discussions of the Home, in the minutes of the AUBA, and even in the legislation which established the entity with a broad mission including care and education.

One of the significant factors at work in the final shape of the Home as an orphanage seems to be increased public and Government support for enterprises of child welfare following WWI and the Halifax Explosion. It was more than a mere matter of opportunity for those leading the cause of establishing the Home. Finding support from the white community – in particular from philanthropists, and public leaders, including politicians – was a necessity because of the need to access and leverage both power and resources to realize the vision of the Home. The vision and establishment of the Home was constrained by what leaders in the white community would support. For example, a letter from Ernest Blois to George Murray (two of the prominent white leaders in the establishment of the Home and in child welfare in Nova Scotia) reviewing the proposed site for the NSHCC on the farm near Preston in 1918 acknowledges a divide on the committee along racial lines in terms of the vision for the institution, with leaders from the Black community supporting “something more in the nature of an institutional training school ... on a smaller scale, as the well known Boker [sic] Washington Schools in the United States,” and the members of the committee from the white community backing an “institution to care for neglected colored children along the lines of our orphanages for white children.”²¹ Collaboration and compromise was necessary. Some have taken this as a sign that the entire project was controlled by self-interested white majority leaders. While one cannot deny the mix of self-interest with the humanitarian impulses of those white

Finding support from the white community – in particular from philanthropists, and public leaders, including politicians – was a necessity because of the need to access and leverage both power and resources to realize the vision of the Home. The vision and establishment of the Home was constrained by what leaders in the white community would support.

leaders involved in the Home, this should not undermine the leadership and accomplishment of those in the African Nova Scotian community involved in establishing the Home. Lafferty points out that such a view was prevalent at the time the Home was founded and fed into racist views of the capacity and capability of African Nova Scotians. She notes, for example, that,

...the *Morning Chronicle* granted full credit for the eventual opening of the home not to [the African Nova Scotian community and leaders] but to Henry Bauld, a prominent white businessman from Halifax, a member of the provincial legislature for the Liberal Party, and the man who would serve as president of the NSHCC's board for thirty-three years. Certainly, Bauld maintained a consistent and influential interest in the home throughout his life, and his support for the institution and its inmates was unquestionably sincere. But in the view of the *Morning Chronicle* he was a champion, a white hero of the underprivileged, downtrodden black man; to his "personal interest in these people, perhaps more than any other factor, is due the splendid institution opened yesterday." Virtually ignoring the labour of the AUBA and men like Kinney (whose "tireless and continuous" effort Bauld himself credited as the sole cause for the home's successful opening), the paper implied that Bauld had almost singlehandedly orchestrated the home's creation.²²

This view that the success of the Home was because of a white man was, Lafferty points out, consistent with the general view of the capabilities of Black men at the time. It was also clearly fed by the close relationships and compromises forged between African Nova Scotian leaders and prominent white philanthropists.

Such compromises were a strategic necessity to secure resources and support for an enterprise such as the Home. Indeed, it continued throughout the history of the Home, not only at its founding. It is also significant, as noted in Chapter 3, that visions for the Home within the white establishment also aligned with the view of some within the African Nova Scotian community. It is not surprising that, in such circumstances, the vision of the Home and its contribution to the project of racial uplift was shaped by the support available from the white majority. This is a consequence of the structural nature of racism. It is wrong though, in our view, to assume that the Home was solely a project of white leaders and to deny the significant agency of African Nova Scotian leaders in its establishment.

The need for the Home also speaks significantly to the structural and systemic racism in Nova Scotia at the time. Racial inequality in the province, connected to this history of failed promises of land and opportunity, resulted in significant poverty and related conditions and circumstances that led to neglect and family violence. As discussed further later in this chapter,

racism also shaped the norms and standards used to assess and judge families and the care they provided, resulting in the apprehension of children and placement in the care of the state.

The need for the Home was also generated by the unwillingness of some existing child caring institutions to take Black children. As noted in Chapter 3 and reported by Lafferty,

...racism also shaped the norms and standards used to assess and judge families and the care they provided, resulting in the apprehension of children and placement in the care of the state.

According to Sister Ambrosia of the Home of the Guardian Angel, for example, black infants were accepted only in exceptional circumstances, “when they are found to be destitute and without any friends to provide for them.” Her counterpart at St. Joseph’s Orphanage, Sister de Paul, declared that she “prefer[red] not to take such children into the institution, as we have no means of separating them from the others.” In an indication that, in this instance at least, *religion* was a slightly more important factor than race in deciding on a child’s placement, Sister de Paul stated that she *would* take Roman Catholic blacks of school age, as required by the province’s Compulsory School Act, but that she did “not consider it desirable to have them in the house after they have reached a certain age.” No such equivocations were forthcoming from the Protestant Orphans’ Home, which declared simply, and somewhat vaguely, that “under present conditions colored children could not be received.”²³

This claim regarding the lack of care for Black children is sometimes overstated given the evidence that some institutions were willing to take Black children (generally when infants and young children). But the fact remains that Nova Scotia was a racialized society, thus, there were fewer options for Black children; and even if they were allowed into an institution, it is unlikely that it would be welcoming or accepting of the child’s racial/cultural identity. This reality led to the creation of separate institutions by Black communities in order to ensure safety and to support community members. Societal racism also necessitated institutional care because of the lack of available options beyond institutional care, such as the lack of willing or able foster homes or adoptive placements in community and the unwillingness (early in its history) to place Black children in white institutions or families. In the later years, as the options improved for family care over institutional care, the Home continued to be advocated for because of the discomfort of the African Nova Scotian community with the placement of Black children in white families, both for the sake of the children, but also for the community and the vision and intention of the Home as protecting the values and interest of the community in caring for their own children.

Other evidence of racism cited in relation to the Home is its location. It is often surmised that the Home was located a significant distance (in 1921) from the city in order to place Black children “out of sight.” This suspicion was reinforced by the notion that the Home had been established in Halifax in the first instance and was destroyed by the Halifax Explosion, only to be relocated far out of town. This was consistent with the reality of segregation at the time. Our review of the facts and circumstances surrounding the founding of the Home, however, do not accord with this account. The decision to establish the Home in Westphal, outside the city of Halifax, was the result of a number of factors, including that the cottage on the site of the Industrial School that had been rented to serve as an initial site for the Home was always anticipated as a temporary location until the numbers warranted a larger facility. As Blois indicated in his letter seeking to lease the cottage on the Industrial School site in 1917:

Briefly our idea is this; to place a good, reliable, well trained woman in charge of the house, and have it always available for the reception of small colored children, until such time as they can be otherwise disposed of. There are comparatively few of these cases, but our existing institutions either will not or cannot accommodate cases when they arise, with the result that no provision is made for temporary shelter for the very small colored children. We do not anticipate there would be more than a half a dozen children in the Home at one time, and the idea is to secure a suitable property outside the city should the demand warrant such an undertaking.²⁴

The explosion did play a role in the decision to move locations before the Home began operation on the originally selected site in Halifax. However, it was not because the original Home site was destroyed, as is commonly referenced. It is clear, though, on the record, that the cottage sustained damage that would have required repair (it was subsequently repaired and occupied by another child-care initiative). The explosion had an impact because it increased the need for child caring and the public attention and support for such enterprises. As a result of these factors, the NSHCC was in a position much earlier than anticipated to operate a larger institution and to garner public funding and support to acquire land and build a facility.

The rural setting was also viewed as a potential advantage for the Home and the children in its care. The commercial farm was also a significant resource for the Home and provided an opportunity for training for the residents of the Home (particularly the male residents). At the time, this resonated with the original vision of the NSHCC to provide education and training for African Nova Scotian children and youth. The location of the Home in a rural/agricultural setting was also consistent with ideal notions of child rearing at the time. It was thought to be good for children to be raised with access to nature.

The influence of systemic racism was not absent, however, from the decisions regarding the location of the Home. It is clear on the record that there was some consideration given to ensuring the Home would be located near an African Nova Scotian community so that there would be ready access to support for the operation of the Home. It is also clear that the Home was not warmly received by the surrounding white community.

Throughout the history of the Home, there were concerns about inadequate resources for the care of children in the Home. This is perhaps one of the most pervasive misconceptions offered as proof of the racism underlying the Nova Scotia Home for Colored Children. It is generally believed that the NSHCC received less funding than other similar institutions because it was a home for Black children. Our examination of the records and the history of the institution did not find this to be the case. In fact, the evidence reveals that the Nova Scotia Home for Colored Children generally received more public funding than other similar institutions that predominately served white children.

As the review of the history reveals, for most years where comparative data is available, the NSHCC had a higher percentage of its operating funding from Government; in the later years, the Home received a preferential funding rate requiring lower occupancy rates to qualify for full funding. Even in its founding, the land for the NSHCC was purchased by Government and transferred to the Home. This was not regular practice for other private institutions. If this was the extent of our findings, it might be taken to defeat the claim that the NSHCC is an example of racism in Nova Scotia. But this is not the whole story. Seeing the operation of racism in the financial struggles of the NSHCC requires a more contextual and careful analysis.

It is important to be clear that the fact that the Home received a higher percentage of public funding does not mean that it had sufficient funding. The evidence suggests that the care of children was significantly under resourced, and other orphanages, even the children's aid societies responsible for funding placements in these institutions, struggled financially. As explained in Chapter 3, child welfare was not originally understood as a public responsibility. It was a private matter — the preserve of the family, as we consider later in this chapter in our discussion of the care system and the experience of children. This meant that, for much of the history of the NSHCC, assistance for children was a matter of charity. As a private institution, the NSHCC had to rely on the private resources that could be raised to augment the basic per diem rate cost shared between the Province

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and Municipality. In this respect, the NSHCC was no differently positioned than other similar, private child caring institutions. Indeed, given the evidence, they seem to have fared better, receiving more public monies than others. Except that this picture does not take into account some significant factors related to the underlying economic and social racial inequality in Nova Scotia. These had several serious implications for the financial situation of the NSHCC.

First, the Home did not have the benefit of institutional backing by a well-resourced religious entity, as was the case for the Catholic and Protestant orphanages. While the Home was the product of significant leadership and support from the AUBA, it was a different body than the corporate structures of the Catholic and Protestant churches. The AUBA was an association of individual Black churches that had developed and operated independently. The association was a voluntary organization reflective of the congregationalist nature of the Baptist tradition. While it had considerable capacity to mobilize its membership in support of this cause, it did not have an institutional resource base, nor a corporate structure, to independently support the work of the Home. Many of these other institutions operated with an endowment to provide protection from financial uncertainties and periods of instability. This may explain the need for the Government to step in to provide the land base for the Home.²⁵

Second, several times throughout the history of the Home, there were suggestions that the Home should realize resources by selling off portions of its land endowment. On its face, it is challenging to reconcile the pleas of financial hardship at times in the Home's history with the fact that the institution retained this significant asset intact and unrealized for the sake of the care of its charges. It is more comprehensible if one attends to the history of racism in which Nova Scotia failed to make good on the promises of land to African Nova Scotian citizens who settled here. The current project to clarify land titles to make some partial remedy for this injustice provides some context as to why an African Nova Scotian institution that held clear title to land for "the care, education and proper training of members of the Afro-American race"²⁶ was not predisposed to sell off this collective resource held in trust for the community, and for the future, in order to resolve the financial stresses of the day.

The Home also did not have a core base of support among the African Nova Scotian community that was capable of providing the significant financial resources needed for institutional operating or capital needs. It is a remarkable testament to the commitment and resilience of the African Nova Scotian community through the AUBA (notably the ladies auxiliary/women's institute) and the wider community that the Home received the support it did. A review of fundraising efforts throughout its history, however, reveals the need to garner support from the broader Nova Scotian population to support the Home. This included efforts to frame the work of the Home in ways that would appeal to the majority white population. For example, the charitable appeal for funds to complete work on the Home in 1923 was introduced under the title " 'LOVE' AND 'SYMPATHY' HAVE NO BOUNDARY LINE." The text of the appeal made the case:

If a child is orphaned, homeless and allowed to grow up neglected, as sure as the sun rises and sets, that child will become a weed in the garden of society – and not only a weed, but a noxious and destructive agency. There is a leaven of good in society, but we never think of the **leaven of evil** – the homeless, uncared for children who run wild and necessarily grow according to the way of least resistance, with the evil agencies in the world. It is therefore a sound financial investment as well as a moral obligation to make proper provision for the care and training of Orphan and neglected Colored Children.²⁷

Following this appeal, the booklet offered a “list of contributors – the largest and most influential Business Men in Nova Scotia.”

The tension between the emancipatory goals of the Home and its reliance on such financial support was evident in the dispute in 1970 that led to the departure of the fundraiser/treasurer from the Board. Dissatisfaction with the appeals to white benefactors was at the core of this dispute.²⁸ Concerns over funding and the reliance on fundraising efforts were a constant concern of the Board throughout the life of the institution. Concern with crafting and presenting a public image that would garner support occupied and shaped the decision making of the Board in a significant way throughout its history. It was particularly influential in the reaction and management of problems or crisis. Concerns for the public image of the Home occupied a more central place in the governance of the Home than concerns for the well-being and impact of issues on the residents.

The funding issue is reflective of systemic racism in another way as well. It is not the case, as oft claimed, that the Home received a lower amount or level of funding compared with other private institutions. However, the examination of the operations of the Home revealed the available funding was not actually equal to that of other institutions. Public *per diem* funding was provided for “wards,” those children apprehended and formally taken into the care of the state. For a significant period of its history (at least up to the early 1970s), the Nova Scotia Home for Colored Children was home to some children who were not formally wards of the state. The circumstances that would cause families to seek assistance from the Home were reflective of the significant inequality faced by African Nova Scotian communities. Communities also struggled to provide resources within themselves to provide help. Indeed, the NSHCC garnered significant support from the African Nova Scotian community and the AUBA because it was viewed as a community commitment to helping families and children. It is not surprising, then, that the community leadership (significantly through the Church) would recommend the Home as a place of support and refuge for struggling families. It is also not surprising that the community would seek to deal with these matters without involving the state authorities. The ideals of self-reliance, resistance, and a lack of trust in the intervention of state authorities that were not representative of the community resulted in direct requests to the Home to provide care for children. These

requests often did not come with resources. Thus, there is evidence that the Home was stretching the funding provided to ensure basic provisions for wards to support a much larger population. There is also evidence that this was known by the state (both in director's reports and in regular correspondence on the issue from the Home and the Department). The fact of this demand might have signalled significant need for children and families in the community, but, instead, was often

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met with frustration that they were irresponsibly taking additional charges without resources. In the context of an approach that generally saw child welfare as a charitable enterprise, it was even harder to make the case for funding where the state did not apprehend the child. The failure to appreciate how the NSHCC was differently situated in terms of meeting the needs of children in the African Nova Scotian community, and the nature of these needs in the context of racial inequality, is evidence of systemic racism and its impact on the NSHCC. It is not a simple story of racism, but it is, nonetheless, a story of structural and systemic racism.

Funding was also challenging for the institution because it was the only one serving Black children and youth in the entire province. As a result, it was not the responsibility of a single community or children's aid society. While this was an advantage in terms of drawing support from across the province, it was a significant challenge in terms of the demands on the institution and the administrative challenges of getting paid by multiple agencies for placements. The scale of the

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enterprise as the only home for African Nova Scotian children made this more difficult but was necessitated because of the racialized structure of society and care. It also made it more difficult for families to visit and access their children because distance and financial resources made regular contact challenging at best.

The NSHCC was staffed, for most of its history, by members from the African Nova Scotian community. The abuse suffered by former residents came at the hands of some of these staff members. This was true when the Home was governed, and staff overseen, by a Board with a majority of white members, and remained true after 1971 when the Board had a majority of African Nova Scotian members. This fact has caused some to express doubt or confusion that the abuse was grounded in racism. As discussed above, it is clear that the Home operated within significant structural and systemic racism. This was true when the Home was governed, and staff

overseen, by a Board with a majority of white members, and remained so following the shift in 1971 when the Board had a majority of African Nova Scotian members. This racism also impacted staff and contributed directly to the conditions and circumstances in which abuse and neglect took place. The accounts of neglect and abuse extended across the generations of former residents at the Home and came at the hands of both female and male staff at the Home. Many of the former residents were clear that, while they experienced significant harm from their treatment by staff, they also credit some staff members with providing the kindness and care that enabled them to survive, and some to report thriving, because of the Home. While former residents do not seek to excuse these individuals from their responsibility for the neglect and abuse they experienced, many also spoke to the systemic factors that contributed to the conditions and circumstances of their experience. These factors are clear from our examination of the history of the NSHCC as well. They included:

- The vulnerability of staff, particularly women, who worked at the old Home given the significant economic inequality and the lack of available employment for African Nova Scotian women. The risk of losing employment was a significant factor in the silence and helplessness surrounding the neglect and abuse occurring at the Home. The former residents' experiences are rife with small acts of subversion aimed at mitigating the harm and protecting children from neglect and abuse in the Home. Such acts were often covert and within the bounds of their power within the institution and society.
- The lack of training and capacity for staff to fulfill their roles. Throughout the history of the Home, lack of knowledgeable and skilled staff is identified as an issue. Even taking into account the changing norms and standards for child care – from the days when the role was thought to require only some experience or knowledge of children, rendering motherhood as the standard qualification, to the professionalization of child care, particularly in the contexts dealing with significant childhood trauma – the NSHCC was consistently below these prevailing expectations for the field. Placed in the context of the other commitment to community and culturally connected care for African Nova Scotia children, though, the issue is less straightforward. Racism significantly impacted access to education and training for African Nova Scotians and, even more so, women who contended with higher levels of poverty and the burden of family responsibilities. The consistent criticism of the quality of NSHCC staff presumed an available pool of employees that does not seem to correspond to the reality for many in the African Nova Scotian community during these periods. It also presumes the capacity of the institution to remedy this situation with the provision of training to overcome this deficit.
- The Home was disadvantaged, in this regard, over other child caring institutions, most notably the Catholic orphanage who drew staff from religious orders and who

had capacity and resources to provide education and training. In the early years, the Home did seek out a trained matron, and, ultimately, found one from the United States, but this was not sustainable. The Home was not in a position to remedy the lack of experience and knowledge of staff on an ongoing basis. Professional social workers and child-care workers were not generally common in the province until the mid 1900s after the establishment of child-care worker programs and the Maritime School of Social Work.²⁹ African Nova Scotian professionals were even less common given the lack of access to education for African Nova Scotians. Indeed, even the Government struggled to ensure adequate knowledge and expertise for leaders in social services. For example, Fred MacKinnon, who presided over the Department and played a significant role in the Government's relationship with the Home from 1947 until 1980, lacked the experience and knowledge required when he was recruited into the Department in 1939 after only a short experience as agent for one of the children's aid societies. To remedy this, Deputy Minister Blois arranged and funded MacKinnon to undertake a fellowship in the United States. Similar access to training and knowledge was not within the grasp of the Home.

The Home, then, drew its staff largely from the African Nova Scotian communities in the vicinity of the Home. The connection with community was viewed as important to the vision of the Home as a community-based institution for the care of African Nova Scotian children.

- The Home was also seen, though, as an important community enterprise in terms of providing employment opportunity for members of the African Nova Scotian community. The numerous reports throughout the years noting the contrast between the quality of lodging and food for the staff and residents reveal that the Home was functioning as a resource for these African Nova Scotian employees. While there is no excuse for the neglect and failure to meet the needs of residents, it is important to recognize the reality of need and poverty for many of the staff. Thus, the Home served as an economic resource for community in the context of significant racial inequality.

Racism also played a significant role in the nature and response to abuse at the Home. It informed the nature of abuse as described by former residents who were judged or ridiculed according to their skin colour or perceived racial identity. Racial inequality also led to silencing of problems and allegations in the African Nova Scotian community. It was not acceptable to talk about violence or abuse in the community, and it was particularly unsafe to reveal failings of the community to the wider majority community. The AUBA Women's Institute of Nova Scotia recognized that the issues of violence against women and family violence were

rarely talked about in the Black community. In 1999, they undertook a project called “No More Secrets” that included a film and a workshop guide to support public education and to raise awareness about violence against women in the Black community. The workshop guide written by Sylvia Hamilton reflects the reasons for silence about the issue in the African Nova Scotian community that were shared by women within the community during the talking circle that appears in the film.

If abuse has been present within the community for a long time, why does such silence surround it?

- ◆ Speaking out may mean women are singled out and condemned.
- ◆ Community “norms”: don’t take “our business” outside.
- ◆ Additional layer of racism – don’t draw more attention to our community because the wider community will think ill of us.
- ◆ Men in the Black community may not recognize abuse, or that they may be abusers, until their daughters are abused.
- ◆ Many people are related to each other in small communities; who can a woman turn to without fear, shame and condemnation?³⁰

The reasons identified by the women participants for silence regarding violence and abuse within the African Nova Scotian community echo the experience of former residents in coming forward. They resonate with concerns expressed by some within the community about the revelations of abuse at the Home and this public Inquiry. They also resonate with what participants from the AUBA and the African Nova Scotian community identified within the Inquiry process as contributing to the history and experience of the Home, and what continues to require attention.

As discussed above, staff were also placed in difficult positions with respect to reporting abuse because of the underemployment and economic need – particularly for women working to support families. As we discuss further later in this chapter, responding to abuse was also made more difficult because the African Nova Scotian community is close knit, and many community members were involved with the Home as leaders or staff, or by sending children into care at the Home.

C. Addressing Systemic Racism

Kwame McKenzie’s account of the experience of the United Kingdom post the Stephen Lawrence Inquiry is instructive about one of the significant challenges of addressing systemic, institutional, and structural racism. The passage of the UK Government’s *Race Relations Amendment Act 2000*, *Race Equality Impact Assessment Strategy*,³¹ and other initiatives established to decrease disparities and improve services for Black and other minority ethnic groups faced significant

push back. Despite the clear acknowledgement that institutional racism was a collective problem, individuals within the various departments and services felt they were being accused of being racists. As McKenzie reports, “[t]hey were offended and said that their professionalism was being called into question. When coupled with the fact that those who run the NHS [National Health Service] and police were suggesting that training was one solution to the problem of differences in treatment between groups, it is not surprising that those on the front line believed they were scapegoats for a complex issue. The definition expressly stated that institutional racism was not because of individual racism, but that is not how it landed.”

The Senate of Canada’s Standing Committee on Canadian Heritage similarly noted in its recent report “Taking Action Against Systemic Racism and Religious Discrimination Including Islamophobia” that “[r]acial discrimination is often understood as an individual act of discrimination, such as a refusal to provide a service, rent an apartment or offer a job to someone

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because of stereotypes based on ethnicity or race.” They are clear, though, that racism must also be understood as systemic and institutional. Such racism, they explain, is sometimes overt and intentional, as in the residential school system, but, they continue: “As society has evolved and with the advent of human rights legislation and the *Canadian Charter of Rights and Freedoms*, these overt forms of systemic discrimination have become rarer. However, more subtle, often unintentional forms of systemic or institutional racism and discrimination continue to exist.”

The history of the NSHCC reveals both intentional and more complex, subtle systemic and institutional racism. Clearly, the institution emerged in the context of a racialized and racist society that created the conditions of inequality and lack of support for children and their caregivers. It generated the need for the institution. It also created the circumstances of segregation that required a separate institution to adequately respond to this need. But for the most part, what makes the example of the Home both difficult and instructive as an example of systemic and institutional

racism is the subtleties and complexities with which racism is operative in the Home’s story.

This is instructive because it speaks to the importance of investing in processes by which individuals can understand institutional and systemic racism. It is not realistic or helpful to say that it is not about individuals within systems and institutions. It is clear that systemic and institutional racism continues to exist despite significant reforms to systems over time, but because it is not revealed, nor the subject of the intentional effort required to systematically undo it, it is replicated over generations. It is true that systemic/institutional racism cannot be explained or addressed by the ascription of individual blame, as is so often the focus of our efforts to identify and address

problems. It is not true, though, that individual's bear no responsibility to dismantle and transform systems to address systemic racial inequality in its assumptions, operation, and impacts.

In support of efforts to address such racism, the Wellesley Institute identified the need to rethink the definition of institutional racism. In part, the issue is not a failure to appreciate the substance and nature of racism beyond individual actions. The concern is how to ensure the definition establishes a workable concept to drive action. To this end, they developed a simple definition focused on positive action:

- Institutional racism is an ecological form of discrimination.
- It refers to inequitable outcomes for different racialized groups.
- There is a lack of effective action by an organization or organizations to eradicate the inequitable outcomes.

They explain:

This definition aims to move away from the paralysis caused by identifying the causes of racism. It moves away from questions about whether there was intent to discriminate. And it focuses on action to decrease racism in the here and now. Further, it argues that racism in the public services is not about how things were done in the past, it is about what an organization does in the present to deal with racial disparities. It makes it simple; if you see disparities linked to race and you have no effective plan to decrease them then you have to take responsibility for your inaction. Institutional racism is seeing racial disparities and doing nothing effective about them.

Thus, the aim is to define in order to provide it the understanding that is necessary and supportive of action. This action-orientation has been the driving force of the Restorative Inquiry. The process was envisioned and implemented as a mechanism through which understanding aimed at action could be established between and among those with responsibilities to make a difference. This is work that requires us to let go of the simple stories and solutions for racism – systemic racism and its impacts cannot be understood or addressed by strategies that seek to name, blame, and shame individuals within those systems.

This is work that requires us to let go of the simple stories and solutions for racism – systemic racism and its impacts cannot be understood or addressed by strategies that seek to name, blame, and shame individuals within those systems.

One of the motivating factors to take a restorative approach to this Inquiry was a recognition that we lack alternative processes to support the individual and collective responsibility needed

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to change institutions and systems outside of the framework of adversarial, blame-focused processes. The restorative approach of this Inquiry was designed to establish the conditions in which individuals could come to examine and understand the complexity of systemic and institutional racism, as it presents through the story and experience of the Nova Scotia Home for Colored Children, and to recognize individual and collective responsibility for systemic and institutional change.

Systemic racism then provides a very important lens through which to understand the history, experience, and impact of the NSHCC. Likewise, the Home offers a powerful example of systemic racism – how it operates and its impact. As we

consider in the Chapter 6, an examination of the Home has contributed to a greater and more nuanced understanding of racism and how it operates at institutional, systemic, and structural levels. It has offered lessons and insights that are significant for the way forward in terms of the experience of children and young people with the care system, and responses to institutional abuse and failures more generally. The understanding of racism illustrated by the history and experience of the NSHCC also has implications for recognizing and addressing racism as it operates in other institutions, systems, and social structures in Nova Scotia.

The story of the Home is a story of systemic racism in the context of the child welfare system and other systems responsible for the care of children, young people, and their families, as well as the responses to the abuse and harm experienced within the institution. It is not, though, entirely or uniquely a story of systemic racism. Although the story of the Home cannot and should not be understood apart from the reality of systemic racism, it must also be examined through the lens of the care system for children and as an example of institutional abuse and responses to it. These other factors shaped the nature and experience of care in the NSHCC. The experience of former residents of the Home is also reflective of the experience of children with the care system more broadly, and of the experience of institutional abuse and system failures in particular. As we consider the story of the Home in the context of the child welfare and care systems of which it was a part, and as an example of institutional abuse/failures and the responses to it, we are attentive to the fact (as revealed in the discussion above) that these issues and their impact were often amplified or exacerbated for those marginalized by virtue of race and those dealing with the impact of racism at the same time.

Part 2: Experience of Children and Youth with the Care System

A. Introduction

While the history and context of systemic racism in Nova Scotia is fundamental to the story of the Home, it also reflects the attitudes, approach, assumptions, and developments in child caring and the child welfare system in Nova Scotia. The system of care at the time the Home was founded, and throughout its operations, had a profound effect on the operations of the Home and the experiences of the children and youth who lived there.

Veronica Strong-Boag, one of the leading experts on childhood, fostering, and adoption, commented:

To paraphrase Jane Austen, “it is a truth rarely acknowledged, that children regularly overwhelm families.” The history of the Nova Scotia Home for Colored Children (NSHCC) reflects that universal human experience. Even as its story is in some ways distinctive, it embodied a ubiquitous human struggle to find satisfactory responses to families’ recurring need for assistance in childcare.³²

In the face of the challenge of raising children, families have a long history of seeking assistance. Institutions, like fostering and adoption, and, indeed, public schooling and day nurseries, have developed in recognition and response to this need. No solution to families’ need for assistance has ever been perfect. No setting escaped abuse, and some became notorious sites of harm and abuse. Some girls and boys, notably those in disadvantaged or marginalized communities, have always been especially vulnerable to mistreatment. Even solutions imagined and designed by (or in collaboration with) disadvantaged communities, as with the NSHCC, did not escape the tragedy that dogged relations between children and adults in many settings.

The development of child caring institutions, including the NSHCC, reflected this fundamental historical reality: families sometimes need assistance in, and respite from, child rearing. While regularly presented as the “modern” solution to child welfare issues, fostering or adoption was not always the best answer. Those solutions have often been designed to break the family and extended ties with kin that help children, and the adults they become, make sense of their lives. At their best, institutions have offered security and opportunity, maintained ties with family, and offered hopes for reunion. As Renée Lafferty’s study of institutional care for the poor in Halifax concluded, “their wholesale elimination created new problems and left fewer options for families and children in need.”³³

Early in the mandate, the Restorative Inquiry requested Dr. Strong-Boag prepare a submission based on her extensive research and expertise in the area of child caring and child welfare in Canada.³⁴ Her submission made an essential contribution to the Inquiry’s examination of the history and experience of the Home. It helped to ground the work in an understanding of the larger culture and developments in child caring and child welfare. Her work shed light on how the broader ideas and approach to child welfare influenced and shaped the founding, operations,

and experiences of the Home. She highlighted key issues that illuminate the history of the NSHCC and how it reflected much of what was happening in child welfare in Canada. We have integrated her insights and relied on her submission, scholarship, and research throughout this section of the chapter. We are deeply appreciative of her generous support of the work of the Restorative Inquiry and the significance of her research and work.

Veronica Strong-Boag's work identified six key issues that help us understand the origin, developments, and operation of the Nova Scotia Home for Colored Children in the context of the emergence of Canadian child welfare strategies since the 19th century. These key issues are:

- 1) Influential ideas about women, men, children, and families: In particular, four pervasive ideologies that shaped child caring and child welfare and became increasingly influential in considering the production of suitable citizens:
 - The Cult of True Womanhood: the all-nurturing mother-wife,
 - The Male breadwinner: husband-father,
 - The Priceless Child: precious and innocent,
 - Governments' Role in Child Rescue: the right of authorities (the State) to regulate families.
- 2) Racism and humanitarianism and the goal of "child rescue" or "child saving": Racism, alongside and often combined with classism and ableism, ensured unequal access to resources for successful child rearing and encouraged mainstream authorities to scrutinize and view disadvantaged communities unsympathetically and often treat them unfairly with respect to child welfare. Such prejudice was sometimes justified or masked by humanitarian and charitable (often Christian in character) intentions that stressed common humanity and social justice. These intentions often drove a commitment to the idea and importance of "child rescue" or "child saving" that fed the notion that children needed protection, often from their families and communities.
- 3) Child rearing as hard and unpredictable labour: Raising children is labour-intensive and unpredictable in its demands. Many families in all communities could not, by themselves, readily mobilize sufficient resources to match preferred standards of child caring and duty to meet children's the needs.
- 4) Families' search for help and additional resources: Parents of every circumstance have historically sought additional resources from family and extended kin and community to raise children, but the ideal of the autonomous and independent modern nuclear family obscured that long-standing and persisting dependence and discredited and defamed different forms of family and child care.

- 5) Resistance: Children, families, and communities, whom mainstream authorities deemed deficient in child rearing, challenged and resisted this view by creating alternative narratives and supports. In the 19th century and beyond, that response both drew upon and sometimes countered dominant ideologies that favoured one family form, namely the independent, highly gendered, nuclear family aligned with Western-European norms.
- 6) Silencing of survivors' voices: Children who became objects of child-rescue/child-saving initiatives rarely got to tell their story. Only in the course of multiple child abuse scandals in the late 20th and early 21st centuries did survivors get extended public attention. They did not, however, have a simple story to tell since mistreatment often occurred alongside opportunity.

B. Influential Ideologies

Recurring assumptions about what is natural and about independence (including assumptions about free choice and responsibility) have significantly limited the understanding of parenting and affected the development of child welfare. As Canada established the foundations of the welfare state, beginning in the 19th century, families producing results deemed unacceptable by authorities were likely to be treated as somehow contradicting nature and more deserving of judgment and censure than understanding and support. After Confederation, four ideologies were increasingly influential in shaping assumptions about what counted as proper (and natural/normal) behaviour and care. These ideas informed both private and public experiments in child welfare.

I. The Cult of True Womanhood: the all-nurturing mother-wife.

The emergence of what has been called “a cult of true womanhood”³⁵ was based on the image of the perfect middle-class life but was not reflective of the reality of most women’s lives. As a result of the influence of this idea, women were increasingly held particularly responsible for the well-being of children and, ultimately, through this next generation, for the destiny of the nation itself. While women might enter the waged labour force (and increasingly did), they were always held primarily responsible for domestic life and the care of children. Canada’s constraints on access to birth control, which was declared “obscene” and criminalized in 1892, significantly impacted women. It sent the message and ensured that women’s true purpose was motherhood.

While maternal dedication was assumed to be natural in normal women, advocates of child rescue increasingly accepted the need for additional social supports. This was evident in the advocacy for home economics classes in public schools, instruction in parenting, mothers’ legal right to child custody, and Government pensions or allowances when husbands and fathers failed. For example, legislation providing for Mother’s Allowance was introduced in many

Canadian provinces. It is notable that Nova Scotia's first legislation of this kind was in 1930, almost a decade after similar legislation appeared in several other Canadian provinces.³⁶ Nova Scotia's legislation followed a Provincial Royal Commission on the subject that recommended allowances only be paid to widows with children. By the end of 1939 there were 1,291 mothers receiving the allowance.³⁷ Family Allowance would not be introduced federally until 1945. At the same time, advocates of the cult of true womanhood readily condemned women they judged maternally inadequate as failing a key test of modern citizenship. Fred MacKinnon who was involved and eventually responsible for Mothers' Allowance in Nova Scotia reflected:

Looking back at the administration of Mothers' Allowance in these early years, I am struck by the inordinate emphasis placed on the morality of the mothers. When a mother was widowed and became eligible for the allowance, the Mothers' Allowance staff closely monitored her behaviour. If, per chance, she was found to harbour male borders, a red light of concern was flashed immediately from the community where she lived, and the odds were great that the allowance would be cancelled. There were no appeal provisions in the legislation, and one is left with the impression that to be in receipt of a government pension or allowance required strict sexual discipline and a high moral standard.³⁸

Only too often, mothers who proved unable to parent according to the prescribed model became "scapegoats," a ready explanation for why "society is not working well."³⁹ It was also clear that a mother's worthiness of support was dependent upon there having been a husband involved at some point. Those who were always single mothers (not by virtue of being widowed) were not eligible for support.

This idea and expectation of women is evident in the history and experience of the NSHCC in several ways. It shaped assumptions and standards for good mothering that made it difficult for women to measure up and made them vulnerable to being judged inadequate. Such sentiments were clearly expressed, for example, at a conference on child welfare in Halifax, as reported in the newspaper at the time:

The conference opened at three with remarks on Growth and Development of Children's Aid Societies since their formation about fifteen years ago. Contributory causes of some phases of Child Welfare problems were discussed particularly that of modernism in womankind, which had tendency to destroy the courtesy and reverence for the weaker sex that man has always had, as well as the ultra-modern styles of attire affected by women which inspired the primitive passions in man that education and culture had not been able to entirely eradicate.⁴⁰

Such notions contributed significantly to the shame and silence that surrounded the Home for parents and the African Nova Scotian community because of the sense that bad mothers may be to blame for why many children were in the Home. This concern was amplified for the community because it fed into existing prejudices born of the racism in Nova Scotia.

The influence of this idea about the nature, roles, and responsibilities of women can also be seen in how the Home was staffed. Until the opening of the new Home, in 1978, child caring at the Home was primarily the preserve of women, while the oversight and governance of the Home was largely left to men (particularly in the first half of the 19th century). Gender roles were clearly defined at the Home as men tended the building and land, women were charged with the welfare of the children. The idea that this work was natural for women was reflected in the fact that, for a significant part of the Home's history, experience with children – notably as a mother – was viewed as a qualification for employment.

The Home was not unique in the gendered nature of child caring, nor in that fact that such work was not seen as requiring professional training or skill. This was in contrast to the idea of teaching as a vocation or profession, although, even for teaching, the standards and available training varied significantly, particularly for service to marginalized populations.

Throughout the history of the Home, there was a significant growth in professionalization in the human services field. Of particular note is the rise of professional social workers. Rooke and Schnell describe the push from volunteerism to professionalism and say nowhere was it clearer than in the child rescue sphere in English Canada.⁴¹ Chapter 3 recounts similar calls for increased skill and professional expertise at the Home eventually resulting in hiring a professional social worker as executive director in the 1970s.

The idea of the Home as a community solution to the need for support and care meant that many women who worked there were drawn from the local African Nova Scotian communities. Until the later years of the Home's operations, many women staff members would also have carried the burden of working while remaining responsible for their own children. Indeed, the



Cooking class (NSHCC brochure)

idea that women were to be in the home as full-time mothers meant that there were limited options in the labour market for women to support their children. This was even more true for racialized and other marginalized women. This vulnerability created a significant risk for women if they lost their employment at the Home, resulting in a determination to make things work or an unwillingness to raise questions or objections if things were not working

well. The idea of child care as women's work was also evident in the role of the Ladies Auxiliary of the AUBA in the founding and support for the Home. Their commitment clearly reflected the idea that child caring was the domain and responsibility of women.

The treatment and training of female residents of the Home was also shaped by this ideal of womanhood. Girls were taught to sew and clean and sometimes helped in the kitchen. As reported in the Home's annual report of 1931 (on the Home's ten-year anniversary):

Cooking, Sewing and Housekeeping classes meet the practical side of our training for the girls. The Domestic Science course includes a working knowledge of food materials in simple combinations; the use and care of utensils; neatness and cleanliness in work and personal appearance; accuracy in measuring materials; rules for dishwashing and cleaning agents; the stove, its parts, arrangement and regulation of draft, etc., etc.



Sewing class (NSHCC brochure)

The art of good housekeeping is carefully taught; every child from eight years of age has a responsibility; if only the dusting of a chair. Washing, scrubbing, ironing, sweeping, dusting, cleaning, making fires, polishing stoves, dishwashing, laundering of towels and cloths, etc., are important parts of the Girls' training.

As every girl should know how to use the needle special instruction is given in mending, patching, footing stockings, hemstitching, the making of bloomers, pants, coats, pajama suits, nightgowns,

dresses, remodelling of hats, bed linen, table linen, curtains and drapes, as well as fine needlework, etc., etc.⁴²

Some former residents report being sent out in the community as domestics, reflective of the aim to prepare them to be productive citizens in future.

II. The Male Breadwinner: husband-father

The counterpart to the cult of true womanhood was the ideal of the male breadwinner. Men's contribution to the support of the family was to be demonstrated in the marketplace. Their wage-earning was to enable women's focus and dedication to being wife and mother. Husbands-fathers who could not guarantee sufficient income to keep wives and mothers at home were increasingly disparaged as inferior and unmanly. Like mothers-wives, they too became scapegoats for society's tragedies. Men in racialized minorities received especially

harsh assessment in this respect. Racial inequality in Nova Scotia contributed significantly to the inability of men to fulfil this expected role of husbands and fathers and ultimately contributed to the inability to provide for children and to family breakdown. It is notable, as described in Chapter 3, that neglect gets added alongside abuse to the spectre of child protection legislation.⁴³ This change coincided with the move to bar children from poor houses to protect them from exposure to unsuitable settings and the range of adults residing there. As Rooke and Schnell describe, “while it had become first fashionable to house orphans and half orphans in appropriate institutions and then more fashionable to place them out, some poor asylums still retained children before 1920. For example, the 1913–14 Report of the Inspector of Humane Institutions, Nova Scotia, spoke of children living ‘day and night in the company of irritable and complaining old people, of mischievous, and profane lunatics, and of drivelling and unclean imbeciles.’”⁴⁴

The consequence, however, of this move to bring neglect under child protection was to conflate poor parents with poor parenting. The influence of the “ideal man” providing for his family can be seen in this response. It shaped perceptions of neglect and the appropriate response of removal rather than support.

This ideal of masculinity tied to productive labour is reflected in the vision and operations of the Home. The original vision of James R. Johnston was for a training institute to prepare African Nova Scotian men to take up places in the labour market. This was positioned as essential to the larger project of racial uplift drawing a clear connection between men’s success in achieving this male standard with the success of the community. As the original vision shifted to care for children and young people, the core recognition of the importance of training for the labour market was not lost. Indeed, the Home maintained its goal of offering a training program for male residents throughout much of its history. Many of its public appeals for funding and reports to the Government and the AUBA lifted up its offerings and expressed regret that formal training was not yet available. For example, the annual report from 1931 indicated, “[s]o far our funds have not permitted us to provide a Manual Training Instructor for the boys; however, they receive practical training along all lines of farming endeavors – chores, such as wood cutting and sawing, care of cattle, horses, chickens, weeding, and attention to shrubs and small fruits; and they assist in the small details of unskilled labour and ordinary construction work, which all tends to train and broaden the mind for future usefulness.” From this perspective, the physical labour (tending the land first, the farm, and, later, gardens, or doing small maintenance and repair jobs) were to be celebrated as preparing boys to be good citizens as productive men. It was clear that this training was oriented to the place they would be expected to occupy in the labour market as significantly more emphasis was placed on these activities than on academic pursuit.

It is also important to recognize that such labour was not simply a matter of training and development of the children. For much of its history, the Home, like other institutions and many birth families, relied on children’s labour. Their work, whether inside as domestics (mostly girls)

or outside as agricultural labourers (mostly boys), was crucial to keeping costs low and ensuring survival. Even as they often entailed sacrifice of educational opportunity, duties of labour were frequently justified as instilling proper habits and preparing youngsters for occupations that were deemed suitable for them because of their race, class, and gender.

The role and responsibilities of men were modelled for male residents by staff at the Home. Until the hiring of the first male care giving staff in the 1970s, male staff were either in charge of operations, and, in that role, sometimes cast as patriarch (as was the case for the long-standing influences of Messrs. Kinney Sr. and Jr. who positioned themselves as father figures at the Home),⁴⁵ or farm hands, groundkeepers, and custodial staff, at times far outnumbering the female staff caring for children.

III. The Priceless Child: precious and innocent

In Canada's first century (1867–1967), narrowed and heightened expectations about what was “normal” for children further shaped experiments in child welfare. A professional and popular consensus slowly emerged that celebrated the so-called “priceless child” of the modern age who required “protection, separation and dependence.”⁴⁶ Children, like their mothers, were thought to belong in the private sphere away from the marketplace. The idealized image of modern youngsters was as consumers rather than producers of domestic resources, including labour. They were to be emotionally dependent on mothers and economically dependent on fathers.

Like the cults of true womanhood and male breadwinning, the idea of the priceless child was rooted in relations of gender, class, and race that assumed the inferiority of many forms of child rearing. In 19th and 20th century Canada, a middle class of European origin was widely accepted as best equipped to produce offspring who guaranteed the future of the nation. Everyone was judged by that ideal.

This ideal of family form and life significantly influenced the Home in terms of why and how it operated. The ideal informed the notion and assessment of neglect, which led to the apprehension of African Nova Scotian children and their placement in the Home. It also shaped expectations and ideals for children in communities (notably through churches) as they sought to measure up to the standards of the wider society lest they be judged by them. Part of the idea of the Home was to be able to provide a level of care and training that would advance children and, in the long run, the community. This had an influence on the willingness of families and community to send children to the Home as a resource to secure a better standard of care for children.

The idea of the priceless children underpinned the fundamental goals of child welfare, as Lafferty describes: “to protect dependent children, orphaned, and neglected children from physical and moral harm; to give them the opportunity to experience childhood through play and through ignorance of strife and responsibility.”⁴⁷ The Home stated the importance of this idea in its seventh annual report:

Give Him a Chance to Become a Useful Citizen



NSHCC Pamphlet, NSA, VF 398-7

...there is no more appealing subject touching our humanitarian impulses and sympathies than the child. His very youthful helplessness calls to challenge his rights and our very best efforts for him. The child is always near the heart of humanity. No No [sic] better investment is ever made by any community or Government than that devoted to the welfare and betterment of its children.⁴⁸

These goals aligned with the Christian commitment to the care and nurture of children as evident in the central supporting role the AUBA Ladies Auxiliary played with the Home. The same report reminds of Jesus' declaration: "Suffer little children to come unto me" and "it is not the will of my Father that one of these little ones should


perish." It concludes: "We ask your support of these Colored Orphans and Neglected Children not as a matter of sentiment, but of humane obligation – it is part of the moral content of Christianity."⁴⁹

The universal appeal of this idea of the priceless child was also evident in the ways in which the Home sought support for its mission across racial lines. The early efforts appealing for funds for the Home were full of images portraying the innocent and priceless child compelling care and protection. The same image was presented at the annual telethons that began in 1931. Children were presented in their best dress and singing joyful songs to touch the heartstrings (and release the purse strings) of Nova Scotians.

The image of the priceless child was used to build commitment to a common cause with leaders of the white establishment and the broader community. The connection of the natural beauty and innocence of children also played into the idea that the location of the Home in a rural area with access to nature was an ideal setting for children.

**THE
NOVA SCOTIA HOME
FOR
COLORED CHILDREN**

Incorporated 1915



I NEED HELP TOO!

"The race of mankind would perish did they cease to aid each other. We cannot exist without mutual help. All, therefore, that need aid have a right to ask for it from their fellow mortals; no one who holds the power of granting can refuse it without guilt."—Sir Walter Scott.

YOUR INTEREST IN THIS WORK IS URGED

NSHCC Pamphlet, VF, 159-26

This ideal of the priceless child also set expectations for children's behaviour and coloured the response when children did not conform. For example, the priceless child should be grateful for rescue and the investment in their betterment. Those that resisted by breaking rules, failing to behave appropriately (particularly in public settings), wetting the bed, seeking comfort of siblings, or running away were often subject to punitive responses. The records of the Home show little concern or attention to the adaptation or adjustment of children upon arrival to the Home and their new living environment. The Dwyer Report in 1973 similarly noted: "With regard to programs for child placement, orientation and parental visitation, little is planned or prepared. Usually, each child placed is expected to adapt quickly with little emphasis being placed on adjustment and problems which may be related to the residential environment of the Home."⁵⁰ The idea of the priceless child seemed to shape the expectation that children should present as the priceless child imagined in the funding appeals. As a result, Home staff remained ill prepared and untrained to understand or respond to the real experiences and needs of children in their care. When children did not live up to the ideal, it was viewed as their moral failure, not a failure of the environment or care of the Home. This view was reflected in staff expectations and assessment of children's behaviour. Lillian Romkey noted, for example, in her 1948 inspection report that the matron spoke disparagingly of the children in a way that reflected her assessment that their behaviour was rooted in moral failings.⁵¹

This idea of the priceless child also rendered the child an object to be valued, protected/rescued and saved, but not a subject with agency. The capacity for resilience and value in the empowerment of children to make choices was not part of this ideal. As a result, the idea of the priceless child did not direct attention to what children themselves thought or said they needed in terms of care to survive and be well. It is notable, for example, that the voices of children are generally missing from the appeals for funding or reports of the Home. Their images and singing serve as backdrops for institutional messaging. Former residents speak of the impact of upholding this image for the community or public and the consequences of acting out in such circumstances. They reflect on the lack of choice or control over their lives that contributed to their vulnerability and experiences of abuse.

IV. Governments' Role in Child Rescue: right of authorities (the State) to regulate families

These three ideologies of idealized women, men, and children, in turn, informed the fourth that emerged as a central foundation for the future welfare state: namely Governments' right, indeed duty, to engage in so-called "child saving" and, in so doing, to regulate and uplift supposedly delinquent families. Those who matched the ideals of gendered adulthood and childhood were celebrated, but those who did not were readily judged as inferior, uncivilized, and in need of, at best, pity and, at worst, chastisement and correction. Their supposed disorganization and lack of discipline had to be addressed to make sure that it did not threaten "social order, citizenship and economic prosperity."⁵²

The development of child welfare, with its roots in the prevention of cruelty to animals and the extension of this concern for humane treatment to dependent children, reflects this notion of child rescue or saving. The initial focus on cruelty and abuse broadened as the state began to view neglect through the lens of the failure to meet the norms of families set against the assumption of middle-class life, of white culture, and of the norms about men, women, and children. The failure of care in these respects represented a potential threat to social order, and, ultimately, to the future of the nation. Over time, as reflected in the changing relationship of the Government to the Home (and other child caring institutions), recognition of the public stake in this cause translated into greater public responsibility for child protection and rescue.

Ultimately, all four ideologies normalized (and romanticized) a single picture of family life. Well into the 20th and 21st centuries, all Canadian households were likely to be measured against idealized independent middle-class white families of women who focused on being mothers and wives and breadwinning husbands raising youngsters who required near full-time care in their own homes. Systemic and structural disadvantage and alternate cultural forms of ensuring families' well-being and successful childhoods were likely to be unnoticed and stigmatized.

Families of African and Indigenous descent, but also the working class in general, were especially likely to be found lacking in terms of the care they provided. They were often deemed unimprovable, undeserving, and dangerous. Their apparent parenting failures demanded enhanced surveillance, limited assistance, and, eventually, private and public agencies' apprehension of their children. Few mainstream authorities paid attention to the social and economic vulnerability and oppression of disadvantaged groups as explanations for issues of neglect or abuse. Failures were most frequently ascribed to individual inadequacy or failings. This view contributed significantly to the experience of shame that residents of the Home for Colored Children experienced.

C. Racism and Humanitarianism in Child Rescue

Relations of power (adults over children, men over women, the wealthy over the poor, the abled over the disabled, and the positively racialized over the negatively) always shaped Canadians' treatment and options. Racism was not new, but the 19th century further legitimized it as so-called scientific truth. Middle-class Anglo-Celts emerged at the top of a racial hierarchy with others below. Those on the bottom rungs — commonly Indigenous, African, and Asian-Canadians, but also sometimes those of Irish and Southern and Eastern European origin

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– were sometimes overlooked and shunted aside as incorrigible inferiors unworthy of any attention whatsoever. After Confederation, they also readily became targets for correction, with the aim of remaking them in the image of their supposed superiors. Once found wanting, negatively racialized parents and children were ideally to become industrious and well-behaved citizens who accepted their place, for the most part, at the bottom of Canada’s imperial racial and class hierarchy. As discussed in the first part of this chapter, the Nova Scotia Home for Colored Children was a product of and a reflection of the racism that has been foundational to the province and continues to shape Nova Scotia.

Racism was not, however, the full story of the Home as part of child welfare in Nova Scotia. Informing many efforts at child rescue in the 19th century and beyond was a long-standing humanitarian impulse, often linked to religious faith and Enlightenment thought. While never escaping racism, and structured by a racialized society, it emphasized common humanity and social justice in ways that sometimes challenged racial hierarchies. Such principles could foster an optimistic tone in child rescue efforts in the recognition of the potential of racially disadvantaged populations. That spirit contributed to the alliance of white and Black private and public sector leaders that spearheaded the vision and establishment of the Home just as it united white and Black reformers in a shared enterprise for other similar initiatives, such as the Colored Orphan Asylum in New York City (founded in 1836) and the Home for Colored Children in Pittsburgh (founded in 1880).

While none offered “a radical critique of segregation,” they insisted that children of African descent were worthy of a “pleasant, homelike refuge” and “deserved an education as well as industrial training,” in other words, the same standards of care as poor white youngsters.⁵³ The Nova Scotia Home for Colored Children was clearly a product of such principles. Its original inception reflected the self-reliance and resilience of African Nova Scotians in establishing its own social institutions to meet the needs of the community, although the Home also supported and maintained the pattern of racial segregation in Nova Scotia. Indeed, one of the reasons for its founding was a recognition that there were few options to provide care for Black children. Most white institutions either refused or preferred not to accept Black children under normal circumstances and there were few options for foster placements. As Lafferty notes in her consideration of the founding of the Home:

Analogous to the other institutions in the province, the interwar and postwar years presented several challenges that threatened the viability of the home’s existence, but the initial successes of the tactic of segregation ensured its endurance longer than what might otherwise have been the case. On the one hand, this endurance made certain that many children received care, education, and stability, despite the deeply embedded effects of racism and poverty in the province. On the other hand, however, it must be acknowledged that the home’s existence fed what Sherene Razack has called an “illusion,” one that was interwoven throughout the rhetoric of both Black and white supporters of the

home and that perpetuated the worst aspects of recapitulation, namely the idea that these children were “not oppressed, merely different [or] less developed.”⁵⁴

Support for the Home by white leaders was grounded in the moral obligation to care for children generally, and the self-interest in establishing an institution that would address the needs of Black orphans, a matter the Reconstruction Committee post the Halifax Explosion recognized was particularly difficult.⁵⁵ As Lafferty claims, “[f]or many whites, Black children were, at best, a curiosity and a target for self interested sort of spiritual benevolence and, at worst, an undesirable element of the Halifax community, to be separated and ignored as far as possible.”⁵⁶ The alignment of the goals of the Home with Christian charity and humanitarianism served to mask the underlying systemic and structural racism that necessitated the Home and shaped the history and experience of the institution.

As Strong-Boag notes, and Lafferty details in her consideration of the Home,⁵⁷ the balance between racism (or other prejudices) and humanitarianism was never predictable. Individuals and institutions involved in child welfare regularly revealed the inspiration of both. Whether racist or humanitarian in orientation, Canada’s advocates of child rescue were rarely well resourced anywhere across the country. Budgets, whether for assistance, apprehension, or correction, were almost always less than needed to nurture girls and boys. Funding was all constrained because Governments had limited tax revenues. Improvements in child welfare, whether informed by racism or humanitarianism, almost always involved the least possible expense. Those viewed as inferior in parenting were expected to become low-cost mimics of those deemed to be socially (and racially) better.⁵⁸

As discussed earlier in this chapter, the failure to provide sufficient public funding to meet the needs of child welfare, while affecting all private organizations (including children’s aid societies and child caring institutions), had a disproportionate impact on the Home because of the smaller resource base and lower means of those within the community to augment funding with private funds. This required support from the broader (white) community in order to support and sustain operations. The need to ensure such support in an ongoing way shaped what was possible to that which was palatable to the majority population.

D. Child Rearing as Hard and Unpredictable Labour

Canada’s 19th and 20th century ideologies of true womanhood, male breadwinning, priceless children, and child rescue increasingly shaped the public imagination and the proposed solutions to the challenges that families faced. For many families, raising offspring was hard and uncertain work and resources were commonly inadequate. Rearing children placed heavy burdens on adults, particularly women. The frequent sentimentalization of this work, however, often obscured its demands, readily allowing women and individual families to be overwhelmed, and, correspondingly, judged and blamed for their failure to meet the idealized standard.

The death rates for mothers, infants, and children are brutal evidence of the costs of raising children everywhere. As Strong-Boag noted in her submission to the Inquiry, Canada's rates of premature death and many diseases gradually fell from the 19th through the 20th centuries but disadvantaged communities, with their additional difficulties in guaranteeing food, housing, or good health, remained especially vulnerable. The shortfall in good outcomes contributed to domestic violence and instability that made child care all the more challenging, and, thus, more likely to come to public attention as deficient.

Canada's highly cyclical economy and regularly ill-paid, unstable, and dangerous employments worsened matters for those most vulnerable. Numerous reports from private and public child rescue efforts confirmed that the gap between family resources and demands was never restricted to periods of economic downturn, nor equally felt by all citizens. Their lesser entitlement to jobs and assistance meant that hard times haunted many African-Canadians, like Indigenous and other negatively racialized groups, as well as workers and parents with disabilities.

In response to persisting insecurity, families cobbled together remedies. In Canada's resource-dependent economy, where fathers might well be absent or unemployed for extended periods, hard-pressed mothers commonly developed income-producing strategies that were vividly summed up by Bettina Bradbury as depending on "pigs, cows and boarders."⁵⁹ Many wives and mothers learned to build an informal economy in order to try to provide stable homes when men's incomes were absent or intermittent. This situation was made even more difficult when women were single mothers. Suzanne Morton's research notes that this was the case in 16 percent of all families in Halifax between 1921 and 1931. Such women had no option but to engage in paid work outside the Home. Waged labour, most commonly as day workers in the homes of others, was part of many mothers' calculations for survival. As Gavigan and Chunn explain,

Without a family wage, "family survival depended by necessity on intensive domestic production and the extremely close management of the household budget, to which were often added the earnings from paid work of the mother of the family." Notwithstanding the social disapproval of and the legal restriction on wage-earning (married) women, many mothers with young children often engaged in paid employment and/or a range of other paid work, including sewing; knitting; taking in laundry, boarders, or other people's children; selling home baked goods; performing domestic work in other people's homes; engaging in forms of prostitution; and making "moonshine."⁶⁰

Employment outside the home nevertheless always remained difficult to coordinate with child-care duties that were assumed to be women's primary responsibility. That responsibility as mother and wife first did not change even as more mothers entered the paid labour force in the 20th century. As a result, exhaustion and poor health dogged many women and compromised their ability to parent.

In sum, child rearing was hard and complicated labour that often tested families. Women were regularly on the front line of its demands. Their well-being and reputation were always at stake even though their work was often invisible or romanticized.

As noted in Part 1 of this chapter, this was the experience of many female staff at the Home, certainly from the early years through to the opening of the new Home and likely beyond. It was particularly difficult for women in the early decades of the Home because employment for women was scarce. This, combined with the fact that

many women were forced to seek outside employment because of hard economic times at home, means that some staff were reliant on their work at the Home for the own children's survival. As a result, many worked long hours under significant stress and insecurity.

Finding multiple sources of revenue meant survival for many families, but coordinating various sources of income and the work required could undermine mothers' supervision of their own youngsters. Modern Canada's increasing requirement for formal education, which included the gradual introduction of compulsory schooling until age 14, and eventually 16, also imposed new labour requirements on mothers. Their duties now included ensuring school attendance and homework and increasingly removed children as potential contributors to household work and family income.

In sum, child rearing was hard and complicated labour that often tested families. Women were regularly on the front line of its demands. Their well-being and reputation were always at stake even though their work was often invisible or romanticized.

The undervaluing of work with children in general, and women's work in particular, did not only apply to their work in their own homes, it carried into public space where workers, again often women, were likely to be badly paid for caregiving. The poor wages paid to staff in child rescue efforts, including orphanages, often contributed to high turnover, low morale, burnout, and abuse. Ultimately, the recurring devaluing of domestic and caring labour contributed significantly to failures in child welfare. This undervaluing of women's caretaking roles was evident in the history of the Home. Despite the fact that women were charged with the direct care of children, which was the core mandate of the Home, the value of this work was often not reflected in the pay they received. Throughout the Home's history, regular issues were raised with respect to the pay of child caring staff. A report by the matron of the Home to a special meeting of the Home's Board in 1970 reflected concerns about the issue of salaries generally and the differential treatment of women engaged in child care at the Home:

Salaries have always been a point of contention in regards to Staff of the above Home. I realize that an adjustment was made in the latter part of 1969, but I have stated on numerous occasions that until classification of staff is brought into being, we will continue to operate on a second-class basis. This, to me, suggests paternalism on the part of the Board.

With reference to the Salary Scale [...] there exists some confusion as to who my Assistant is; the maintenance man and the Treasurer seem to be next in line. The Assistant Matron is third down on the scale. Child-care workers are in line with the Domestics. Do you still ask, "Why the confusion?"⁶¹

It is significant to understand that the white, male treasurer at the time was a member of the Board (and thus only fulfilling this role in a part-time capacity) and not a staff at the Home. Matron Paris goes on to explain:

On two different occasions Mrs. Kinney has taken charge in my absence, for eleven months in 1968 and 1967 and again in 1969–1970. At no time did I ever feel that she was not capable of this responsibility. Please do not forget that Mrs. Kinney was Matron for about nine years and I served under her. I feel that the treatment that she has received is not worthy of her performance. Is it not embarrassing to her to know that the part-time Secretary-Treasurer and Maintenance Man receive a larger salary than she does, especially when she is told that she is in complete charge in the Matron's absence?⁶²

In 1979, when the Board appointed Jane Earle as interim executive director, she was originally volunteering her time in the role and was eventually compensated only with reimbursement for her child-care expenses.

As Chapter 3 recounts, regular reports on the Home cited the lack of training, experience and skill of staff. This remained the case well into the 80s, even after the staff unionized and the Home ensured professional qualification for the executive directors. As we noted earlier, this issue was significantly linked to systemic racism in Nova Scotia that resulted in less opportunity for African Nova Scotians to acquire education and training. It is also important to acknowledge that child care (beyond the related work of teaching) was not generally viewed as a profession with established and available education and training standards. F.R. MacKinnon, Director of Child Welfare and then Deputy Minister of Social Welfare spanning almost a forty-year period noted:

In 1937, the number of professional social workers in Nova Scotia working in the public and private sectors could be counted on the fingers of one hand. ⁶³ ... In 1939, there were few professional social workers in the Department [of Social Welfare] and no specialized program of staff training and development. What staff training existed was carried out on an *ad hoc* basis in each program area. ...The Children's Aid Societies were grossly understaffed and had limited funds for initiatives such as staff training. This state of affairs continued throughout the 1940s and early 1950s.⁶⁴

This situation led MacKinnon and others to establish the Maritime School of Social Work in 1941. It was not until the late 50s into the 1960s that professional social workers formed a significant core of the Department staff, and MacKinnon noted that the Department still lacked a unified staff training and development program.⁶⁵ The situation was much worse and endured much longer at the Home, made more challenging because of the racial inequality for African Nova Scotians. Although supporting staff training and development and retaining a professional social worker and trained staff was an issue for all private child caring institutions given their limited resources. As Lafferty noted, the changing expectations of the level of staff training needed for group care settings “presented serious obstacles for institutions seeking to alter their mandates and continue functioning as child welfare facilities.”⁶⁶

Indeed, group care was beyond the financial capabilities of most local institutions. In describing its staff qualifications to Smit⁶⁷ (from the Canadian Welfare Council) in 1958, for example, the Protestant Orphan’s Home stated that “[t]he only qualifications re staff that we have been able to adhere to is to have an even disposition and a real love for children. We have no actually trained in social service members on our staff at present.” The home did reassure Smit, however, that it had “raised ...standards lately and have increased our staff considerably.” ... Significantly, institutional managers were often told that their perennial financial concerns must be interpreted in a *positive* way and taken as a lower priority than the quality of their staff. ... In 1960 Smit wrote to Kinney at the NSHCC expressing similar opinions. Although “an institutional program is expensive,” he stated, “this cannot be an excuse for operating on a substandard basis, which cannot be truly helpful to the children... this is ‘strong medicine’ but, I think, important to think about.”⁶⁸

The experience of staff at the Home also reflected the lack of value placed on child caring work. They were poorly paid for much of the history of the Home, a fact noted by the Board at intervals in its history but only in response to staff protests or external reports. For much of its history (up to the opening of the new Home and the union organizing and job action that coincided with its opening), financial priorities and fundraising efforts were not focused on staffing the Home. Perhaps the notable exception was the initial fundraising efforts to establish the Home and acquire a matron from the United States. The lack of qualified and skilled staff had a significant impact on the nature and level of care provided to residents of the Home. It also presented a significant challenge to respond to recommendations to improve care coming out of regular reviews and reports. Our review of governance and operations of the Home reveal a significant disconnect between the Board of the Home and the staff with respect to appreciation of the realities of the Home day to day, and the capacity to respond to issues and instructions from the Board.

E. Families' Search for Help and Additional Resources

The historic uncertainties of parenting remained in modern Canada and drove mothers and fathers to continue the search for help. Traditions in all cultures have regularly involved sharing youngsters' care with kin, whether biological or chosen, immediate and extended family, and community (including godparents, honorary aunts and uncles, and the like), and non-kin (servants, governesses and tutors, mistresses and masters, foster and adoptive parents, and institutions).

This culture of child care as a community undertaking was and remains strongly established in the African Nova Scotian community. As reflected in the discussion in Chapter 3 of the Origins of the Nova Scotia Home for Colored Children, by necessity, and as a matter of faith, community members felt a shared responsibility to care and provide for one another, and particularly for children in the community. Indeed, this commitment was foundational to support for the Home as a resource to families and communities who could not meet the significant need for help.

Traditions of collective child care should not, however, be sentimentalized. Some youngsters, particularly those whose birth families could not contribute to their upkeep or were, themselves, otherwise assessed as mentally, physically, or socially deficient, regularly found more abuse than nurture whether they lived at home or away. In short, no setting, whatever its celebration

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in mythology or tradition, entirely escaped unkind, indifferent, or predatory adults.

The experience of former residents of the Home is a powerful and painful testament to this truth. Even in an institution established out of a steadfast community commitment to the welfare of its children, and the subject of pride and support throughout its existence, many experienced neglect and abuse. This experience was not unique to the Home and often continued for children who were placed in foster care or adopted.

Help in child raising involved at least three possibilities in Canada as elsewhere: assistance to birth parents; transfer of children to other households; or their assignment to institutions. As outlined in Chapter 3, these options shaped the mandate established for children's aid societies in Nova Scotia and elsewhere. The first solution came informally from family and kin groups. Female family members, notably aunts and grandmothers, stood on the front line of such assistance. When such alternatives to birth parents failed or were unavailable, Canada's European settlers, often following British and American models, slowly developed charitable and Government responses, beginning with what was often termed "out-door" relief and extending eventually into the welfare state after World War II. Charitable and state remedies could be (and were often deliberately) highly intrusive and designed to discourage their use. They also favoured those who were thought to be respectable and deserving. Others — among these those

who were negatively racialized – were far less likely to be welcome or to get comparable benefit if they came to the attention of charities or Governments. Aid in keeping children at home was nevertheless almost always preferred by families who hoped to stay intact over hard times.

Over time, there was an increased recognition of responsibility for child welfare by Governments. This coincided with a broader understanding of the needs of children beyond mere food and shelter to focus on the social and emotional well-being of children. These changing ideas and improved access to health care reduced the primary focus on orphaned children to concern focused on the living conditions – neglect and abuse. As the view of child welfare changed from a charitable cause to a matter of public responsibility, there were significant developments in legislative authorities and regulatory oversight of children and child caring. Governments also started to invest in supports to enable children to continue to live with their families. This included the establishment of Mothers' and Family Allowance programs that sought to alleviate some financial strain to enable children to remain in their homes. For example, the Report of the Survey of Child Welfare Services in Halifax by the Canadian Welfare Council noted that "[u]nder the new public assistance program in Nova Scotia 350 children have already received assistance (Sept. 1958) while remaining in their own families."⁶⁹

The lack of formal and informal supports for families to meet their needs and deal with their issues without the intervention of the Government, however, persisted despite developments of the modern welfare state and increased the number of children made wards of the state. The number of non-wards in care of the Home is interesting in this respect. It shows that the Home was viewed and used by some families and communities as a support for families without triggering intervention by authorities.

The second option of children's transfer to other households as workers or apprentices, or as foster or "adopted" children, had an informal history that dated back well before the emergence of the official fostering or adoption programs in the late 19th century. When fostering or adoptive

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households known to birth families took youngsters, acceptance was more likely, but not all children were equally welcome in their new settings. By the 20th century, babies of the "right" colour, religion, health, and, sometimes, gender were regularly preferred candidates for fostering and adoption. Older children, sibling groups, and those marked variously as inadequate had few takers by other households except as labourers in fields or maids in homes.

Generally poor recordkeeping meant that fostered and adopted children were also easily lost sight of and more

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readily mistreated or abused even as Governments and charities endeavoured to modernize child welfare. Such outcomes made fostering and adoption additionally feared by many birth parents. Such fears were often disregarded as modern-minded authorities increasingly thought it was better to break links with suspect original families. This was reflected in the increasing preference and push for adoption. While often explained as a preference for permanence and stability for children, it was also attractive as a solution that ended state responsibility for such children. In that context, the option of institutional, or 24/7 care, which more readily promised the possibility of reunion, could well seem preferable to many original parents.

Institutional care developed as a key part of child-care and child-rescue efforts. As the extension of public schooling demonstrated from the mid-19th century on, institutions have a diverse history and always have advocates. The modern cult of the precious child justified segregation and protection from adults and generated interest and hope for forms of collective care. Better-off Canadians were not immune: after all they readily used boarding schools and summer camps to get a break from parenting and offer their offspring better opportunities. Those choices, which had their own history of child abuse, were, however, never regarded as indicators of parental shortcoming. Better-off Canadians could escape 24/7 child-rearing duties without judgment. Their own investment in certain types of collective child-care arrangements also contributed to the failure of elites to recognize how institutions might pose special threats to the vulnerable youngsters.

As modern child-centred institutions of many sorts emerged in the 19th and 20th centuries, poorer families could easily regard them as a possible escape from the alternative of poor law institutions or even in jails. By such measure, orphanages, revealingly frequently called children's homes, like the NSHCC, seemed to be a marked improvement over other existing options. While a few disadvantaged youngsters continued to be found in adult prisons and institutions for the poor well into the 20th century, the mid-19th century saw orphanages, previously rare, emerge to promise segregation, training, and protection, notably for children deemed respectable. They were widely promoted as proof of collective community responsibility, in effect extending the duties of care long associated with extended kin. Indeed, this was the backdrop for the establishment of the Home as children were barred from poor houses in Nova Scotia, in advance of its founding, to protect them from unsavory and unsafe environments. This generated the need for other institutions willing and able to accept children, which was particularly challenging for Black children in the era of racial segregation.

From the beginning, orphanages regularly used exclusionary policies to gain respectability. Mainstream institutions regularly excluded African-Canadian, (as well as Indigenous and Asian and other negatively racialized families). Many refused youngsters who were obviously disabled, illegitimate, or the offspring of parents judged morally unfit. Early child welfare initiatives, such as the Protestant orphanages, much like later mothers' pensions and allowances programs, rarely embraced a racially diverse clientele. When Black and Indigenous children were allowed entry,

they commonly received fewer benefits. This was the case in Nova Scotia when the Home was established. In 1917, Blois inquired from several of the existing child-care institutions whether they accept Black children. They responded with “no” or “rarely” and they would prefer not to do so.⁷⁰

The early history of the NSHCC repeated the pattern of exclusion by emphasizing service to respectable and healthy youngsters.⁷¹ For example, Sadie Steen, a registered nurse, served as the matron of the Home when it opened in 1921. In a letter to Superintendent Blois she

said: “My attention has been drawn to the health of the children, as well as their ability to move around in the house from place to place. I understand that the children must be able to walk and be healthy.”⁷² She wrote to report that she had a child placed in her care with an infectious disease and was concerned that if they were to continue to take such children the standards at the Home would soon be lost and there would be heavy additional costs to care for such children. She is careful in her letter to note she has compassion for the child currently in her care and is not trying to oust him, but the message regarding future standards is clear. That is, they are not to have any contagious or infectious disease. Like its mainstream counterparts, such policy reflected both prejudice and an attempt to assert respectability in order to gain support. The Home also did not accept white children until the mid 1960s and was slow to grow this population of residents until they opened a receiving centre at the new Home site. This exclusion was maintained, in part, because of segregation in society, but also to stay true to the purpose and service of the Home for the African Nova Scotian population.

As discussed in Chapter 3, and earlier in this chapter, the AUBA played a central role in the history of the NSHCC from the Home’s inception and throughout its operations. This church involvement was not uniquely true of the Home. Indeed, religion was often central to such initiatives.⁷³ Throughout Canada (and more broadly), Protestant, Catholic, and Jewish communities used faith-based children’s homes to affirm their commitment to proper child rearing and to help ensure their own survival. While religious efforts were especially common, ethnic groups and working people’s unions and fraternal societies sometimes also attempted to address members’ recurring need for emergency and long-term child care. That inspiration sometimes found expression in orphanages. However, not all youngsters were equally served in such ventures. Institutions of every sort often had a hierarchy of entitlement that preferred some youngsters and regularly excluded those considered outsiders or unrespectable. This was true in Nova Scotia, for example, where the child welfare laws were silent about race but clear about the segregation of Catholics and Protestants in placement decisions.

Right from the beginning, children’s institutions varied widely across Canada. Many were little more than private homes, accommodating a few dozen children or fewer. Others, such as The

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Mount Cashel Orphanage in St. John's, Newfoundland and Labrador, and New Westminster's Loyal Protestant Home for Orphans in British Columbia, stood as massive monuments to investment in out-of-home child care. Smaller homes commonly placed youngsters in local schools and integrated them into neighborhoods through involvement in children's clubs.

Some institutions, such as Winnipeg's Jewish orphanage, Toronto's Earls court home, and Charlottetown's St. Vincent's orphanage, deliberately encouraged ties with family and emphasized educational and cultural benefits for their respectable charges. Others became "total" institutions, aiming at greater separation from birth families and local people.⁷⁴ As such, they often ran their own classes and training, and some even required distinctive uniforms to single out their charges. They created a "self-contained world" that was said to characterize the NSHCC by 1931.⁷⁵ Indian residential schools resembled those segregated efforts as well. The Law Commission of Canada in its report *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* gave particular attention to this nature of child caring institutions and its connection to child abuse.

To fully understand the impact of past institutional child abuse, it is crucial to investigate the nature of life in those settings at the time the abuse took place. Although children lived in a wide variety of institutions, designed for different purposes, serving different communities, and located in different regions of the country, all can be described as total institutions. This term refers to institutions that seek to re-socialise people by instilling them with new roles, skills or values. Such institutions break down the barriers that ordinarily separate three spheres of life: work, play and sleep. Once a child enters, willingly or not, almost every aspect of his or her life is determined and controlled by the institution.

...

Total institutions are not simply places to live; each is a world unto itself. In this world, those who are in charge hold all formal power. Rules govern almost every aspect of daily life and residents have little say about how these rules are administered.⁷⁶

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In the early decades of the Home, former residents' descriptions of their experience reflects its total nature. They recount rarely, if ever, leaving the property. They went to school onsite and generally attended services at the Home. This was the subject of concern by those who inspected and reviewed the Home. In part, this was a function of the location of the Home. Its rural setting a significant distance from the city had been an initial

concern of the superintendent with the site. At the time, he was concerned that the location would be too remote to be accessible for African Nova Scotian communities from across the province. In a letter to the Provincial secretary following an inspection of one of the proposed sites for the NSHCC in Preston, Blois wrote: "I do not approve of the site if the first type (A) [an institution to care for neglected colored children along the lines of our orphanages for white children] is to be erected there. I consider the situation altogether unsuitable."⁷⁷ He became convinced in short time, however, by the value of the rural setting and the benefits it offered residents and its proximity to the nearby African Nova Scotian community. Despite this perceived advantage, reports about the Home regularly expressed concern about the lack of contact and connection residents had with community. The amount of contact improved over the decades as children attended local schools and as development reduced the social distance between the city and surrounding areas, yet many former residents recount the sense of isolation they experienced in community owing to the stigma of being from the Home.

Orphanages generally provided both emergency and long-term care. Although some girls and boys were fully orphans, many were brought in by widows and widowers, by overwhelmed couples, or by authorities who apprehended children judged neglected or abuse. Links could remain strong with such biological kin, especially when they remained non-wards, with family trying to pay something for care and when sisters and brothers entered together. Despite such benefits, many institutions experimented with fostering and adoption, especially for youngsters, with little hope of rejoining their first families. In other words, no firm line separated orphanages from the external placement of children. The concern with fostering and adoption increased substantially as institutions fell out of favour as primary solutions for children in need of care.

Many youngsters cycled regularly in and out of institutions as parents' resources ebbed and flowed. When families failed to recover, a minority stayed for extended periods. The reality of the difficulty of placing Black children in foster homes was one of the driving forces for the creation of the Home. It is notable that the Home was established at a time when institutional care for children was already significantly out of favour with experts. One of the compelling reasons provided in favour of the institution was the lack of alternative placements for Black children. In a letter to the Chairman of the Industrial School in Halifax seeking a site to begin operations of the Home, Blois, then Superintendent of Neglected and Delinquent Children, explained that "our existing institutions either will not or cannot accommodate cases when they arise, with the result that no provision is made for temporary shelter for the very small colored children."⁷⁸

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In 1962, the director of the Home indicated to a visitor from the Canadian Welfare Council that, in his view, the children's aid societies were "not sufficiently aggressive in seeking homes for the coloured children" who resided at the Home.⁷⁹ Kinney went on to note, according to the visit report, that he felt he and his staff might be more successful at discharging this duty. McAllister, the visitor, indicated that she "would judge that some agencies have, in effect, told him that they do not wish the staff of the NSHCC making excursions into the areas of foster or adoption home finding and child placement; other agencies have indicated that if the Home can find a home for a child the Agency will at least explore the possibility and approve it."⁸⁰ This speaks to the question about the intended scope of the role and function of the NSHCC since its founding

It seems likely that, from the perspective of the community, and, perhaps, the staff of the Home, there was no bright line distinction (as there was from the perspective of the child welfare system) between children from the community who were wards and non-wards with respect to finding them suitable care arrangements.

legislation secured it the power to act as a children's aid society. Although it never served as such formally, informally it seems that the Home was involved in efforts to find placements for some children. Accounts of former residents are littered with stories of visits from prospective foster or adoptive parents in the front room while they all had to behave for the guests. Former resident reflected how distressing this was, particularly when siblings were involved and they were fearful that they would lose a sister or brother. Kinney noted in a letter to Eric Smit, Executive Secretary of the Family and Welfare Division of the Child Welfare Council, that in 1961 the Home "had to make some placements on our own in respect to such [hard-to-place children] cases, we call it a visiting arrangement until the plan has a [chance] to work out and the case is passed over to the Agency concerned. To date this type of arrangements had been fairly successful and have made a couple of arrangements for the older children this past month."⁸¹

Understood in the context of the Home's role as a community institution, it is perhaps not surprising that it would be engaged in the activity of arrangements for children in connection to the community. It is also significant, in this respect, that the Home had non-ward residents, and, as a result, would have engaged directly with family and community regarding the care arrangement for these children who were not connected to a children's aid society. It seems likely that, from the perspective of the community, and, perhaps, the staff of the Home, there was no bright line distinction (as there was from the perspective of the child welfare system) between children from the community who were wards and non-wards with respect to finding them suitable care arrangements.

This idea about placement may also reflect the significant challenge the Home experienced in dealing with the children's aid societies. The societies faced many of the challenges of private child caring institutions, especially in the first part of the 20th century when they struggled with funding and capacity to fulfil their duties. This was more difficult with respect to the Home, given

its location was often some distance from the placing agency. For the Home (and other similar institutions), this relationship was a source of ongoing strain and problems. The Canadian Welfare Council review of child welfare services in Halifax in 1958 spoke to this issue:

The Society [children's aid society] is forced in to relationships with the institutions because it turns to them for help in caring for its wards. Unfortunately, lack of staff and rapid turnover in the staff has meant that the actual working relationships between the institutions and the Children's Aid Society have not been as full and helpful as they might have been. From the Institutions' point of view a child is frequently "dumped" in their laps.⁸²

The Home was in a more complex administrative situation than other institutions because it was receiving children from across the province and beyond. This meant navigating and negotiating placements and payment with a number of children's aid societies that frequently were delayed in payment, as was reflected by the consistent theme in reports about the Home that they lacked systems and skills to keep adequate records and track financial payments.

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This speaks to another significant issue present throughout the life of the Home in various forms: the lack of coordination and integration of child welfare services that contributed to the strained relationships with the Home and the complexity of meeting children's needs. The need for better co-operation and integration of services in child welfare was the subject of attention and recommendations in reports about child welfare and the Home throughout the latter half of the 20th century. The fragmented nature of the child welfare system, owing to the ad hoc and isolated development of various responses both within the community and Government, over time posed significant challenges for institutions, and, most significantly, for the experience of children with the care system. The Canadian Welfare Council report in 1958 explained:

Halifax does not differ from most communities in Canada in the way it developed its social services. At various times over many years a need for some particular service became apparent, and alert individuals organized services to meet these situations.

The services that grew up in this way were not co-ordinated in any way until the establishment of the Welfare Council of Halifax. This Council does not have any authority in exercising its function, but must rely on understanding and acceptance to accomplish its aims of co-ordinating services and planning for the welfare needs of the community.⁸³

The report also noted that the siloed and fragmented approach to services was reflected within the organization of the children's aid societies themselves:

The agency's professional services are departmentalized, that is, the various workers are assigned to particular parts of the total function, protection, child care etc., of the Society. This is of course an administrative convenience, but there is some evidence to show that a more generalized caseload for workers provides a better service in the long run. The traditional approach to child care distinguishes sharply between the child in his own home and a child in a foster home. Today, it is recognized that while there may be physical separation from parents, there is not necessarily a psychological or emotional separation. In view of this it can create difficulties if one worker is working with the family and another worker with the child. Frequently time must be taken up needlessly in clearing matters between two workers.⁸⁴

A subsequent report on child welfare services in Nova Scotia by Ernest Majury in 1964 similarly recommended an integrated approach to child welfare services:

Probably the most important of all is the recognition that services to families and services to children cannot really be separated if we are to give effective service in either area. It has been amply demonstrated that there are very real advantages for clients when a single unit contains a service to help avoid a break-up in a family and at the same time, the ability to give care when this is required. The best child care requires an integrated service directed to help families deal with their problems and to children who must be removed from their own homes because each is less likely to be effective if separated from the other.⁸⁵

Lack of foster homes considered appropriate for Black children kept the Home offering institutional care long after most similar institutions had closed. In the early years, foster care was lacking because there were few willing or able Black families and white families were not willing or were thought to be inappropriate placements by authorities. In 1962, McAllister's field visit report concludes that "[t]he very existence of this facility, [the NSHCC] particularly [now] that it has a new wing and there is less overcrowding, probably contributes to the negligence of agencies in ardently seeking homes for the children who they now consign to an institution. How very sad."

A letter from the executive director of the Children's Aid Society of Queen's County to the assistant director of child welfare in 1966 discusses the issue of lack of suitable foster homes for coloured children as a "serious problem" and requiring significant attention from the "board members and Directors of the Agencies concerned."⁸⁶

Attention to the issue, alongside the development of more socially progressive views regarding integration, resulted in greater access to foster placements for Black children. Such developments were, however, not totally welcome by the NSHCC. As early as 1954, the Home expressed concerns that Black children might be being placed in other institutions and not at the Home.⁸⁷ The increased placement of Black children in foster homes was met with similar objections and concerns from the Home. This was, in part, characteristic of the tendency noted by the Canadian Welfare Council's review of Halifax institutions that "[s]ome of the institutions offering group living experience for children still are inclined to see the institution as a rival method of caring for children rather than offering specific service to children who have special needs and in partnership with both the foster family placement services and the protective services which are endeavouring to maintain or restore the child's own home."⁸⁸ In 1962, the Home made the argument that the Government of Nova Scotia should financially augment the operation of the Home for reasons including:

- (1) The major problem is the continuous withdrawal of children by the Children's Aid Societies for the purpose of re-locating them in Foster Homes and that new children coming under the care of the Societies are also being placed in Foster Homes. This situation is reducing our Maintenance Revenue to a position where it is difficult to maintain our operation.
- (2) We heartily endorse placing children in Foster Homes where care, love and affection is given to the youngsters. On the [other hand], we maintain that the care and affection given our charges is the equal if not superior to that received by the children in many foster homes, particularly those where there is a multiplicity of children.
- (3) For comparative purposes, our Home is geared to house 60 children. At the present time, we are looking after 30. When we began our 1959–1960 year, we had 43 ward cases and 9 non-wards. At the end of the 1960–61 year, there were 33 ward and 9 non-ward children. At present we have only 30 children to care for.
- (4) ...
- (5) The net loss of 20 children represents a cut in maintenance revenue [of] roughly \$15,000 annually, at present.

...

In conclusion, we would beg to point out that if a grant is awarded, it will cost the Government no more than if the number of children was up to normal.⁸⁹

The Minister of Public Welfare's response to the Home's request noted the Government provided two recent grants totalling \$40,000 (in 1959 and 1960 respectively.) The Minister continued:

These grants were in addition to the statutory per capita grants made for the care of children in the Home. I should emphasize that this extra assistance was larger than had ever been granted at any time previously to a child caring institution or Children's Aid Society. Moreover, it was made at a time when the trend all over the North American continent was, and continues to be, towards the use of foster homes and boarding homes for children in need of care and protection. We felt, however, that the grant was justified in view of the very special handicaps under which our colored population live.⁹⁰

The Home's response also revealed a concern for the impact on the viability of the Home and its mandate to care for Black children. The reduced numbers of residents had significant implications for the financial health of the organization. Also of significant concern was the shift in child welfare underlying the reduced numbers. The change in approach to child welfare away from institutional care was actually well underway at the time the Home was established. By 1929 "the herding together of children in an institution under one roof [was] considered criminal by advanced studies of child welfare."⁹¹ Despite this emerging consensus, some organizations remained committed to old ways of child saving, "as late as the 1920s when fostering had become a preferred method."⁹² Yet it found favour as a means of responding to the particular circumstances of the African Nova Scotian population and the deeply racialized society at the time. As Lafferty notes,

If the practical consideration of managing the province's population of endangered children prevented a concerted shift away from institutional care, so too did the symbolic place that these homes held in the community. The institutions were much more than the sum of their practical efforts; they were living expressions of a particular cultural and religious community in the province. This blend of the practical and the symbolic was particularly conspicuous at the NSHCC, as evidenced by the pomp and ceremony of the official opening. In the nearly two-decade-long campaign to organize and fund the building of the home, its place in the community came to transcend the basic elements of the service it would provide to children in need. It was fundamental to the creation of what Kinney frequently called "race-pride" and "race uplift". In other words, he viewed it as the physical expression of the black community's place in the wider culture and politics of the province, a means of demonstrating its worth and ability to its membership, to the child welfare system, and to the population of the province as a whole.⁹³

By mid-20th century, child welfare was significantly committed to de-institutionalization and oriented to fostering; adoption with congregate care only was a last resort for a small portion of the population of children in care. This shift away from institutions was expressed in the 1958 Report of the Canadian Welfare Council on Child Welfare Service in Halifax.

Child welfare is concerned today with those factors which militate against the growth and development of a mature and socially adjusted individual. It is accepted that the place where a child can best achieve this emotional balance is in his own home. If for some reason this is not possible, then substitute family life must be found for him. ... If he has not had the experience of living in a family and relating to the other members of that family in a normal way as a child, he is less likely to know how to live and relate to others in a family group when he becomes an adult.

Sometimes it is not possible to place a child in a family setting immediately because of the deep-seated problems within the child or he may not be able to accept substitute family life at once. Then he needs the experience and protection of group living in the institution. But this should be for only as long as he needs it, and with help he should be reintroduced, as soon as possible, to family living once again; preferably that family should be his own.⁹⁴

The 1964 Majury Report, while not charged explicitly to make recommendations about child caring institutions, offered some valuable insight into the shifting terrain of the purpose and philosophy of care of children. The report summarized the important history of child caring institutions within the province and noted that the “whole approach in regard to institutional care has changed radically.” It stated that, while institutions were considered part of the total spectrum of child welfare, they should only be utilized for “that particular child whose carefully diagnosed need is specialized group care on a short term basis.” The report stated that long-term institutional care was no longer considered valid.⁹⁵

In June 1971, in correspondence with the Minister of Public Welfare about their financial difficulties, the Home raised concern about the number of Black and biracial children being placed into foster homes. They argued that if they were placed in the Home instead, it would help improve the Home’s financial position.⁹⁶ In reply, the Minister gave a clear account of de-institutionalization underway in Nova Scotia. He wrote:

... you refer to the financial problems you are encountering in the operation of the Home. This has implications over and beyond the points that you raise about black children in white foster homes, and I am advised that all child caring institutions are experiencing similar difficulties. The Little Flower Institute is in the process of discontinuing operation because of lack of children and financial problems.

... the Protestant Orphanage on Veith Street closed out last year and is performing a completely different function now. The Halifax Infant’s Home closed out a number of years ago. St. Joseph’s Orphanage has ceased to function, and the Home of the Guardian Angel has drastically changed its intake policy. In other

words, the problems that you are experiencing at the NSHCC are common to all such institutions, not only in NS but across Canada and the US.⁹⁷

The NSHCC's concerns about the impact of this shift to foster care also reflected an emerging policy debate about the appropriateness of intercultural or "transracial" placements in Nova Scotia with respect to placement of African Nova Scotian children with white families. The minutes from the Home Board meeting in July 1970 record that Board member Carrie Best "reported that in New Glasgow 40 Black children are in foster homes. Approach should be made to CAS'S. She stated that we are undergoing cultural genocide in that there appears to be a conspiracy against the Home to prevent Black children from being admitted. It is important to start thinking about the future developments of the Home."⁹⁸ As discussed in Chapter 3, the issue of Black children placed in white foster families was of significant concern to the Board and the subject of inquiry to the Department to determine the scope of the practice. In 1971, the Board of the Home met with the executive directors of the 12 children's aid societies to outline its concerns with respect to the placement of African Nova Scotian children. It prepared a report in advance of this meeting that named some Board principles the report was based on, including:

Black children should be placed with Black foster or adoption parents in order to counteract any psychological deprivation a child might experience while being in White foster or adoption homes.

...

The Nova Scotia Home for Colored Children should remain a child-caring institution looking after the needs of Black children by providing a comprehensive child-development program; and

The Nova Scotia Home for Colored Children should receive more Black children from agencies in order to make such a program meaningful.⁹⁹

The report contemplated several matters that should be addressed in the meeting with the children's aid societies' executive directors including:

- a) Institutional care vs home placement care – with the Home taking the position that the Black child would be better off in the institution with comprehensive programming given the lack of Black foster homes and maintaining the need for the Home focused on such care.
- b) Home seeking greater control with respect to placement of Black children.

- c) Home insisting that race should be a factor in social welfare policy particularly with respect the child care.
- d) The need for increased financial support to continue.

The report clearly reflected the serious concern of the Board with the removal of many children from the Home and the decision to place children in foster care rather than the Home. The Department indicated to the Home that concerns with the isolation children experience living in an institution and the lack of a comprehensive program for counselling were the rationales for removing children from the Home. There was obvious concern that this reflected plans to close the Home or to significantly alter its operations away from a focus on the care of Black children. The report concludes: "one cannot help but wondering whether or not this is a smokescreen to remove the children thus forcing us into a position to close."¹⁰⁰

A study by law professor Wayne MacKay in 1977 noted, "[s]tatistics indicate that the chances of a black baby under one year of age being adopted [had] greatly improved. ... However, the outlook for the older black child [was] still bleak." In such cases, MacKay explains foster care is the most likely result. As a long-term option, as was frequently the case for Black children, he acknowledged significant disadvantages. "A black child is often shifted around from one home to another. This lack of permanence and stability makes it very difficult for the child to develop as a secure individual." In his exploration of transracial adoptions involving Black children to white parents, MacKay found that there was a policy to take race into account in determining placements and make efforts to place children with families of the same racial background. However, given the scarcity of Black families open for adoption, this policy did not significantly impact the placement of Black children. His data revealed that "most black children are adopted by whites rather than blacks." He did note that the "normal practice in such transracial adoptions is to acquire a release from the natural parents consenting to the placement of their child in a white home. In some cases black parents requested that their child be placed in a white home."¹⁰¹

There was significant debate about the appropriateness of transracial adoptions. Black organizations and leaders, including the Black United Front, argued that such placements robbed children of their cultural identity and were an injustice to the child. The American Association of Black Social Workers viewed the practice of transracial adoption as an attempt at assimilation – cultural genocide in disguise.¹⁰²

The move away from institutional to home care options resulted in a push to find adoptive families. In the 1970s, the Atlantic Adoption Exchange was established as a joint initiative of the four Atlantic provinces. In cases where no adoptive family could be found in Nova Scotia, children were advertised across the Atlantic region and, if not adopted at the regional level, were advertised at the national level, and, finally, throughout North America. Such adoption exchanges increased the possibility of placing Black babies with Black families. However, it allowed children from the African Nova Scotian community to be placed in other provinces and even other countries. This

practice was met with opposition from members of the Black community concerned with the export of their children and there was protest lodged with the Department of Social Services.¹⁰³

While efforts were made to seek out individual placement alternatives for Black children, the reasons for the scarcity of options with Black families was not fully considered. One cannot understand why individual Black families were unwilling to foster or adopt without examining the larger context of systemic and structural racism that presented barriers. There were obvious economic issues, given the level of inequality for African Nova Scotian communities. This was acknowledged in the Hall Report for the National Study Service in 1970. He stated: “[t]he professional staff in the foster family programs reported that they find special planning and effort is necessary to secure foster family care for black children. They state that this is related to the low income level and poor housing conditions by the fact that many of Nova Scotia’s population of 20,000 live in isolated rural settlements. These persons believe that there may be continuing justification for a child rearing institutional program for some black youngsters from extremely deprived homes.”¹⁰⁴ There was also a culture of suspicion and mistrust of authorities and systems that created a disincentive for Black families to open themselves up to scrutiny.¹⁰⁵ MacKay recounts:

Art Kriss of the Black United Front felt that a black child without a home is a problem of the black community and should be dealt with as such. Mr. Kriss said there is a need to de-institutionalize and provide homes for babies in the black community itself. In the past the black community always looked after its own children via the concept of the extended family. It is Mr. Kriss’ view that this older approach can be revitalized.¹⁰⁶

Indeed, this was the vision and hope particularly of those from the African Nova Scotian community who founded the Home. Contrary to the founders’ high hopes, however, the Home, like many orphanages, and like Indian residential schools and institutions for youngsters with disabilities, became a site of abuse and mistreatment. Such outcomes appeared especially likely when neighbouring adults were unable to oversee care, were highly stigmatized themselves, or when institutions were run by groups, such as the Christian Brothers, that were protected by assumptions of their superiority and notions of appropriate deference.

Orphanages and children’s homes that accommodated youngsters whose kin were nearby and deemed capable of reconstructing their families were likely to be safer. But if some children were less vulnerable to adult predators and general unkindness, no group was entirely immune. Orphanages, therefore, were one response to the persisting problems of child care. Like the introduction of formal fostering and adoption programs, they promised some of the benefits of protection, segregation, and dependence of modern childhood. And just as with those remedies to the demands of child rearing, they readily channeled the prejudices of the day and offered opportunities for mistreatment.

This reality clearly marked the history of the Home and the experience of its residents. Many former residents across the generations who resided in the Home recounted experiences of neglect and abuse. It is clear that the conditions of institutional child caring and the challenges it presented across the years the Home operated contributed to conditions that failed to meet the needs of the children in care. The evidence we have examined reveals the significant impact of lack of resources, inadequate training and experience of those tasked with care, inadequate support and oversight, and the vulnerability of those working at the Home significantly contributed to the failures of care and harms felt by residents.

While the Home was not unique in terms of the harms connected to institutional care, there were some factors that increased the vulnerability of its residents to mistreatment. The location of the Home and the fact that it served the entire province meant that many residents were far from family, decreasing contact and increasing their isolation and, relatedly, their vulnerability to mistreatment. Other residents had no parents or close family connections, so there was no one outside the system watching over or checking in with them. This was another factor in the risk and vulnerability for some residents. Finally, the nature of child welfare and the private nature of the institution resulted in thin, if any, supervision in the early years, and oversight and reporting were spotty even in the later years. Even as oversight increased with respect to the institution, little attention was paid by children's aid societies and, later, social workers to the experience of individual wards placed in the Home.

Our examination of the governance and operations of the Home revealed that significant attention and concern throughout the life of the Home was focused on protecting and

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preserving the reputation and continuation of the Home. Indeed, throughout the early and middle decades of its operations, there is a surprising lack of attention in the available minutes and correspondence of the Home regarding the care of the children. This is in stark contrast to the focus on the children in the annual reports and fundraising efforts during the same period. This focus on the quality and nature of resident care increases in the 1970s, and particularly after the move to the new Home. In part, this seems to reflect the changed nature of the services offered by

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the Home, including serving as a receiving centre, resulting in shorter-term placements for youth coming from other institutions or placements. The relationship with the child welfare system also shifted during this period, resulting in greater oversight of standards and programming. The increased focus on child care, however, did not mean an end to the patterns of mistreatment and abuse that characterized residents' experience in early years.

F. Resistance

In child welfare (as with other areas), exclusions and discrimination fostered long-standing traditions of resistance by disadvantaged communities. Efforts at mutual aid from unions to friendly societies and co-operatives¹⁰⁷ tried to offer respectable alternatives to the dominant efforts at child rescue. The NSHCC is in line with these efforts as "an expression of ethnic pride" and "racial uplift."¹⁰⁸

The strategies involved in such resistance efforts included both claims to the respectability of the dominant ideologies of true womanhood, male bread-winning, the precious child, and child rescue, and assertions of distinctive traditions and ongoing capacity of the marginalized community. Such was the case with Jewish Canadians, who set up charitable endeavours across the country to serve children who often met little welcome in mainstream child rescue settings. Winnipeg's Jewish orphanage offers a helpful example. Founded during World War I, it rejected pervasive anti-Semitism, demonstrated adult responsibility, and asserted the value of Jewish youngsters.¹⁰⁹ Children in their care benefited from the home's kindergarten, Boy Scout and Girl Guide groups, Hebrew school, and choir. Its girls and boys may well have agreed with those of the New York Orphan Asylum that they were the "luckiest orphans."¹¹⁰

Many African-Canadian communities also endeavoured to generate assistance to distressed families that reflected "their own ideas regarding class, culture, gender roles, family ties, work ethic, and diasporic connections."¹¹¹ Much like other Canadians, their child welfare efforts often began with churches. The residents of Buxton, Ontario, typically founded Sunday schools and church-based children's libraries.¹¹² Some Canadian initiatives were also non-denominational, associated with fraternal groups and women's societies. Such was the case with the provision of food and shelter to needy households by Montreal's Coloured Women's Club of Montreal in the early 20th century.¹¹³ As discussed earlier in this chapter, women from African Nova Scotian communities and within the AUBA played a similarly active role in support of the Home.

Efforts to offer alternatives to mainstream child welfare initiatives could assert much the same respectability as was reflected in the ideals of homemaking women and breadwinning men championed by white elites. Black churches could endorse a "separate spheres ideology" for women and men. Claims to prevailing gender conventions helped African Canadian women in Atlantic Canada, as elsewhere, in confronting "a hostile world."¹¹⁴ Their male counterparts, such as James Ross Kinney, likewise invoked the ideal of responsible manhood to counter demeaning depictions of Black masculinity.¹¹⁵ Indeed, this was true of many of the leading African Nova Scotian men who

were key to the founding and development of the Home as they aligned themselves with similarly situated elites from the white community to ensure necessary social, political, and monetary capital for the enterprise of the Home. Such strategies made perfect sense as disadvantaged communities scrambled to generate support for their own precious children. Many parents and children, as a study of Pittsburgh's Home for Colored Children has documented, "continually negotiated and cooperated with orphanage managers, who also had to bargain with progressive reformers, staff members, and the broader community over the future of their organizations."¹¹⁶

Seeing such resistance as core to the story of the Home is made more complex by the fact that the Home was run and staffed by those from the African Nova Scotian community. As Part 1 of this chapter discussed at length, this fact does not mean that there was no racism, and, thus, no cause of resistance at the heart of the story of the Home. It does mean that the picture of resistance cannot be seen if painted in black-and-white terms. It requires nuance to see and appreciate its expression throughout the story of the Home. Resistance is very evident though, as detailed in Chapter 3, not least in the debates over the initial vision for the Home, Board membership in the 1970s, the role of the Home (including its name) from the late 60s onward, and the significant tensions regarding fundraising efforts, including who should be asked to give.

It is true that marginalized and disadvantaged communities often looked to mainstream models of child caring alternatives to be strategic in gaining support for such efforts. However, it is also true that, owing to the histories of some marginalized communities, they turned to such models because they did not have access to other alternatives rooted in their histories and cultures. Unfortunately, little is known about alternate traditions of responsible adult behaviour and child rearing. While studies of Indigenous peoples identify older practices of care, sometimes stemming from pre-contact times, that can be mobilized to assist in modern child rearing, little of such scholarship exists on Canada's Black communities. In part, this speaks to the significant losses resulting from the transportation of peoples as part of the slave trade, or subsequently through forced migration because of racism that denied the necessities of life. That being said, it seems very likely that African Canadians also sought inspiration in traditions originating within their own histories and perhaps predating slavery. Indeed, this seems to be reflected in the name for the childcare entity that now resides on the former Home property, Akoma Family Centre, as it claims to offer an Africentric program.

The Home was not alone in the problems it faced in its efforts to resist prejudice and racism through the establishment and maintenance of the Home. Other disadvantaged communities' efforts to counter mainstream prejudice were not immune to problems either. Class, as well as different origins associated with Germany, Britain, or Eastern Europe, for example, divided Canadian Jews. In Montreal, "wealthy 'anglicized' Jews" could condescend to newcomers in much the same way as mainstream child rescuers did to the poor or the negatively racialized.¹¹⁷ In early 20th century, Saint John, New Brunswick's established and generally anglophile Jewish

residents readily regarded Russo-Lithuanian newcomers as suspect. Comparable prejudices among historic and long-standing African Nova Scotians and relative newcomers presented tensions within the Home and in the considerations for its future directions. There were also significant tensions within the historic African Nova Scotian community regarding the vision, purposes, and directions of the Home at key moments throughout its history, as evident in Chapter 3. This can be seen in the different levels of engagement and re-engagement of the AUBA throughout the history of the Home, as well as the involvement of other progressive movements within the community, including the Black United Front in the mid-to-late 70s and early 80s. Such tensions were, in part, reflective of systemic racism and different strategies to dealing or responding to it.

The nature of community engagement within the history of the Home illustrates these tensions and differences within the African Nova Scotian community and the role of the white establishment. In particular, the assumption by the white establishment that there was a consensus within the Black community on such issues, and that those they collaborated with represented the most important segments of the “defacto” Black leadership. However, there is a strong pattern reflected throughout the history of the Home of the white establishment’s comfort with those in the African Nova Scotian community who saw accommodation, integration, gradualism, or incremental inclusion as the path for equitable, harmonious racial relations. This approach was evident in the very idea of the Home as a separate institution aimed at racial uplift within existing social structures and norms. It supported common ground for collaboration between those African Nova Scotian leaders (largely connected to the AUBA) oriented to such a theory of change. Tensions then arose when others within the African Nova Scotian community sought to disrupt the status quo, including existing power relations with the white establishment as essential to change. Such tensions then reflected less of a division in the community regarding the nature of the issue of change needed than different strategies. However, this is viewed as a problem within the Black community by those within the white establishment because it diverges from their belief in consensus within the Black community. The diversity of views and responses within the African Nova Scotian community was evident throughout the history of the Home. The reaction of the Government to these differences and related tensions was evident at key points in the history of the Home, including in the Government’s reaction to the community’s response to revelations about abuse in the Home.

G. Silencing of Survivors’ Voice

This shame was not only felt by those in the African Nova Scotian community about the situations and circumstances that made the Home necessary. That shame was experienced by the residents of the Home. Many former residents have shared that they felt the stigma of being a “home child” as children and into adulthood. This shame led to silence about their life and experiences in the Home. Many former residents report feeling unable to talk about their experience as children because they

lacked the opportunity (seldom receiving visits from family or social workers), feared they would not be believed, or were warned by staff not to speak about things that happened in the Home.

Unfortunately, this was not an uncommon experience. Children's voices (and indeed that of their parents) were commonly ignored or disbelieved while they were in institutions. The silence was often maintained long after children left care because many survivors wished to forget the stigma and the pain associated with their family problems and their entry into children's homes. Silence and ignorance were fostered by the fact that many institutions housed numerous youngsters for relatively short spells. Such especially transient girls and boys have been particularly likely to be lost sight of and, indeed, may have only the vaguest, if any, memories of interruptions of life with parents and families. This was true for some residents of the Home. Although many, particularly those who lived at the old Home, spent longer periods of time at the Home, their voices and experiences are all but absent in the records of the institution. Their files generally contain information (sometimes very sparse) relevant to the institution, not to the child. Evidence about the experience of children in institutions is, thus, inevitably incomplete. Fully understanding the history and legacy of the Home requires hearing these voices and experiences as told by the now-grown children who lived at the Home.

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When child welfare authorities justified their own labours, they regularly used pictures of their charges, sometimes in "before-and-after" poses. This "silent talk" of young bodies asserted a powerful narrative of rescue and progress that persists to the present day. In place of the voice and experiences of the children at the Home, we also found images contrived or selected to appeal to the audience to gain support for the continued work of the Home. There is some painful irony for many former residents that the iconic image of the vision of the Home for many is the singing residents on the annual telethons, while the residents recall being clear about the expectation that they should not go off the script for their performance. Former residents have also shared that the status of the Home in the community and the pride taken in its good works made it hard to speak in case it sounded ungrateful.

This silencing is what prompted many former residents to come forward and speak about their experiences in the Home. Indeed, it was as the institution reflected on its history, telling the story of the Home in the book *Share & Care: the Story of the Nova Scotia Home for Colored Children*, and then seeking heritage status to honour the importance of the Home to the African Nova Scotian community, that former residents found their voices to say their experiences were not represented in the institution's account of its own history.

Many former residents' stories are a complex blend of abuse and pain alongside expressions of care and kindness and small moments of joy. Indeed, several former residents of the Home have credited the stark contrast of these moments of care and kindness in the midst of neglect and abuse for showing them the profound difference between right and wrong and building their moral commitments.

In speaking out, former residents found a common voice to speak about their harmful experiences. But all residents did not tell the same story. Some former residents expressed relief and gratitude for escaping the disintegration, despair, and tyranny of original families and for finding accommodation, education, adult caregivers, and opportunity through the Home. Like some fostering and adoption programs, some orphanages offered second chances and better outcomes than birth families. Charles Saunders' study of the early years of the NSHCC emphasizes this perspective.

Other survivors told a very different story. Their revelations of institutional abuse and neglect reflected uncertainty, bitterness, deep unhappiness, and enduring harm. Like damaged foster kids and adoptees and the casualties of failed birth families, such girls and boys rightly ask why authorities seemed so often indifferent and complicit in their pain. In effect, they want to know why they weren't treated as "precious" children by so many adults in their lives.

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Part 3: Responses to Institutional Abuse and Other Failures of Care

The story of the Nova Scotia Home for Colored Children is, ultimately, an instructive one about the failure of care and resulting harm and abuse. The Inquiry was mandated to examine the experiences of former residents within the NSHCC for what those might reveal about issues of institutional child abuse and its prevention and protection in future. Indeed, it was the demand from former residents for response to their experiences of harm and abuse within the Home that gave rise to this Inquiry. As Chapter 4 details, their journey to bring these harms to light and get a response from those responsible has been a long one involving significant political and legal actions. The failures of care they experienced were, in many ways, compounded by the failures to respond to their calls for justice either as children and young people living in the Home, or as adults reporting their experiences while residents. As former residents came forward to share their experiences, the complexity of the story became clear. What they shared were not simple stories of harm and abuse visited upon them by predators or individuals set about violence or violation. It is undeniable that this was an element of the abuse that occurred within the Home, yet, if this was the only focus of justice efforts, much of the harm and abuse

experienced by former residents would be missed. Such a narrow view of the history of neglect, harm, and abuse at the Home would ignore significant factors related to the contexts, causes, and circumstances that created the conditions in which such abuse was able to happen.

The vision of justice offered by former residents as they gathered to support one another required a response that could deal with the complex nature of the harms. It became clear that the experience of harm and abuse had to be understood in the context of the broader structure of the care system and the context of systemic racism that had a structural influence and impact.

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The Home not only serves as an example of the profound impacts of systemic racism, but also of institutional abuse in ways that are not unique to racialized communities. In 2000, the Law Commission of Canada concluded, as part of their examination of redress for institutional child abuse, “In Canada, our history of institutional child abuse has been a tragedy of enormous proportion. It is not, sadly, only an issue of the past. Understanding the nature and settings of historical child abuse and what we can do to provide appropriate redress for survivors is a priority, both because justice demands that we act, and because it helps us to see how we, as a society, can take steps to root out child abuse of all types today.”¹¹⁸ Almost two decades on, as we write

While this issue is not limited to racialized populations, it is important to acknowledge that these failures disproportionately affect those who are already marginalized and disadvantaged because the mechanisms and nature of abuse are often tied to racism or amplify existing vulnerabilities.

this report, we are driven by the same belief and ambition in this Inquiry. It is also clear that the nature of responses to failures of care have significant influence on the structure and approach of the care system generally. It is, therefore, very important to examine the response to harm and abuse at the Home for what it has to teach about responding more broadly to institutional failures of care and for the approach to care generally. While this

issue is not limited to racialized populations, it is important to acknowledge that these failures disproportionately affect those who are already marginalized and disadvantaged because the mechanisms and nature of abuse are often tied to racism or amplify existing vulnerabilities.

The Law Commission explains the unique circumstances of institutional abuse and the corresponding collective responsibility for abuses:

When children are placed in institutions, they enter a different world; for those who are not part of that world, it is often a case of “out of sight, out of mind”. Because society does not see these children, it needs to ensure that others see

them. Effective external and independent oversight can serve as a check on those who would abuse children. Too often, however, there was little oversight of any kind brought to bear on the daily activities, the level of discipline and the quality of care that children received. In some cases, an institution or its sponsor responded to documented evidence of abuse by simply transferring or dismissing the employee, without seeking the involvement of police, offering counselling to the children or even seriously reviewing its hiring and supervisory policies.

Once society places children in institutions, it seems largely content to assume that this is the end of its direct responsibility to look after them. But brick and mortar institutions, or anywhere else we choose to place children “for their own good”, are not solutions in and of themselves. They can be solutions when they provide services and care that meet the needs of children; when they do not, they become part of the problem. Children, all children, require ongoing care, attention, respect and love. Where parental responsibility is replaced by institutional care, external vigilance is essential. This is especially true when the parents themselves have proved neglectful or inadequate, because it means that their children will usually lack effective natural advocates outside the institution. Society’s responsibility for vigilance through oversight and advocacy operates whatever the nature of the institution and whatever the reason for the placement.¹¹⁹

Part 2 of this chapter revealed the significant factors and issues within the care system that created the conditions for harm and abuse at the Home. These included:

- siloed approach and fragmentation across the systems meant to ensure care within child welfare and at the Home that restricted system resources and capacity to meet the needs of children
- focus on needs and priorities of systems and the organizational needs of services rather than on the needs of children
- inadequacy of funding, training, and oversight at the levels of the institution and the child welfare system
- the “total” nature of institutions resulting in isolation and significant exercise of power over the lives of children in care of the institution
- inequality and vulnerability of marginalized communities resulting from systemic racism

While the focus of the Inquiry has been on institutional abuse, given our starting point in the experience of former residents of the Home, it has become clear through our process that institutional abuse is often the consequence of, and closely connected to, broader failures of care

systems. In particular, the ways in which systems and institutions are not designed around the needs of human beings. As we consider the history of the response to abuse in the Home, we are mindful that there are insights for the ways in which we respond not only to abuse but to the range of failures of the care system.

The Law Commission grounded its comprehensive and helpful consideration of institutional child abuse in Canada with a powerful reminder that: “Children do not decide to live in institutions. It is, rather, their parents, legal guardians, the courts and others with legal control over them who are responsible for sending children to residential institutions.”¹²⁰ The fact that society decided to care for children in this way, and that so many suffered harm and abuse as a result, creates a significant collective responsibility to respond to this abuse.

It is important to pay attention to the conditions and circumstances in which harm and abuse were commonplace. As was the case for our consideration of racism in Part 1 of this chapter, it is not possible to understand the nature of institutional abuse if we approach the problem simply through an individual lens. It is significant that the abuse and harm happened in and through institutions. Of course, there were individuals who caused harm – intentionally and unintentionally – some out of a belief their actions were a necessary part of doing their job,

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and others who clearly preyed on children and young people to serve their own ends. Attention to the systemic and institutional features of abuse in the Home is not intended to excuse individuals from their responsibility for their past actions and, importantly, their responsibility to respond in meaningful ways for the future. It is important, however, that we focus on the systemic and institutional nature of the abuse, and the response to abuse, if we are to be able to explain how the abuse happened and the failures to respond in helpful ways. Such an explanation requires attention to the system and structures of child welfare, the Home, and the justice system through which help was sought to address abuse. This points to the significant collective responsibility we all share at the institutional, system, and societal levels for what happened to former residents at the Home.

Just as the efforts to understand the harm and abuse experienced by former residents cannot be focused only at the individual level, it is also true that responding to such harms requires a

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more comprehensive and systemic approach. When the Federal Minister of Justice asked the Law Commission of Canada to comment on which processes may best respond to the needs of survivors of institutional child abuse, they concluded:

This task is not [...] just about how to compensate people for the wrongs of the past, and it is not just about law. It is about understanding how our society views its children and how it allows them to be treated. ... It is about facing up to some unpleasant truths, not only about abuse of power and the pedophiles in our midst, but about how the people who are charged with the care and protection of children can fail, and in some cases deliberately refuse, to protect them from those in whose custody they are placed. It is about our faith in certain institutions, and how misplaced that faith can sometimes be. It is about wrenching families and communities apart through misplaced notions of cultural superiority. Above all, it is about our own failure, even today, to fully acknowledge the harm that was done and to take adequate steps to address that harm.¹²¹

This understanding has shaped the structure and approach of this Inquiry. The response when the stories of former residents' experiences within the Home came to light was a very instructive part of the history of the Home. It revealed a failure to understand the contexts, causes, and circumstances of abuse in favour of pointing the finger at the few bad actors and/or to outright denying the responsibility of the institution and the systems involved.

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This chapter is focused primarily on the responses to institutional abuse as a failure of the care system, and, thus, on the official institutional and system responses. However, it is important to acknowledge that, in the case of the Home, the response of the broader African Nova Scotian community to abuse claims was a significant part of the story of the Home. The close association of the Home with the African Nova Scotian community – at

least in terms of its vision, mandate, and outward presentation – meant that the institution's own responses to reports of harms and abuses (at the time or later) had an added dimension. It is not possible to abstract the institution's response from the larger community. This is particularly true because of the depth and breadth of the involvement of community members in the governance and operations of the Home throughout its history (see Appendix B for list of board members over time), but particularly in the later years when the former residents' stories of harm and abuse came to light. It is, of course, also not possible to abstract the Home's response to abuse from the adversarial justice system through which many of the claims were made. Just as this context shaped system responses, so too did it influence and constrain the response of the institution and the community members associated with it.

As we will discuss further in this chapter, the adversarial approach, focused on blame and liability, profoundly shaped the response to abuse by the Government, the Home, the African Nova Scotian community, and the wider Nova Scotian community. It is also important to understand that the situation was made more complicated and difficult by the reality of systemic racism in Nova Scotia. As discussed in Part 1 of this chapter, systemic racism made it unsafe for the African Nova Scotian community to reckon publicly with the failures and harms of the Home for fear it would feed racist stereotypes and undermine current efforts to garner support for the community care projects. The disbelief expressed by some community leaders caused many former residents significant pain and distress. It was very difficult for many to come forward and break their silence only to be told they were lying, or to hear whispers in the community casting doubt on their stories. Through the Inquiry process, we have gained a deeper understanding of the response of disbelief by some in community. Former residents had the sense that information about what was happening at the Home was widespread in the community. They thought this because people shared stories that the Home was used as a threat for bad behaviour when they were children. People reported being told as children they “better behave or they would be sent to the Home.” The Home was, indeed, widely known throughout the province’s African Nova Scotian communities.

It was often a source of shame for those who required such care for their children at the Home. Coupled with the stigma residents experienced in being “Home kids” when they were in the community, this established a culture of silence about what was happening in the Home. This silence was a stark contrast to the profile of the Home as an institution with a place of pride as an achievement for the African Nova Scotian community generally, the AUBA specifically, and certain high-profile leaders. Even in the governance of the institution, we notice a disconnect between the larger vision and mission of the Home and the day-to-day operations of care giving and experience of the children. Attention to residents’ experiences was all but absent from much of the records available from the Board and correspondence for a significant period of the institution’s history. When attention to their experience was paid, it was as a problem to be handled, as in the many reports and reviews starting in the late 1940s that identified concerns with the experience of the children. Across the years, such reports generated responses mostly concerned with the perception of the institution and protecting its larger mission.

Against this backdrop, the disbelief expressed by community about the revelations of the experiences of former residents is more complicated than it might first appear. There are, of course, some who reject these claims to protect themselves, or those they care about, out of concern they may be implicated. But for the broader community, the disbelief was genuine. It seems to have been less a rejection of the truth of what former residents said as an inability to believe these truths. For many in the community, while they would not wish to need the Home themselves, they did view it proudly as a place of refuge — a place that would help, would care. Indeed, many from the community who participated in the Restorative Inquiry processes have

responded with grief and expressed how difficult and painful it is to realize that this was happening in the Home and they did not see it. This is especially so since the institution was so “visible” to the African Nova Scotian community. Even though many never went to the Home itself, it lived in the moral imagination and pride of the community. Many spoke of children they knew who went there, some clergy recall sending children to the Home, or others sent children on the advice of church and other community leaders. Others supported the Home, raised money or listened to/watched the annual broadcast. How could they not have known? This is a painful question for the community to confront, especially about an institution meant to care for their children in the name of, and with the support of, the community. It was hard to believe. It was potentially harmful to the community to believe. And, it was difficult to talk about. In part, it was hard to talk about because there were very few places to have the honest and difficult conversations needed to deal with something so painful and to respond to those who are hurting.

Members of the community have also shared that, even for those who believed, it would have gone against the culture of the African Nova Scotian community to air shameful or difficult things in public. This protective culture, at least in part, reflects the history of the isolation of

One of the significant concerns motivating a restorative approach to this Inquiry was ensuring the process would begin the honest and difficult conversations within community about what happened at the Home and what matters about it for the community.

communities that had to take care of one another in an often-hostile racist society. This contributed to the silence in community. A silence that was deafening for the former residents when they sought a response for their harms. It caused some to try to protect the community from harm or damage from the revelations. It was this context that made the support from community for a public inquiry at a meeting of Ujamma, chaired by the late Rocky Jones, such a significant and important response.

One of the significant concerns motivating a restorative approach to this Inquiry was ensuring the process would begin the honest and difficult conversations within community about what happened at the Home and what matters about it for the community.

The initial community response, or non-response, also had a significant impact on the Government response to the claims of institutional abuse. As discussed in Chapter 4, it created the impression that this was really a matter within the African Nova Scotian community. Framed this way, the Government could justify its own inaction and step back from its responsibility to respond to the institutional abuse claims. Indeed, in the face of denials from leaders within the African Nova Scotian community, Government sought neutral ground. In the process, Government allowed a story of the Home that ignored the systemic racism and, thus, avoided the Government’s responsibility. Again, this was influenced by the adversarial character of justice responses and its propensity to divide issues into two “sides.” The Government was keen to stand on the side of the African Nova Scotian community if a choice was required. Through the lens of an adversarial blame and liability focused frame for justice, the situation appeared as a choice between the

community and former residents. We have come to learn through this Inquiry process that the story is not nearly this simple, and that response to institutional abuse requires processes able to deal with complicated stories.

The experience of the former residents in their journey to light has revealed that the approach to justice did not support the nuance and complexity needed to deal with what happened in the Home. The processes available through the justice system and its alternatives were not structured to understand or deal with the nature of institutional abuse resulting from the failures of care at the Home.

Response to abuse is a central and important part of the story of the Home and the experiences of its residents. The adversarial individualized approach to justice structured the response to residents while they were living in the Home and when they came forward later as adults seeking justice for what happened to them as children.

It is neither the mandate of this Inquiry nor the objective of this chapter to undertake a full examination of the possible responses to institutional abuse and the workings of the Canadian justice system. Rather, it has been our aim throughout the Inquiry to understand the impact of the systems, structures, and processes, and their approach in responding to the harms and abuses experienced by residents of the Home. This has formed an important part of the work of the Inquiry because, as discussed in chapters 1 and 2, part of our mandate has been to consider and model “a different way” to respond justly. At our core, the design and work of the Restorative Inquiry reflects the vision of former residents for what they needed and wanted in response to their harmful experiences in the Home. It is important to recognize that former residents have not simply been the subject matter of the Inquiry, they have been active and effective agents of ensuring a just response to their abuse. The Law Commission notes that this is not an uncommon response of those who have been harmed.

Response to abuse is a central and important part of the story of the Home and the experiences of its residents. The adversarial individualized approach to justice structured the response to residents while they were living in the Home and when they came forward later as adults seeking justice for what happened to them as children.

Many adult survivors who shared with the Law Commission their views about how best to respond to the harm they suffered underscored the importance of ensuring that new generations of children are spared from abuse – whether committed in an institution or elsewhere. ... Some survivors have translated their concerns into specific actions, such as helping to increase public knowledge and promoting prevention. ... Advocating and sometimes becoming actively engaged in developing strategies and measures to prevent institutional child abuse are important to many survivors. Helping to educate others to ensure that better preventive practices are put in place may even contribute to an individual’s personal healing. Judith Herman, a doctor who has written about trauma and

recovery, observes that survivors of a personal trauma often become involved in social action and make it their “mission” to raise public awareness.¹²²

While the former residents’ perspective may not be uncommon, in this case their vision has made a remarkable difference to the nature and impact of the response. Their vision for what justice looks and feels like is, in part, a reaction to the response, or lack of response, they experienced as children and adults seeking help. The former residents, through their class counsel and through VOICES (Victims of Institutional Child Exploitation Society), advocated for and achieved a restorative approach to responding to the harms and abuses they experienced at the Home. The restorative response to the abuse at the Home involved both a restorative approach to determine and distribute compensation as part of the settlement of the class action claim and the establishment of this Inquiry.

As discussed in Chapters 1 and 2, the former residents sought a restorative approach for several reasons. It is helpful, as we consider the nature of the response to institutional abuse, to be reminded of the vision of former residents. This vision was informed by their previous efforts to seek justice through various systems/processes. Before and during the Restorative Inquiry, we have come to understand former residents desire for:

- A process that reflected their idea of justice as being about more than naming, blaming, and shaming. A process that would, instead, seek to understand what happened to them, why it happened, and what matters about what happened for the future. One that would encourage and support those with responsibilities for what happened to learn from the past and commit to making changes in the future. Former residents wanted what happened to them to make a real difference for the future and a process that would contribute to that future.
- A process that did not abstract their harms and abuses from the larger context of systemic racism that shaped their experiences.
- A process they could participate in, and that was flexible enough to allow for their meaningful participation in ways that felt appropriate to each resident. They did not want to be treated like the subjects of inquiry or of assessment for compensation.
- A process that would “do no further harm” — an approach that valued first voice and experience and was committed to former residents’ well-being within the process.
- A process that could consider the *why* — the contexts, causes, and circumstances — that led to the harm and abuse they experienced. They sought an approach capable of dealing with the complex relationships and issues involved. One that would appreciate the connection between the experiences at individual and systemic levels.

- A process in which those individuals, institutions, and systems with responsibilities to ensure such things do not happen again could be actively engaged in finding solutions rather than defending themselves from being blamed as part of the problem by:
 - bringing parties together to begin to work differently in real time so that the process itself would build a foundation for institutional and system change.
 - supporting learning and understanding needed to appreciate and tackle complex issues of culture and bring about systemic change.
 - building capacity and establishing relationships within Government and community necessary to support a better way forward in future.

The experience of the Restorative Inquiry in trying to make good on this vision of a different approach to justice has shed significant light on our ingrained ways of thinking about and doing justice.

There is a significant risk of oversimplification in setting out the general frame and approach of existing justice processes in response to abuse. It is our intention in this chapter to consider the contexts and circumstances that contributed to the responses or lack of responses to the harm and abuse experienced by residents of the Home. The discussion is, therefore, necessarily of a more general nature and focused on understanding this aspect of the story of the Home, the experiences of residents at the Home, and their journey to light. We have not attempted to re-do the considerable existing work examining justice processes generally and specifically considering the response to institutional child abuse claims. Our work has been informed by this work, including, notably, the Law Commission of Canada's detailed study of possible responses in their 2000 report *Restoring Dignity: Responding to Child Abuse in Canadian Institutions*.¹²³ It was written specifically in the context of the challenge posed by revelations about the systemic abuse of Indigenous children in residential schools. Its analysis, however, has broad implications and applications for dealing with the issue of institutional child abuse. In Nova Scotia, the 2002 report by Mr. Justice Kaufman, *Searching for Justice: An Independent Review of Nova Scotia's Response to Reports of Institutional Abuse* has also been informative. The review was undertaken to examine the Government's response to allegations of abuse at the Shelburne School for Boys and other Provincial institutions. The review was specifically tasked to examine the alternative dispute resolution and compensation process employed by the Nova Scotia Government at that time.

The experience of the Restorative Inquiry in trying to make good on this vision of a different approach to justice has shed significant light on our ingrained ways of thinking about and doing justice.

We are also aware that there have been significant changes and developments in terms of how various systems and processes respond to contemporaneous reports of child abuse in institutions and generally. Through the Inquiry, we have worked with various parties to consider the example and experience of the response to the Home and what matters about this for how

we need to respond in the future. These discussions have supported parties to understand what has changed and what still needs to change in terms of our response to institutional abuse and failures of the care system. The insights gained are shared in chapters 6 and 7.

In considering the response to the harms and abuses at the Home, we paid attention to both the experience of residents while at the Home and the experience of former residents when they came forward as adults to share their experiences at the Home. There are a number of systems and processes that were part of the response to harms and abuses at the Home including internal system review and complaint processes (within Government departments), the criminal justice system, the civil justice system, and a public inquiry.

We will consider the role of each in the response to the harms and abuses at the Home, but first it is helpful to consider what they share in common. They all reflect a mainstream approach to justice. Such an approach understands justice that is i) adversarial, ii) individualized, iii) focused on breaking of law/rules, iv) backward focused, and v) concerned with blame and liability.

A. Adversarial

Responses to institutional abuse are generally adversarial in nature. At the most basic level, this means they treat problems as conflicts and assume that there are two opposing sides. The process is then designed to ensure a fair “fight” between the two sides and to decide a “winner.”¹²⁴ There are additional rules to address potential power imbalances, particularly when the state is involved as one of the “sides,” as in criminal justice. Rights seek to shield the accused subject to the power of the state from potential abuses of power or process. Adversarial processes are premised on the idea that the sides to a conflict are adverse in their interests – opposed to one another. It is the responsibility of each side to bring evidence to prove their case or refute the other side’s claims. Adversarial processes require judges to enforce the rules of the process and determine the outcome. Adversarial systems are based on the idea that truth is best determined through a competitive process between the parties.

I. Adversarial Processes and Trauma

The trauma of child abuse often has profound consequences for survivors. The nature and seriousness of these consequences depend on many factors, including the type of abuse; the age when it began; its duration; the relationship of the perpetrator to the child; the age when the abuse was disclosed; the reaction of others to the disclosure; etc. Coming to understand the connections between one’s experience of abuse as a child and one’s behaviour as an adult can be a lengthy and complex process.¹²⁵

There is significant evidence that adversarial processes can have a retraumatizing effect on victims. As Melanie Randall and Lori Haskell note:

The relevance and importance of taking a trauma-informed approach to those who are victims of crimes and harmed by wrongdoing is perhaps most evident and easy to understand. Indeed, one of the important and persistent critiques of the criminal justice system, most sharply acute and well documented in cases of sexual and domestic violence, is the revictimization of victim-witnesses, a process which is sometimes also aptly described as retraumatization.¹²⁶

Haskell, in her work on first stage trauma, says that victims often are not able to explain their own psychological responses and coping.¹²⁷ Randall and Haskell explain further:

They may not recognize the role of abuse-related trauma in the development of some of their own severe responses or ways of managing. What might appear as “inconsistencies” in the way a victim reacts or tells her story in a service context or a legal proceeding is actually very often a typical, predictable, and normal way of responding to life threatening events and coping with and remembering traumatic experiences.

Understanding these complexities of victim responses to traumatization, which are often counterintuitive to popular beliefs about how “real” victims should behave, is one of the fundamental challenges the crimes of child sexual abuse, sexual assault, and domestic violence pose for the criminal justice system.¹²⁸

Adversarial processes are, thus, particularly challenging in response to institutional abuse. While not all victims of abuse will experience trauma (depending on their resilience), it is a common and predictable response particularly when abuse is experienced as a child. Given the nature of the claims, an approach that is known to exacerbate the experience of trauma creates a particularly unfair set of conditions for competition even by the standards of an adversarial process. The impact is not limited to victims serving as witnesses within the criminal justice system. The impact of an adversarial process is felt equally in the context of the civil justice system (and, for that matter, in other processes, including institutional complaint processes and traditional public inquiries). Insofar as such processes pit victims/claimants as adversaries against those who were party to their abuse, it reinforces their experience of abuse. Randall and Haskell explain this is because:

The trauma of child abuse often has profound consequences for survivors. The nature and seriousness of these consequences depend on many factors, including the type of abuse; the age when it began; its duration; the relationship of the perpetrator to the child; the age when the abuse was disclosed; the reaction of others to the disclosure; etc. Coming to understand the connections between one's experience of abuse as a child and one's behaviour as an adult can be a lengthy and complex process.

The loss of belief in a just world and an inability to enjoy connectedness to others are among the first and possibly the most deeply harmful legacies of traumatic experience. Put differently, the loss of trust and hope associated with trauma means that traumatized people are often unable to create or sustain deep connections to others and, intimately related to this, have difficulty believing that justice and fairness are possible in life and in relationships. Clearly the experience of being violated, neglected, or abused by people who are entrusted to caring for and keeping a child safe is profoundly disorienting, can make relationships seem insecure and unpredictable, and a sense of fairness virtually impossible. The same losses in hope and trust apply to children living in other traumatizing circumstances such as situations of war, political conflicts, or institutional abuse. This loss of hope and trust is a crucial and often underappreciated harmful effect of a traumatic life experience or series of experiences.¹²⁹

It is an effect that is likely to be increased when, as it was the case for the former residents, the parties against you are the very institution and Government systems that were responsible for your care — and for the abuses that occurred. Such processes, by design, require that claims and evidence be tested in ways that are likely to reinforce a lack of trust and safety in those institutions. The adversarial process can be retraumatizing or increase trauma in a number of ways across complaint processes, criminal justice, civil proceedings, and traditional public inquiries for example:

- In the preparation of witnesses, discovery, testimony, or cross-examination
 - witnesses or complainants are often required to recount their experiences several times, and under stress, to ensure consistency in their account, which is sometimes particularly difficult for those suffering trauma
 - witnesses are required to share their experience within restrictive and controlled processes through question/answer and often without freedom to tell the story in the way that is most comfortable, or to include facts that matter to the witness
- Victims (as witnesses or even as complainants) often have little control or a role in legal proceeding. It often seems to happen to them or around them in ways that can increase the sense of helplessness and vulnerability experienced by individuals suffering trauma.
- Witnesses are often told not to talk to one another or will have their claims discounted if there is too much commonality across a claimant group (this is particularly an issue in claims related to institutional abuse with multiple victims). As the Law Commission explained:

Those who will testify in a criminal proceeding are warned by the police not to discuss, among themselves, the events that are the subject of the trial. This warning is based on the view that victims who have had discussions might coordinate their evidence in such a way as to strengthen their case. While not a formal rule of evidence, this precautionary practice has almost taken on the character of a prohibition that begins when the charge is laid. The practice of requiring witnesses not to discuss the trial issues deserves to be reconsidered in the context of historical institutional child abuse. It may mean, both unfairly and unrealistically, that friends, former classmates and even siblings cannot discuss with each other some of the most significant shaping events of their lives – possibly for a period of years. This imposes a particular hardship on survivors, who may be coming together and revealing their experiences for the first time since they were children. Mutual support and sharing are vital coping mechanisms for confronting a troubled or traumatic past.¹³⁰

II. Adversarial Processes and Finding Truth

Adversarial processes seek truth on the battlefield between opposing parties. The theory is that competition is the best way to find truth. This model is better suited to determinations or binary truth: yes/no, right/wrong, and win/lose. It incentivizes polarized claims for fear of “giving” anything to the other side that might result in a weakened position. Admissions, even when warranted, are seldom encouraged or rewarded. It does not deal well with nuance and complexity. As we explained earlier in this chapter, the case of the Home is anything but simple and requires a significant nuanced response. The Home case is not unique in this regard.

Judge of the South African Constitutional Court Albi Sachs, in reflecting on his experience of the South African Truth and Reconciliation Commission (TRC) following apartheid, said:

The problem I had was: why does so little truth come out in a court of law, when so much emerged from the TRC? It poured out in huge streams, with overwhelming and convincing force. Many of the details and some of the assessments might have been challengeable, but the basic sweep was incontrovertible. One of its achievements was to eliminate denial. Not even the most ardent defenders of the old order could deny the evil that had been done in its name. Court records on the other hand, are notoriously arid as sources of information. The social processes and cultural and institutional systems responsible for the violations remain uninvestigated.

The answer to this puzzle must lie in the differing objectives of the respective enquires. Courts are concerned with accountability in a narrow individualized

sense. They deal essentially with punishment and compensation. Due process of law relates not so much to truth, as to proof. Before you send someone to jail there has to be proof of responsibility for the wicked details charged. When the penalties and consequences are grave and personalized, you need this constrained mode of proceeding. The nation wishing to understand and deal with its past, however, is asking much larger questions. How could it happen, what was it like for all concerned, how can you spot the warning signs, and how can it be prevented from occurring again? If you are dealing with large episodes, the main concern is not punishment or compensation after due process of law, but to achieve an understanding and acknowledgement by society of what happened so the healing process can really start.¹³¹

While Judge Sachs is speaking of a process that dealt with historical harms on a national scale, it is no less relevant when considering the response to historical institutional abuse. It is particularly relevant where the abuse has happened in the context of systemic racism, as it did in the case of the Home. But more generally, in cases of institutional abuse or systemic failures, the truth that is sought must be concerned not only with the individual case but with its implications for the system. This raises, as it did for Judge Sachs, a very different set of questions, and requires a process adept at finding complex, relational truth.

Processes that are focused on finding *the* truth, as in the idea of “proof” Judge Sachs speaks of, can actually impede the sort of justice envisioned by former residents. Differing perspectives

Understanding and responding to the nature and impact of the harms and abuses at the Nova Scotia Home for Colored Children requires an approach to truth that is able to reflect the complexities resulting from interconnectedness and interdependence at interpersonal, institutional, and systemic levels.

and experiences make the idea of one single identifiable truth on any matter problematic. Further, the search for and determination of *the* truth presents either/or choices that are more likely to be fractious and misleading than enlightening.¹³² Understanding and responding to the nature and impact of the harms and abuses at the Nova Scotia Home for Colored Children requires an approach to truth that is able to reflect the complexities resulting from interconnectedness and interdependence at interpersonal, institutional, and systemic levels. It requires a relational notion of truth. This should not be confused with the idea that truth is relative. Relational truth is nuanced and complex.

The legal system, as one of the most familiar arbiters of truth, is called upon to make determinations with respect to guilt, culpability, or liability, and, in that context, must often strip away complexity and make a judgment about what parts of the truth matter to resolve a case.¹³³ Finding relational truth requires spaces and processes in which truths can be told and heard, and in which perspectives

can meet one another head-on to challenge, integrate, and illuminate the truth about what happened, why it happened, and its implications. Judge Sachs points to the success of the South African Commission in finding truth. The TRC recognized different kinds of truth: factual or forensic truth, personal and narrative truth, social truth, and healing and restorative truth.¹³⁴ Central to the TRC's work were social truth and healing and restorative truth. These understandings of truth reflect the relational nature of truth central to restorative justice. Social truth, as described by the TRC, references to the way in which truth is to be found. Social truth is that which emerges through dialogue and interaction with others. This is the kind of truth that the TRC says is required for healing or restoration. Healing and restorative truth is "the kind of truth that places facts and what they mean within the context of human relationships – both amongst citizens and between the state and its citizens."¹³⁵ The TRC saw that its role was to:

...help establish a truth that would contribute to the reparation of the damage inflicted in the past and to the prevention of the recurrence of serious abuses in the future. It was not enough simply to determine what had happened.¹³⁶

Likewise, in responding to historical institutional abuse in the context of systemic racism, it is not enough to simply determine what happened. Instead, we must seek the truth about why these things happened and further consider what happened in light of what matters about this for the future. The adversarial approach to responding is not well equipped to this work. Such truth cannot be found through a competitive process that fights over the "facts" of what happened. It requires a process in which different perspectives and understandings of the facts can be shared with a view to coming to an understanding of their significance for the future. This is more likely to be found through dialogue and narrative that allow for the complexity of human truths and create space to understand more than the facts of what happened, but also how and why these things happened.

This notion of relational truth and its importance to the work of responding to institutional abuse reveals another problem with the adversarial approach. Adversarial processes rely on the notion of "testing" claims by "testing" those who make those claims, as in the processes of interviewing as part of an investigation, discovering witnesses, and of cross-examining. We have already considered how these processes could be traumatizing or retraumatizing for victims/claimants. But it may also create conditions in which their truths cannot be heard or are not valued. Adversarial processes reinforce the idea that truth claims are certain, stable, consistent, and unshakable in the face of challenge. In fact, this is often not the nature of truth, particularly human truth that relies on memory.

Finding relational truth requires spaces and processes in which truths can be told and heard, and in which perspectives can meet one another head-on to challenge, integrate, and illuminate the truth about what happened, why it happened, and its implications.

The work of Dr. Sue Campbell has been helpful to our understanding on this point.¹³⁷ Dr. Campbell challenged the idea that memory — good remembering — is about accessing facts as if from an existing archive. Rather, she drew attention to the ways in which remembering is always a relational act that happens in the present as we seek to make sense of the past. In doing so, she did not make merely a factual claim about how memory works, but also a claim about how we ought to understand and approach the process of remembering. Adversarial “truth-finding” processes assume that truth is a fixed commodity to be discovered and evaluated. When truth appears to be unstable or subject to interpretation or when current understandings and experiences shape recollections or help make sense of what happened in the past, the reliability of the “truth” is questioned. However, if memory is necessarily always a process of remembering, of constructing a narrative of our past from the vantage point of our present self standing in relationship to our past, then we must revise our notion of what counts as “truth.” As Dr. Campbell pointed out, a relational understanding of memory and, relatedly, truth is particularly important in dealing with traumatic harms.

According to trauma survivors and those who work with trauma survivors, the narration of traumatic harm is often a necessary part of recovering from it. Narrating the harm can help the trauma victim to restore a sense of continuity with her past, to gain control over intrusive memories, and to regain a sense of subjectivity and some sense of self-integrity. To allow testimonial position to survivors of sexual violence is to help individual survivors recover from the harm of such violence.¹³⁸

The idea of giving survivors “testimonial position” here is not referring to the way adversarial processes take testimony. What Campbell had in mind was placing survivors in a central position to narrate their experience — this requires a relational environment that ensures that the victim has power over the telling and access to understanding listeners. As the discussion of the experience of former residents in Chapter 4 illustrates, the adversarial character of mainstream justice processes sets rules around testimony in order to serve the process, not the needs of the witness. This can contribute to the harm experienced by victims as it did for the former residents of the Home. It is not only the tactics or treatment within the adversarial process that are harmful, but also the loss of control over one’s own truth — the ability to remember in a way that can capture the truth of what happened, including not only the facts, but the meaning of these facts. What counts as truth, and the process in which it can be told, in the current adversarial processes are too narrow often to allow for victims’ truth.

B. Individualized

Mainstream responses to abuse complaints are also characterized by an individualistic focus. They are generally designed to deal with individual cases of harm to individuals by individual

actors (whether people or entities). One of the impacts of this individual focus in criminal law is that the state generally takes the role of the injured party (and, given the adversarial nature of the processes, there is generally only one such party). This means that individual victims do not have a place at the table or as a central party in the process. Instead, they are called to be of service to the process as witnesses, when needed, to make out a case. In the civil system, this means that individual victims must bring their cases against the parties that have wronged them. It is now possible in Nova Scotia to bring a claim on behalf of a class of individuals as long as they share a similar position that can be represented by an individual plaintiff(s). The individual orientation of the system can also be seen in the focus on individual responsibility (this is true even when the “individual” responsible is an organization or institution).¹³⁹ Even in cases where there are several individuals or entities said to be responsible, cases are treated separately or responsibility is apportioned and ascribed accordingly to each party.

This aspect of the mainstream processes is particularly challenging in terms of responding to institutional abuse. The complexity of institutional abuse makes it challenging to address as a purely individual issue. It cannot be reduced to a problem caused by the actions of a few wicked individuals. Indeed, the problem “persists despite regulatory measures, interventions from enforcement and protection agencies, organisational policies and procedures.”¹⁴⁰ It is often deeply rooted in systemic patterns of discrimination and inequality (including race, gender, and poverty), takes multiple forms, and is layered. The focus on individual responsibility misunderstands the relational nature of the situation and the harms at stake in institutional abuse cases, particularly one like the Home where it is embedded in systemic racism. This is not to say that individuals bare no responsibility for the harms and abuses that occurred at the Home. But understanding their individual responsibility requires attention to collective responsibility and its connection with the contexts, causes, and circumstances that often help explain (not excuse) individual actions. It is also problematic to focus on the harms through an individualistic lens because it fails to appreciate the nature of the harms. Understanding the impact and responding to harm and abuse requires knowing whether it was individualized or systemic. Finally, the individualized focus enables systems, institutions, and society more broadly to escape responsibility. If the response is focused on finding the individual to blame, it will not cast its gaze to the collective responsibility for what happened. This was evident in the response to civil claims in the Home as the individual parties (Government, children’s aid societies, and the Home) all sought to point at one another to ascribe fault and liability. As we considered in Part 1 of this chapter, understanding systemic/structural racism as existing beyond individual actions requires a more complex notion of responsibility.

This is not to say that individuals bare no responsibility for the harms and abuses that occurred at the Home. But understanding their individual responsibility requires attention to collective responsibility and its connection with the contexts, causes, and circumstances that often help explain (not excuse) individual actions.

The individual focus of the criminal justice system also shaped the response of authorities (police, child welfare system, and the institution) both in their interactions with residents when they were children in the institution and after as they reported their experiences. In the very few incidents where there are records of responses to reports of abuse at the Home, the response was focused on identifying the individual to blame and exiting (or disciplining) them as a means of dealing with the problem. Seldom was there a wider consideration of the circumstances or conditions within the institution or the wider system. When former residents came forward with claims of abuse, the response of the Home reflected a similar focus on individuals: either the individual nature of the experience of those who came forward (and the denial that it was systemic) and/or the reducing claims, if true, to the acts of a few individuals. The individualized nature of the justice systems helps explain this framing of the claims.

It was more difficult to ignore the systemic nature of the issues when more residents came forward in the class claim. The significant lengths that were taken to prevent the recognition of a class claim in the case of the Home is interesting in this respect. Even once the case was recognized as a class action for the purpose of settlement, the powerful influence of the individualistic approach was evident in how the harms were approached as individual claims (simply multiplied by many individuals). Responsibility was also attributed to individual actors or institutions. It was difficult, within the frame of processes designed to deal with these sorts of claims, to acknowledge and address the systemic nature and collective responsibilities for these harms.

The system also identifies and locks parties into individual roles/identities within the process: individuals are either victims or offenders but not both within the process. This reinforces a siloed view of individuals as separate from one another. Processes are focused on disputes between individuals and not on individuals and their relationships to each other and within the community. This bipartisan approach positions individuals as separate with distinct interests and expectations and feeds the adversarial nature of the system. This does not account for the complexity of experience and lives that are not carved up along these lines but are bound up with one another in ways that are often messy and intertwined.

C. Focused on rule breaking, not harms

Mainstream systems are focused on responding to individual cases. A case is generally determined to be worthy of attention if there is a breach of the law or rules. This focus on law or rule breaking

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often comes at the expense of a focus on the harms and the needs of the parties involved. Responses are often shaped or dictated by what is possible or required by the system. These system requirements are generally set out in the procedures and regulations that determine the role and responsibilities of parties and possible outcomes. This drives a very legalistic

response to harm. Rules tend to be prescriptive, fixed, and rigid, and not responsive and flexible as required to meet human needs. Responses are seldom designed and adapted according to the circumstances and needs of the parties or the nature of the situation or harms involved. Where the human dimension is considered, it is generally outside or alongside formal processes.

Another consequence of the focus on law or rule breaking as the subject of justice, as opposed to the harms and needs of those involved, is the professionalized nature of response processes. The emphasis on rules and procedures places power in the hands of those with specialized knowledge and authority to carry out this work. This takes power away from those who are directly affected by or closest to the situation. While blame and accountability are placed on those who caused or contributed to harm, responsibility for justice is given over to professionals authorized to make decisions. These professionals include internal investigators, human resource professionals, social workers, police, prosecutors, and judges.

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This professionalization of justice responses not only disempowers parties with a stake in the matter (those harmed and those who caused the harm, as well as those who contributed to the harm or can play a role in making the situation better), it also has a significant effect on the willingness of public officials (including elected officials) to respond. Deference to professional advice without careful consideration of other perspectives and factors gives significant power over to professionals. It undermines more inclusive and participatory processes that empower those involved in a situation to have their voices and views shape the response.

This professionalization has also contributed to, and reinforced the fragmented approach of, systems and their responses to issues and concerns. The response to issues at the Home illustrates this powerfully. Responding to issues raised by residents was viewed as a matter for the justice systems (and lawyers). These professionals also had a narrow perspective on the role and responsibilities of the justice system, as focused on individual harm and individual wrongdoing. This explains, for example, why police would return children who had run away from the Home without investigating, inquiring, or even reporting to others in the care system. Absent an accusation or evidence of abuse (individual wrongdoing), there was no responsibility or role for the police to inquire why residents were running away (even when there were repeat patterns from the institution).

The fact that responses generally require finding a breach of laws or rules also explains the significant attention that was paid to making this determination with correspondingly little attention to the experience or impacts of harm on individuals and/or the community. The story of the response to abuse allegations about the Home reveals that significant time, energy, and

resources went into fighting about whether there was a legal obligation and if it was breached. As a result, the central concern became whether and what rule had been breached, not the experience and needs of those affected.

D. Backward focussed on blame/fault for past actions

Another, and perhaps defining, characteristic of our mainstream response systems and processes is their focus on ascribing blame and liability for past actions. The efforts of adversarial processes are directed at evening the scale for past wrongs or securing payback for that which was lost. Generally, the scales are weighted and payment made by exacting a measure of punishment or money. Particularly where the harms and losses are not material (not about a loss of money or property), the payment is symbolic – an attempt to signal or communicate the significance of the breach. The focus of the response is backward and outcomes measured against what is owed for the past and not what is needed for the future. Payment is owed where blame or fault is determined. As a result, most of our processes that are designed to respond to harm are oriented to do the work of investigating in order to lay blame or find fault for the past. They are not designed to do the work of sorting out what needs to happen differently in the future and including those with responsibilities for that work.

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The focus of response systems on blame and fault, coupled with their adversarial nature, invites a defensive response by those who are accused of causing harm. It has also generated significant attention, particularly within systems and organizations, to avoiding risk of legal liability.

The focus on blame/fault and the liability that follows from it makes it difficult to find space for responsible parties to do the work of learning and understanding required to make things better. Instead, efforts are focused on denying responsibility out of fear of blame and liability for an imposed punishment or payment.

The focus on blame/fault and the defensiveness it produces has significantly shaped responses to harms at the Home. For example, the Government and the Home sought to place blame on individuals for what happened in the past, rather than on institutional or system factors. Reactions were largely focused on protecting people from blame unless proven guilty, rather than on the needs of residents. Defensiveness and risk aversion were evident in their hesitancy to call in authorities when there were reports of harms. It also influenced reaction to harmful behaviour of residents to one another, as it was viewed through the lens of individual blame and seen as evidence of moral failings in need of discipline. It did not prompt an examination of the reasons and context for such behaviour that may require understanding and support.

The focus on blame/fault and the liability that follows from it makes it difficult to find space for responsible parties to do the work of learning and understanding required to make things better. Instead, efforts are focused on denying responsibility out of fear of blame and liability for an imposed punishment or payment.

Even when matters are settled outside of formal processes, it is often on the condition that there is no admission of liability in order to protect against further or future claims. In the process, though, the symbolic power of the settlement is defeated by the failure to connect terms and payment to acknowledgement of the harm. This can be seen in the first apology offered by the Home as part of the settlement process. As a result, the former residents rejected the apology as too weak to be a meaningful acknowledgement.

E. Responding to Institutional Abuse at the NSHCC

The above characteristics have significantly shaped the mainstream responses to institutional abuse generally, and certainly in the case of the Nova Scotia Home for Colored Children. The preceding discussion is not intended as a criticism of the intentions of the various actors involved in these efforts to respond to institutional abuse. It reveals the underlying approach that shapes the actions and reactions of individuals, institutions and systems in response to abuse claims. As we considered in Part 1 of this chapter, ideas and assumptions built into the structure and fabric of systems can have powerful impacts on the ways in which individuals think and act. This is certainly true in terms of the impact these ideas about justice and just responses have had on efforts to respond to institutional abuse.

We can see the influence of this approach in the case of the Home as residents/former residents sought a response to their abuse. The Inquiry has not focused on a detailed analysis of each of the systems and processes and the experiences of former residents in relation to them. Our efforts have been focused, as with our other two central issues, to considering what matters about the experience of seeking responses to this institutional abuse to ensure better responses in the future. Indeed, the process of the Inquiry itself, from design through to implementation, has paid particular attention to learning from the experience of former residents as we were tasked with responding to institutional abuse differently. The insights we have gained from this process have substantially informed our understanding and work on this central issue, as shared in Chapter 6. As we have sought to take “a different way forward,” we have had to contend with how powerful and ingrained the traditional way of responding is, both within our systems and individual expectations.

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As we have sought to take “a different way forward,” we have had to contend with how powerful and ingrained the traditional way of responding is, both within our systems and individual expectations.

It is helpful to offer a brief review of how the nature of the mainstream responses impacted former residents’ efforts to seek justice in response to their abuses. How do we understand how the various systems and processes they turned to dealt with, or failed to deal with, their claims of abuse? It is particularly important to understanding

because it shaped the former residents’ commitment to their journey to light, including their vision and efforts to establish this Restorative Inquiry. The discussion of the common approach and character of these systems helps explain the ways in which all of these systems failed in their response. We will not repeat these issues again with respect to each of the mechanisms former residents used. Instead, we seek to understand the history and experience of former residents’ efforts to get a response to their abuse in light of our understanding of the character of these systems and processes.

It is helpful to consider the experience of residents in terms of seeking response for their harms and abuses both while they resided at the Home (coincident with the harm/abuse), and after they left the Home, when they sought redress for historical harms and abuse. While the adversarial approach shaped responses in both cases, the mechanisms available and the experience of seeking response was different, and so warrants separate consideration. Generally, response to abuse (coincident or historical) was sought through the following mechanisms: internal system complaint/investigation processes, criminal justice system, civil justice system, and public inquiry. As discussed above, these systems take a common approach and share similar characteristics. They are not, however, identical in their structure and operation. Each has particular strengths and weaknesses that shaped the experience of those seeking response through them.

While this report does not attempt to offer a detailed review of each of these systems, we will consider salient differences and commonalities as they impacted the experience of residents of the Home. By way of overview, the following chart highlights points that have become clear in our examination.

Internal System Complaints	Criminal Law	Civil Law	Public Inquiries/Reviews
<input type="checkbox"/> Individual and system focused	<input type="checkbox"/> Public	<input type="checkbox"/> Victim more central	<input type="checkbox"/> Public
<input type="checkbox"/> Limited to focus on a particular individual	<input type="checkbox"/> Individual not systemic	<input type="checkbox"/> Private harms	<input type="checkbox"/> Focus on individual but also systemic
<input type="checkbox"/> Focused on breach of rules/procedures	<input type="checkbox"/> Backward looking	<input type="checkbox"/> Individual not systemic – except some class actions	<input type="checkbox"/> Focused on blame and responsibility
<input type="checkbox"/> Adversarial	<input type="checkbox"/> Focused on ascribing blame	<input type="checkbox"/> Private not public interest	<input type="checkbox"/> Backward and forward looking
<input type="checkbox"/> Generally confidential and private	<input type="checkbox"/> Punitive	<input type="checkbox"/> Backward looking	<input type="checkbox"/> Often adversarial
<input type="checkbox"/> Generally focused on discipline	<input type="checkbox"/> Victims need not central (harm against the state)	<input type="checkbox"/> Remedy aimed at putting victim in position they were in before harm occurred	<input type="checkbox"/> Often less harmful for victims but role unclear
<input type="checkbox"/> Sometimes remedy change in rules	<input type="checkbox"/> Adversarial	<input type="checkbox"/> Focused on fault to ascribe liability	<input type="checkbox"/> Remedies – recommendations for action
<input type="checkbox"/> Concerned with risk/liability for system	<input type="checkbox"/> Process often harmful to victims	<input type="checkbox"/> Lower burden of proof – balance of probabilities	<input type="checkbox"/> Depends on public attention and moral authority for power
	<input type="checkbox"/> High burden of proof – beyond a reasonable doubt	<input type="checkbox"/> Adversarial	<input type="checkbox"/> Impact often politically managed
	<input type="checkbox"/> Sometimes helpful for temporary incapacitation	<input type="checkbox"/> Process often harmful for victims if accessible at all	
		<input type="checkbox"/> Remedies individual and often \$	

I. Response Coincident to Harm and Abuse: As Residents of the Home

i. Internal System Complaints

One of the mechanisms available to residents (when they were living in the Home) was internal system complaint processes either within the Home or through the child welfare system. Given what we have come to understand about the nature of the Home as a private child-caring institution, and the fact that, for much of its history, oversight was minimal or lacking, it is perhaps not surprising that internal system complaint processes were not an effective vehicle for residents seeking help. Indeed, there were very few records of such complaints in the documents we reviewed during the Inquiry. Of those that existed, several were generated by other agencies (notably children’s aid agencies) complaining about the treatment of their wards placed in the Home, or came from staff at the Home complaining of their treatment at the hands of residents, or about residents’ behaviour towards one another.

A significant factor in the lack of complaints by residents seem to have been access to someone safe to complain to. As the review of the governance and operations of the Home in Chapter 3 revealed, for significant periods of its operations, the Board of the Home was not closely connected to the caregiving activities of the institution. Also, during much of the Home’s history,

staff had played a leadership role on the Board (in the governance) of the Home. As a result, there were few avenues for residents to express concerns about their treatment other than to the staff that oversaw their care. Former residents also reported very little access to the agents from children's aid societies or their social workers who placed them in the Home. This issue was identified in inspections and reviews of the Home throughout the decades of its operation. This is particularly remarkable given these officials remained legally responsible for their wards' care even once resident in the Home. What contact there was, former residents report, often happened under the watchful eye of the staff at the Home. Former residents also shared that they were threatened not to share details of their experiences in the Home with those outside or they would

Complaint processes generally rely on the fact that those affected will be willing and/or able to complain. Beyond the general institutional oversight and review processes (which increased and improved, at least in their number, if not their impact, over the life of the NSHCC), there was no regularized efforts to check in with residents about the quality and nature of the care they were receiving.

be punished. As the Law Commission of Canada notes, the "total" nature of these institutions contributed substantially to the vulnerability of residents to abuse, and to the conditions that secured silence about abuse.

Complaint processes generally rely on the fact that those affected will be willing and/or able to complain. Beyond the general institutional oversight and review processes (which increased and improved, at least in their number, if not their impact, over the life of the NSHCC), there was no regularized efforts to check in with residents about the quality and nature of the care they were receiving.

It is also the case that complaint processes were concerned with specific incidents as a trigger for complaints. This does not encourage or require the various adults across systems surrounding the residents and the institution (police, teachers, clergy, doctors...) to be looking for signs and patterns that ought to have raised concern, even absent a specific incident or complaint. We heard from former residents about the kindness shown by many people in these systems (for example a cook at the Home, teachers, camp counsellors, social workers, etc.) who sought to respond to the obvious needs of residents whether for food, clothes, or attention, but they did not make any formal complaints about the circumstances

or issues they saw. We have also heard that people in these positions, particularly if not within the child welfare system, did not know whom to complain to, or where. In part, this lack of willingness or awareness to raise concerns is the challenge of a complaint system that relies on blame and requires evidence of violation of rule or laws. Without greater knowledge of all that is happening, or proof that a wrong has occurred, it is perhaps not surprising that those outside the Home did not think to complain or express official concern to the system. Also, there was substantial risk that complaining would not actually get the needs of the child met, but would result in greater vulnerability to retaliation by those accused. This was particularly the case if the only place to register a complaint was to the Home officials.

Even those “complaints” that were lodged through the various reports by visitors and reviewers did not seem to result in any tangible change to the experience of former residents. Indeed, as evident from our review in Chapter 3, several reports repeat the same concerns (and recognized they are doing so) regarding the treatment and care residents were receiving without any discernable effect. As discussed in the previous part of this chapter, there are a range of systemic factors that contributed to the failure of the Home to respond to these issues. Nevertheless, the enduring issues likely created a sense of pointlessness for others within the system about making further efforts to complain without evidence it would have any impact. This would be true for staff within the Home and actors in other systems connected to the residents or the Home.

ii. Criminal Law

As discussed in Chapter 4, criminal responses to abuse claims are perhaps most significantly connected to our central issue on systemic racism. It is important to acknowledge, as the Federal Minister of Justice does in his message at the beginning of the 2019 Report on the State of the Criminal Justice System, that: “our current system does not serve all Canadians equally.”¹⁴¹ This was true then and remains so today for African Nova Scotians. The criminal justice system reflects the past and present systemic racism against Black people in Nova Scotia. For example, according to a recent report by Nova Scotia’s Correctional Services, “African Nova Scotians make up about 2 per cent of the Nova Scotian population, but represented 11 per cent and 10 per cent of admissions to remand and sentenced custody, respectively. ... African Nova Scotians were over-represented both in admissions to remand and in admissions to sentenced custody in 2017–18.”¹⁴² It is also a priority in the current business plan for the Nova Scotia Department of Justice to: “Develop Africentric programming that better meets the needs of African Nova Scotians involved in the Justice system, with the goal to reduce their overrepresentation.”¹⁴³

As discussed above, one of the weaknesses of the mainstream justice response to abuse was its individualized focus on law breaking versus harm. As a result, residents who ran away from the Home in an attempt to escape the experiences at the Home were often apprehended by the police and returned to the Home without question or investigation. This was consistent with the particular role of police. It also reflected the general disconnect in terms of sharing information across systems or institutions. Information regarding the general well-being or experience of residents, as evidenced by patterns of behaviour that came to police attention, was not passed on to other parts of the care system for attention if it was not relevant to the police.

Other than when behaviour garnered attention from the police (as was the case when residents ran away), residents would rely on adults (at the Home or connected to them through other systems) to alert the authorities that there may be an issue of harm or abuse requiring

investigation. The documentation available to the Inquiry reveals that this was not always done. When incidents were reported to the police and investigations conducted, they were restricted to the actions of the individuals accused and did not examine the systemic issues at the institution that may have contributed to the harms and abuses.

Complaint processes — both formal or informal — and criminal justice reflected many of the same characteristics as formal criminal justice system options available to respond to institutional abuse. The failure of internal system processes and the justice to respond to and protect residents meant that many of them did not feel they could begin to address what had happened to them and to seek a response through the justice system until they left the Home as adults. As Chapter 4 recounts, former residents sought responses through the criminal and civil justice systems and, ultimately, through the mechanism of a public inquiry. While each mechanism offered something different in response, they were all rooted in a similar adversarial approach to justice.

II. Response to Historical Harm and Abuse: As Former Residents of the Home

i. Internal System Complaints

The review of the events following the revelations of former residents regarding the abuse they experienced while in the Home in Chapter 4 reveals the number of different mechanisms former residents used to seek a just response. Most central to these efforts were individual criminal complaints, civil suits (individual and, ultimately, a class action), and calls for a public inquiry. Internal complaint processes were not generally available to former residents to deal with historical allegations of harms and abuse. These processes are generally focused on complaints about incidents in the current system. This is why former residents who raised concerns with the current child protection system were directed to report the issues to police unless they related to the welfare of children currently residing in the institution. Some former residents did, in fact, raise concerns about issues they had knowledge of that may have had

relevance for current child protection, but most of the issues related to their past harm and abuse. As a result, former residents had to turn to the justice system (criminal and civil) in order to seek a response. The limits of these internal complaint mechanisms reflected the individualistic focus of the system. The complaint system was clearly oriented to respond to incidents or problems with individuals within the system, but not with system problems that might well continue to place children at risk. The system process was not designed to respond by seeking to understand what happened in the past in order to examine its relevance for present and future care. While this is true in terms of the formal complaint mechanisms and response, it does not mean that there was no concern

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or consideration triggered by the reports of historical abuse. We have learned through the Inquiry that the allegations of harm and abuse caused significant reflection and review within the responsible departments. Such efforts were, however, generally informal and confidential, particularly once formal criminal and civil complaints were initiated. Once the adversarial justice processes were underway, information gathering and examination foreclosed much of the space needed for learning and understanding within the system.

ii. Criminal Law

The former residents thus turned to the justice system for help in responding to their harms and abuses. They first brought individual complaints forward to police for investigation. Through our process, we have heard about the difficulties of responding to institutional abuse through a legal process designed to deal with individual incidents perpetrated generally by individual offenders and constrained by a focus on proof of law breaking, not truth about harm. At all stages, the response is shaped in service of the criminal justice process. From the investigation through to the determination of whether to lay charges or proceed with prosecution, the process is oriented to assess whether there is sufficient evidence to succeed at a trial or sufficient public interest to try. The evidentiary burden is also significant in a criminal case. There must be sufficient evidence to make out a case beyond a reasonable doubt, and there must be a reasonable likelihood of success in doing so. These constraints regarding evidence and public interest pose particular challenges in historical complaints. With the passage of time, physical evidence and memories are altered or lost, diminishing the reasonable likelihood of successful prosecution. This had a significant impact in the case of the Home.

The nature of the criminal justice system also meant that successful prosecution was more likely in cases where an individual living perpetrator could be identified. As a result, this avenue for redress was not promising for those who could not clearly identify their perpetrators or in cases where the individuals involved were no longer living. The system was not capable of offering a response aimed at addressing the institutional and collective responsibility for the harms and abuses suffered. The criminal justice response in this case faced many of the issues familiar from other historical abuse claims (individual and institutional), and was further impacted by the context of systemic racism in the justice system. The systemic racism in the justice system in Nova Scotia was recognized and addressed by the Royal Commission into the prosecution (and wrongful conviction) of Donald Marshall Jr. in 1989.¹⁴⁴ Many of the findings and recommendations regarding the nature of the justice system have relevance to our understanding of the response to the abuse in the NSHCC. Racism contributed to a lack of trust and willingness for some former residents to come forward to police. It also likely impacted assessments of credibility and the exercise of discretion by justice system decision makers regarding complaints.

Former residents shared their experiences by coming forward to police. The “interviews” reflected the adversarial approach to justice, which sought to determine truth through questioning designed to test the truthfulness of those coming forward as well as the strength of their evidence and the case to be made. The experience was traumatic for many of those who came forward. The painful experience was made worse when it seemed all for nothing as it was determined that charges would not be laid. Absent a nuanced explanation and appreciation of the limits of the criminal justice system the decision not to lay charges felt like a rejection (and a public one) of the truth of former residents’ claims about the harms and abuses suffered. The police agency’s careful wording that this was a decision based on the available evidence did little to help. It felt particularly unfair that such a determination would be made without the benefit of having their “day in court” without the chance for their voices to be heard.

iii. Civil Claims

The failure to find justice through the criminal justice system led many former residents to file individual civil suits seeking compensation for the harms and abuses they suffered. This avenue seemed more promising because they did not have to rely on authorities to take up their case. In a private civil claim, they could pursue the claim on their own. The only catch was that successfully accessing and navigating the civil justice system, particularly on a historical case that would make the production of evidence difficult, really required the assistance of a lawyer. The private nature of the civil justice system means that claimants are responsible

The private nature of the civil justice system means that claimants are responsible at the outset for finding the resources to fund a case.

at the outset for finding the resources to fund a case. Given the economic inequality and insecurity faced by many African Nova Scotians and the similar issues often plaguing those who lived in care, it was not a small hurdle to overcome. It required finding a lawyer able and willing to invest significant capital upfront in the hopes of

recovering compensation if the case was successful. As we discussed in Chapter 4, in the case of the Home, the civil case (individual claims initially and then the class action) took almost 15 years. The process also required a significant amount of time and resources for the claimants in order to travel and participate in the numerous proceedings.

To support the civil process, legal counsel for the former residents had to provide financial aid upfront to support participation. All of this required a significant undertaking of risk by private legal counsel in order ensure access to this justice process for former residents. This access to justice problem is not limited to the former residents, nor to efforts to address institutional abuse or failures. It reflects a larger crisis in access to the civil justice system, and access to justice more broadly in Canada. The 2013 report of the National Action Committee on Access to Justice in Civil and Family Matters concluded, “[t]here is a serious access to justice problem

in Canada. The civil and family justice system is too complex, too slow and too expensive. It is too often incapable of producing just outcomes that are proportional to the problems brought to it or reflective of the needs of the people it is meant to serve."¹⁴⁵ The committee explained: "According to a wide range of justice system indicators and stakeholders, Canada is facing major access to justice challenges. For example, in the area of access to civil justice Canada ranked 13th out of 29 high-income countries in 2012–2013 and 16th out of 23 high-income countries in 2012. According to the 2011 study, Canada's ranking was 'partially explained by shortcomings in the affordability of legal advice and representation, and the lengthy duration of civil cases.' "¹⁴⁶

Seeking redress through a civil claim also seemed more promising because of the lower standard of proof required. Civil cases only require that one is able to prove one's case on a balance of probabilities – that it is more likely than not that it happened. Given the inherent difficulty claimants already faced because of the historical nature of the claims, and the fact that residents were minors when their abuses took place, this lower standard offered more hope for success than the criminal justice system.

Pursuing justice via a civil claim was also more attractive because it allowed claims against the institutions and systems responsible for former residents' care and the failures of care they experienced. This was significant for a few reasons. First, it enabled more former residents to seek redress because it did not require the individuals involved in the harms or abuse to be named in the lawsuits. As mentioned above, this was difficult for some because individuals were either difficult to identify or had passed away. It was also important, though, because it meant that the institutional and systemic nature of the harms and abuses could be captured by such claims. As discussed in Parts 1 and 2 of this chapter, it is not possible to fully understand or respond to the harms and abuses solely through attention to the actions of individuals absent attention to the contexts, causes, and circumstances.

Despite the ability to seek redress from institutions and the child welfare authorities, though, the civil justice system was still focused on determining fault and liability for discrete actions that breached the law. Insofar as there were multiple parties found to have contributed to the harms, liability would be apportioned accordingly. In this way, the understanding of the issues and harms sought to simplify the nature and causes of the harms. Even though the standard of proof was reduced from the criminal justice system, similar challenges with respect to historical evidence persisted. This was particularly so, since much of the evidence required to prove the case was in the hands of the Government, the children's aid societies, or the Home. It was even more of a challenge given former residents were children at the time of the abuse, and that the nature of their institutional life meant having little or no control over their lives or information about their lives as children.

The civil justice process was also still adversarial. In fact, for former residents, it was perhaps a more directly adversarial experience than in the criminal justice system. This is because, in a civil claim, former residents were the claimants responsible for making out their own case against the other side. They were not only witnesses in the case brought by the Government against those responsible, they also bore the burden of being on the other side of an adversarial process (and in this case, against the Government as one of the parties). As mentioned though, it was an advantage for former residents that they had control over civil claims given the decision by state authorities not to pursue criminal cases. The civil justice pathway was not, however, without its own challenge for claimants.

The civil claim was complex in this case because of the number of institutions involved which, as detailed in Chapter 4, increased the impact of the adversarial process in terms of stress, resources, and time. Former residents had to contend with defences from all three sources in seeking to make out their case. This included the Home, Government, and the children's aid societies each pointing to each other in an effort to avoid or apportion fault. Also, they were each entitled to test and respond to the claimants' evidence, which increased the time and stress of the process for former residents. This was made slightly easier for the former residents once they were able to file a Class Action Claim. This allowed many former residents to seek redress without having to be actively involved in the litigation.

It was still a very difficult process for the lead plaintiffs in the case. While there was some support in being part of a group of lead plaintiffs and representing a larger class of plaintiffs, this also involved the additional stress of representing a whole class. Several of the lead plaintiffs took their responsibility of representation seriously. Indeed, this is how the group VOICES was founded. Some of the former residents representing the class worked with class counsel to hold a reunion for former residents so that they could support one another. They took the opportunity to consult with former residents about what was important in terms of the journey ahead through the litigation, and as they sought recognition and redress for their experiences in the Home. It was at this reunion, and through the work of VOICES that followed, that the commitment was established to ensure no further harm was done and no one was left behind on their journey to light.

The civil justice system is not generally a swift avenue to justice, but it can be significantly slowed depending upon the strategies and choices of the parties. Delays in the justice process are often difficult for victims, but even more so when tactics are employed at the front end of the process before the substance of the matter is heard. Such concerns led the Law Commission of Canada, after considering the impact on survivors of institutional abuse, to recommend:

Whatever particular responses are being pursued by a survivor, Governments must respond with candour and integrity: no information should be strategically withheld, and no procedural tactics should be deployed simply to gain an

advantage. Governments must also treat all parties equitably: no processes should be undertaken with the idea of preferring communities to individual survivors, or playing off categories of claimants against each other. Also, Governments must not seek to defend their interests by exploiting the litigation process: they should not plead a limitation period when this is the only defence, nor should they engage in excessive cross-examination just to induce a settlement.¹⁴⁷

As outlined in Chapter 4, respondents (particularly the Government) in the litigation regarding abuse at the Home availed themselves of many procedural motions and other legal strategies with the effect of increasing the delay and burden for claimants.

One of the other advantages of the civil justice system is that class action claims sometimes provide a platform or framework for settling cases. This was the case of Indian Residential Schools in Canada, where the mechanism of a class action enabled coordination of a significant national settlement. This was ultimately a factor in the Home case. Although such processes are often oriented to settling legal claims, they can be more creatively crafted to provide redress for historical harms beyond the parameters of strict legal liability.

In the case of the Home, this space to do more than simply settle the case on the terms as dictated by the civil justice system was created by the former residents. The settlement amount was calculated by the Provincial Government according to their assessment of legal liability rather than what was needed to address the harm for former residents. As outlined in Chapter 4, settlement was only allotted for the estimated number of residents post-1951 (because, before that time, you required permission from the Crown to sue the Government and no such permission was granted in this case). Also, the amount of money offered was only calculated to compensate those who were wards — those apprehended by the state and placed in the Home. As we know from the history of the Home, many children were placed there by family or community in order to avoid state involvement and yet obtain support and care for families in need. This increased the resource demands at the Home and contributed to the conditions and circumstances of neglect and abuse. The limited view of liability for harm and abuse ignores Government's responsibilities for systemic and institutional racism and its impacts on those who resided in the Home and their experiences in it. Finally, the amount of compensation was capped at the Government's estimates on the number of eligible former residents. The risk that more would come forward and qualify for compensation would be borne by the members of the class and meant that the money would have to be stretched further across more claimants. This is opposed to a settlement that identifies criteria and a mechanism for distribution and then guarantees full funding to meet the determinations under that process. The settlement for the Home capped the amount; however, it did not prescribe the process and criteria for distribution. This was left to the former residents to design.

This allowed space for the former residents to design a settlement distribution consistent with their commitments to one another to do no further harm and leave no one behind. The lead plaintiffs involved in VOICES worked with class counsel to design such a process and to ensure that the process was about more than simply settling their legal claims. They sought to ensure that the settlement process was approached as part of a broader redress plan in an integrated and holistic way.

Redress plans do not always emerge from civil settlements; sometimes all that can be achieved is the settlement of legal liability. Alternative dispute resolution processes designed to deal with such cases are often structured by the terms and objectives set by the civil justice system. While offering alternative process option, they seldom offer an alternative approach to justice itself from which different processes could be designed and implemented. As a result, it is challenging to find alternatives to the civil justice process that meet the needs of all parties and are deemed legitimate by the terms of the system. Alternatives are generally developed in the context of, and against the backdrop of, civil claims. They are developed as alternative processes to resolve civil disputes. It is not surprising that such processes often share many of the characteristics of the mainstream justice system. Insofar as they depart from these elements, they risk being found lacking in fairness or legitimacy in their determinations. This is particularly an issue if the outcomes of such alternative processes are viewed through the lens of the civil justice system in terms of determinations of individual/institutional fault/blame underlying compensation.

This problem was perhaps most clearly identified in the independent review of Nova Scotia's Response to Reports of Institutional Abuse by Mr. Justice Kaufman in 2002. Justice Kaufman was appointed to conduct his review following the Provincial response to allegations of institutional child abuse at the Shelburne School for Boys and other Provincial facilities. Justice Kaufman's assessment of the compensation efforts was framed by the values and approach of the adversarial justice system. Perhaps appropriately so in this case, because, while well intentioned in an effort to avoid harmful processes for those who have been impacted by abuse, the alternative process was nevertheless framed as an alternative process to compensate for civil liability. Compensation was interpreted by the public and, significantly, by those who were involved with the institutions as indicative of fault and blame absent a verification process that would allow for a fair "fight" about the facts of what happened. Mr. Justice Kaufman found the response erred in making such determinations without due process that would allow opposing parties to have their say and to test the claims through an adversarial process.

In his final report, Kaufman indicated that he, "found the Law Commission's analysis to be extremely helpful in identifying the needs of survivors and the criteria and principles to be used to examine the merits of various approaches." He noted that the Law Commission recognized that the needs and interests of everyone involved need to be considered when designing a response, and used this to qualify the Law Commission's approach to redress saying: "[o]f course,

I share the Law Commission's view that fairness for all affected parties must be considered in assessing any approach to reported institutional abuse. However, I hold a somewhat different view as to how fairness is to be achieved, particularly for alleged abusers, within a government redress program."¹⁴⁸ Justice Kaufman's express commitment was to ensure processes met the needs of all concerned. Perhaps not surprisingly, given his role as a judge within the adversarial justice system, his analysis and recommendations reflected a faith in, and commitment to, existing adversarial processes as the means to vouchsafe legitimacy and fairness. As a result, Kaufman's analysis and recommendations allowed for the role of Government redress programs but reinforced the place of mainstream adversarial justice approach as core to such responses. As a result, Kaufman's notion of redress and compensation is individualized, blame focused, and backward looking.

Justice Kaufman's findings make sense given the framing of the alternative process as an alternative *within* the civil justice system – a different route to the same end of resolving civil liability and compensation. Surely, he is correct that processes oriented to laying blame, finding fault, and providing compensation owed in response to the liabilities resulting from this fault must be designed in a way to ensure fair process for those who are being blamed. However, his report gave little thought as to whether the problems with the process actually laid in the framing of the process through the lens of the civil justice system. Especially given the evidence of the broader intentions of those within the Department of Justice aimed at responding to the harms and addressing the broader issues of institutional failure of care, perhaps the failure was pursuing this goal through a process oriented by the terms of the current justice system. The harm to those who were involved in the institution came from proceeding in a way that rested on individual blame for the past but that failed to explicitly consider the systemic issues and collective responsibility for the harmful impacts.

Instead, what was required was a process that could assess the truth of what happened and its impacts in trauma-informed ways that allowed for complex relational truth. This does not require simply believing truth and leaving it unexamined. As the Law Commission report explains:

Many people are sceptical of non-judicial redress programs because of their perception that there will be insufficient control over fraudulent claims. It is true that the standard of proof for civil, and especially criminal, trials reduces the likelihood of fraudulent claims or charges to succeed. But there are many other, existing compensation programs that do not require claimants to undergo extensive cross-examination in an adversarial setting. The criminal injuries compensation process is an example. Those who hear and determine criminal injuries compensation claims have acquired a level of expertise and experience that helps them to detect unfounded claims. There is no reason to believe that similar processes for filing and supporting claims, and similar techniques for achieving validation cannot be incorporated into any redress program.

In addition, it must be accepted that just as no judicial process is error-free, no redress program will be error-free. Providing compensation to survivors is a quite different objective from ensuring that no person is ever wrongfully convicted. Given this purpose, it is better to err on the side of making payments to some who may not be entitled to compensation, than to exclude legitimate claimants, or to oblige survivors to go through a re-victimising fact-finding process. In all events, survivors themselves have every interest in ensuring that an appropriate validation mechanism is put into place. It will benefit them in that it will ensure that the legitimacy of the awards is widely accepted, and it will mean that whatever resources are made available in a redress program are not dissipated by the payment of fraudulent claims.¹⁴⁹

It requires careful attention, then, to the ways in which truth is ascertained and assessed and against what standards. The purpose of the process has a determining effect on this process. If truth is sought in order to provide proof needed to determine blame, and the quantum of what is owed, then traditional adversarial processes will be attractive. If, though, the truth is sought in order to understand what happened, its impacts and implications for the future, and how to

In this way, what is needed is an alternative justice pathway – not merely alternative processes to travel the civil justice path. This was the vision of the former residents of the Home. They sought a different pathway for their journey to light, one that would require more than alternative ways of walking down the mainstream justice road.

fulfill our collective responsibility to make things right, we need quite different processes. Processes that invite information about the fact of what happened and also seek to understand why and how it happened, and its impacts, are key to this work. Such truth also requires input from all of those who were involved – those affected, those with responsibilities for what happened, and those who have knowledge that will help with an understanding of what happened and why. Were this the purpose of the process, its determinations regarding compensation would have been less harmful to those who felt blamed in the process. It is also clear that the

alternative processes would need to be designed to be inclusive and support participation by all those involved or affected. In this way, what is needed is an alternative justice pathway – not merely alternative processes to travel the civil justice path. This was the vision of the former residents of the Home. They sought a different pathway for their journey to light, one that would require more than alternative ways of walking down the mainstream justice road.

The Shelburne compensation experience, the public response, and the findings of Mr. Justice Kaufman’s review seem to have had a significant impact on the Government’s initial response to the abuse claims related to the Home. It heightened the already significant concern with risk and liability involved in responding outside of the formal justice system. It reinforced a

commitment to the safety and legitimacy of adversarial verification processes. The risks associated with alternative processes reinforced the commitment to adversarial processes as necessary to verifying truth and “fair” process for all concerned. It was difficult, particularly given the ongoing civil claims regarding the Home, to imagine a justice pathway outside the frame of the mainstream system approach. It was difficult to overcome the worry about a different process because of the frame of reference (reinforced by the Kaufman review) which cast suspicion on alternatives if they did not retain the trappings of the adversarial process.

The report significantly shaped the Provincial Government’s view of the NSHCC case, despite Justice Kaufman’s explicit acknowledgement that:

In formulating recommendations, I must be mindful of the fact, earlier alluded to, that there can be no perfect template for a government response to reports of institutional abuse. Too many variables are operative to enable such a template to be created. Indeed, one of the failings of the Nova Scotia program was that its designers too easily borrowed from the experience in other jurisdictions without sufficient regard for local circumstances. ... What this means is that my recommendations are not intended to predetermine a government’s response to reports of institutional abuse in every situation, but to guide governments towards creative responses that recognize and address the appropriate considerations.¹⁵⁰

In the end, Kaufman’s review and the public response to the Government compensation program for Shelburne and the other institutions seemed to have significantly quelled the Government’s willingness to engage in creative responses with respect to the NSHCC. Kaufman’s recommendations invoked legal notions of credibility, validation, and fairness that made it difficult to imagine or gain support for less legalistic and non-adversarial avenues to respond. This was true despite considerable recognition by Kaufman of the need for responses to be “enduring” in the sense of contributing to reconciliation and healing¹⁵¹ and the call that,

...consideration be given to how a government response can ensure inclusiveness, respect, and engagement of all claimants. Such consideration may extend to many aspects of the government response: for example, consultation or partnership with representative community groups, the selection of program designers, administrators and fact finders, and the formation of claimant advocacy groups or joint advisory or implementation committees.¹⁵²

The Kaufman Report remains an important reminder that if the aim is to make determinations through alternative processes still within the adversarial justice system, then it is important to ensure the characteristics of an adversarial process so it is a “fair fight.” If, however, the intention is

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to respond with a different approach to justice, then it is very important to be clear that the intention and goal is different, and to articulate the different principles that will guide the process. What was required for the former residents to find an alternative justice path was a shift in the understanding of justice capable of supporting a different approach to redress. Given the prevalence of alternative dispute resolution aimed at settlement within the civil justice system, it required careful and sustained attention by the former residents in seeking a different response to their harms and abuses.

Former residents had a vision of justice that required a shift to focus on understanding their harms, not through a focus on who was to blame for them. This allowed a more complex story with attention to the contexts, causes, circumstances, and factors both individual and systemic that contributed to their harms. This understanding was also important to appreciate the actions and experiences of individuals

who worked in the institution. It supported a different understanding of responsibilities, both collective and individual, focused on moving forward, not on evening past scores. The former residents insisted on a process that would look back at what happened to them not to apportion blame but to move forward into a different future. This process would enable involvement in the process of people with different perspectives and experiences without their being adverse in their interests. Indeed, this work requires hearing from all voices in order to come to understand, not just to ensure a proper defence.

In the Home case, the former residents wanted to leverage the opportunity to settle the legal claims to form part of a wider plan that included an approach to settlement that was consistent with the work of redress and reconciliation. As discussed in Chapter 4, former residents did this by ensuring the principles that would inform broader redress also structured the approach to the settlement process.

The principled commitment to ensure the settlement of the civil claim contributed to the vision of justice held by the former residents that would ensure what happened to them was not in vain, that their experience would make a difference for the future for other young people in care. The settlement process alone was not intended to do this work. While it may have been easier to align the process with the broader focus on the Inquiry, this would have delayed the settlement process further. Given the length of time and the age of some of the former residents, they determined it was important to proceed with the settlement distribution and to do so in a way that would be consistent and supportive of the broader redress and response process envisioned through a public inquiry. To do this, the lead plaintiffs worked with class counsel to design a settlement distribution plan reflective of their principled commitments. The

settlement process took a restorative approach that was intended to ensure coherence with the public inquiry that was to come. As detailed in Chapter 4, the settlement process reflected this in a number of ways:

- The approach to verification was not oriented to laying blame but to redressing harm.
 - Government and the Home supported verification by providing records to determine residency. Former residents' claims could also use any other information that could support their claim, including confirmation from other residents that they were known to be at the Home during a certain period.
- Compensation distributed in a way designed to leave no one behind and do no further harm.
 - Common experience payment provided to all former residents for the failures of good care at a systemic and institutional level that shaped the experiences of all former residents.
 - All former residents, regardless of entitlement to compensation under the law, were included in this compensation if they wished to apply, including those resident pre-1951 and non-wards.
 - Compensation for harms beyond the common experience were assessed on the basis of their likely harmful impact of experiences, rather than calculating compensation based on a value for particular acts or abuses.
- Process sought to do no further harm by being trauma informed, including supporting former residents to have control over how they shared their experiences. They were supported in the process by a facilitator and the evaluator asked follow-up questions to assess the relevant factors contributing to harm. This process allowed assessment of the truth of what happened and its impacts. It was able to assess the likely harmful impacts without disadvantaging those whose trauma prevented organized and exact recall of the details of incidents.
- The assessment process was supported by existing knowledge of the history of the institution provided by all parties to relieve former residents of the burden of proof alone and to reflect the collective shared interest in accurate assessment of the harms experienced by former residents. The process did not place former residents against the Home and Government. Their interests were not adverse in this process.

The former residents wanted to ensure the system changed to ensure better care and responses to failures of care. For this to happen, they wanted a process that engaged the public interest and was not focused on their private interests in redress. They did not want to rely on the compensation process to send a message about the failures of care, but wanted a process that could support real communication and build understanding about what happened and what mattered about it for the future. They wanted a process that would include the voices of those affected in that conversation.

- Compensation was calculated on the basis of predicative factors for childhood harm and trauma. These factors supported a harm-based assessment of compensation rather than using a compensation scale that place value on particular acts. It also avoided compensation based solely on harmful impacts in an effort to ensure former residents were not disadvantaged because of their resilience or recovery efforts.

As important as it was to resolve the civil claims and attend to individual harms in a way that did no further harm and left no one behind, the limitations of the civil justice system remained through this process. While it was able to offer some measure of recognition and redress for harms, it was not able to deliver on the former residents' broader vision of justice. It could not engage the wider community and systems needed to come to see what mattered about what happened and ensure that it made a difference for the future. The former residents wanted to ensure the system changed to ensure better care and responses to failures of care. For this to happen, they wanted a process that engaged the public interest and was not focused on their private interests in redress. They did not want to rely on the compensation process to send a message about the failures of care, but wanted a process that could support real communication and build understanding about what happened and what mattered about it for the future. They wanted a process that would include the voices of those affected in that conversation.

These goals led former residents to call for a public inquiry. They made this call in the midst of their fight for justice through the civil justice system in an effort to find a way out and a path towards justice.

iv. Public Inquiry

Public inquiries have become a significant feature of public governance and justice in Canada and throughout the world. They are increasingly considered an essential governance mechanism to tackle difficult societal problems. Societies turn to public inquiries to understand and respond to tragedies and crises. They have “become a pivotal part of public life, and a major instrument of public

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accountability.”¹⁵³ As the Supreme Court of Canada recognized, “[c]ommissions of inquiry have a long history in Canada and have become a significant and useful part of our tradition. ... Undoubtedly, the ability of an inquiry to investigate, educate and inform Canadians benefits our society.”¹⁵⁴

Despite the place of importance and trust public inquiries hold in addressing social problems and bringing about change, serious critiques and concerns about the effectiveness and efficiency of the traditional adversarial and adjudicative approach to public inquiries have emerged and are gaining strength. The Law Commission of Canada recognized that public inquiries have “great potential for uncovering the multiple causes and effects of institutional child abuse,” however,

it noted that they “can be time-consuming and expensive [and] can also delay the opportunity for survivors to seek other more immediate and tangible forms of redress.”¹⁵⁵ Concerns have also emerged regarding the effectiveness of public inquiries to generate real or lasting action or reform. They generally only have the authority to recommend action to be taken by others and rely on political will for follow through.

The Law Commission considered the potential of the public inquiry approach to deal with the significant public issue of institutional child abuse and found “that to deal comprehensively and meaningfully with the question how best to redress institutional child abuse, a new, all-encompassing approach is indicated.”¹⁵⁶ It concluded:

If we rely on the piecemeal, case by case, reactive and largely adversarial approaches to redress which have been primarily used to date, it is likely to be a long, painful and expensive journey, both emotionally and financially, before the issue of past institutional child abuse is resolved. This journey will teach us few lessons about how to prevent, recognize and redress any abuse that our children may now be suffering in settings such as foster homes and organized sports programs. Starting anew, with a more comprehensive approach focussed on survivors and sensitive to their individual needs would demonstrate that, as a society, we are not afraid to face up to the legacy of institutional child abuse. It would signal that we are willing, at last, to respond to the voices we have failed to hear for so long.

While the idea of the public inquiry continues to garner public support, respect, and confidence, as evidenced by the frequency with which they are sought,¹⁵⁷ increasingly, those most affected or harmed echo the Law Commission’s call for better processes and outcomes. This was the case for the former residents of the Home. They sought a public inquiry to bring public attention to the harms and abuses they suffered, and as a means to find a just response. But they insisted that such an inquiry must do no further harm and must leave no one behind or out of the process. They wanted a process that would make a difference. The former residents worried that a traditional public inquiry would suffer the fate of others that have investigated and made recommendations, only to have Governments stall or ignore their implementation. They wanted to ensure a central place for former residents rather than be rendered merely the subject of inquiry. Finally, they wanted a public inquiry that would make a real difference for the future. As we discussed in chapters 1 and 2, traditional public inquiries are not generally designed to function this way. They typically reflect the adversarial nature of the formal justice system. As a result, the current approach to inquiries replicates many of the significant weaknesses of adversarial processes. This led the former residents to insist on a different model of public inquiry that would do no further harm and leave no one behind, particularly the former residents most

centrally affected by the history of the Home. They wanted a public inquiry that would make a difference — that would result in real social change. In particular, former residents wanted to model a changed way of working that would build the foundation for a different relationship between the African Nova Scotia community and other Nova Scotians to address systemic racism in the province.

Former residents sought a restorative public inquiry shaped by commitments to inclusion and participation and oriented to collaboration and co-operation among parties and stakeholders. Evidence suggested that participants in restorative processes (including those affected and those with responsibilities for what is happening) feel higher levels

of satisfaction; they experience the processes as fairer and more just.¹⁵⁸ A restorative approach also holds potential for participants (individuals and institutions) to be more forthcoming with information (to be truthful) within a collaborative process that is not focused on blame or fault, but on understanding what happened to find solutions. The non-adversarial character of a restorative approach avoids the defensiveness that incentivizes repression of truth and, as a result, provides better access to information and knowledge. Such knowledge is essential to addressing complex problems and securing better outcomes. The broader involvement and meaningful engagement of parties and stakeholders that is central to securing and sustaining change also generates greater legitimacy and commitment to follow through. A restorative approach opens the possibility of generating collaborative solutions and collective action.

The non-adversarial character of a restorative approach avoids the defensiveness that incentivizes repression of truth and, as a result, provides better access to information and knowledge. Such knowledge is essential to addressing complex problems and securing better outcomes.

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The former residents did not simply want a tweaked public inquiry model; they wanted a process designed to be restorative in its structure, approach, and outcomes. Ensuring a process that would work in this way required that the process to design the Inquiry had to reflect the very principles that would ultimately drive the Inquiry. The work of the design process was important because it tested and established the capacity of the central parties to work together as they would have to for the success of a restorative inquiry. This preliminary work has been foundational to the success of the Inquiry. It was also essential to ensure that people felt free to participate in the processes. Changes to the *Public Inquiries Act* were sought and made in order to establish freedom from liability — criminal or civil — for those participating in the Inquiry. Despite the fact that the process

was not focused on ascribing blame, there was still significant concern that the adversarial justice system frame of reference would hamper participation for fear of liability.

The restorative approach to seeking truth/understanding did not need “investigators,” but rather facilitators to enable parties’ participation in the process. As described in Chapter 2, the restorative approach taken to this Inquiry is marked by the use of inclusive and participatory processes that facilitate understanding of what happened in the fullness of its related contexts, causes, circumstances, and impacts to inform individual and collective responsibility necessary for action and social change. This approach challenges the traditional adversarial blame/fault focus of the current justice system that results in marginalization of victims from the process and generates defensiveness in those with responsibilities. A restorative approach is inclusive, participatory, comprehensive, and integrative. It is attentive to the contexts, causes, and circumstances related to particular incidents and to structural and systemic issues.

Former residents were clear in their hope that this restorative approach to public inquiry would address their experiences and support timely change for children and families connected to the care system in Nova Scotia. In the process they also hoped it would model a different way to respond to institutional abuse and failures of care in future.

A restorative approach is inclusive, participatory, comprehensive, and integrative. It is attentive to the contexts, causes, and circumstances related to particular incidents and to structural and systemic issues.

Endnotes:

- ¹ NSHCC Restorative Inquiry Mandate/Terms of Reference, page 4.
- ² CHPC, Evidence, 1st Session, 42nd Parliament, 2 October 2017, 1530 (Hon. Murray Sinclair, Senator, Manitoba, ISG).
- ³ The Stephen Lawrence Inquiry Report Of An Inquiry By Sir William Macpherson Of Cluny Advised By Tom Cook, The Right Reverend Dr. John Sentamu, Dr. Richard Stone Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty. February 1999 at Section 6.30.
- ⁴ The Stephen Lawrence Inquiry Report Of An Inquiry By Sir William Macpherson Of Cluny Advised By Tom Cook, The Right Reverend Dr John Sentamu, Dr. Richard Stone Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty. February 1999 at Section 6.34.
- ⁵ Kwame McKenzie, "Rethinking the Definition of Institutional Racism" (Toronto: Wellesley Institute, June, 2017): 1–2.
- ⁶ S. Carmichael & C. Hamilton, *Black Power: The Politics of Liberation in America* (New York: Random House, 1967).
- ⁷ Aspen Institute Roundtable on Community Change, "Glossary for Understanding the Dismantling Structural Racism/Promoting Racial Equity Analysis", 2016 <https://assets.aspeninstitute.org/content/uploads/files/content/docs/rcc/RCC-Structural-Racism-Glossary.pdf>
- ⁸ Aspen Institute Roundtable on Community Change, "Glossary for Understanding the Dismantling Structural Racism/Promoting Racial Equity Analysis", 2016 <https://assets.aspeninstitute.org/content/uploads/files/content/docs/rcc/RCC-Structural-Racism-Glossary.pdf>
- ⁹ The idea of structural injustice in the work of philosopher Iris Marion Young has been helpful to understanding the significance of overt attention to the structural level. Iris Marion Young, *Responsibility for Justice* (Oxford New York: Oxford University Press, 2011).
- ¹⁰ Adapted from: Kwame McKenzie, "Rethinking the Definition of Institutional Racism" (Toronto: Wellesley Institute, June 2017): 4.
- ¹¹ *Taking Action Against Systemic Racism and Religious Discrimination Including Islamophobia: Report of the Standing Committee on Canadian Heritage*, (Ottawa: Senate of Canada, February 2018, 42nd Parliament, 1st Session): 19.
- ¹² Further information on the history of African Nova Scotians can be found at the Nova Scotia Archives collection on African Nova Scotians, see: <https://novascotia.ca/archives/africans/>
- ¹³ Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 304.
- ¹⁴ Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 330.
- ¹⁵ Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 331.
- ¹⁶ Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 331.
- ¹⁷ African Baptist Association, Minutes, 65th Session, 1918.
- ¹⁸ Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 321.
- ¹⁹ Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 323.
- ²⁰ RI, Research File, Doc 11, Letter from Blois to Brookfield, August 6, 1917.
- ²¹ NSA, RG 72, Vol. 198, File 6, Doc 22.2, Letter to George Murray from Blois, September 27, 1918.

- ²² Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 70.
- ²³ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 66.
- ²⁴ RI, Research File, Doc 11, Letter from Blois to Brookfield, August 6, 1917.
- ²⁵ 25 Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 82–83.
- ²⁶ *An Act to Incorporate the Nova Scotia Home for Colored Children*, SNS, 1915, c 107, at ss. 2.
- ²⁷ RI, Research File, Doc 39, “NSHCC Charitable Appeal”, 1923.
- ²⁸ HF, Box 40–058, “Correspondence 1966–74”, Letter from A.D. Grayston to A. Croft, President NSHCC, August 14, 1970.
- ²⁹ Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004).
- ³⁰ Sylvia Hamilton, *No More Secrets Workshop Guide* (Halifax: Maroon Films and the African United Baptist Association of Nova Scotia, 1999): 13. For more on the complexity of gendered violence in the context of racism, see: Bell Hooks, *Ain’t I a Woman: Black Women and Feminism* (Boston: South End Press, 1981).
- ³¹ Since replaced by The Public Sector Equality Duty and Equality Impact Assessment 2018 under the *Equality Act 2000*. See: Briefing Paper 06591 March, 2018. <https://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf>
- ³² Veronica Strong-Boag, Commissioned Submission to Restorative Inquiry.
- ³³ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 6.
- ³⁴ For examples of her work particularly informative for the Inquiry, see: Veronica Strong-Boag, *Fostering Nation? Canada Confronts the History of Childhood Disadvantage* (Waterloo: Wilfrid Laurier University Press, 2011) and Veronica Strong-Boag, *Finding Families, Finding Ourselves: English Canada Encounters Adoption from the Nineteenth Century to the 1990s* (New York: Oxford University Press, 2006).
- ³⁵ Barbara Welter, “The Cult of True Womanhood: 1820–1860,” *American Quarterly* 18:2, Part 1 (Summer, 1966): 151–174. This is also sometimes also referred to as the Culture of Domesticity.
- ³⁶ *Mother’s Allowances Act*, S.N.S. 1930, c.4. The initial Act was limited to women who were widows with two dependent children. This remained so until 1943 when the definition of widow was changed by regulation to include women whose husbands could not provide support due to physical or mental disability. For a discussion and comparison of Mother’s Allowances legislation see: Shelley Gavigan and Dorothy Chunn, “From Mother’s Allowance to Mother’s Need Not Apply: Canadian Welfare Laws as Liberal and Neo-Liberal Reforms” *Osgoode Hall Law Journal* 45:4 (2007): 733–771 and Veronica Strong-Boag, “Wages for Housework’: Mothers’ Allowance and the Beginnings of Social Security in Canada” *Journal for Canadian Studies* (Summer, 1979).
- ³⁷ Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 32.
- ³⁸ Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 33.
- ³⁹ Karen Swift, *Manufacturing ‘Bad Mothers’: A Critical Perspective on Child Neglect* (Toronto: University of Toronto Press, 2002): 12.
- ⁴⁰ RI, Research File, Doc 12, Unidentified newspaper article, “Child Welfare Problems Discussed”.
- ⁴¹ PT Rooke and RL Schnell, “Childhood and Charity in Nineteenth-Century British North America,” *Histoire sociale/Social History* 25 (Mai–May, 1982): 485.

- ⁴² NSA, Nova Scotia, Superintendent of Neglected and Delinquent Children, *Annual Report* (1931): 7–8.
- ⁴³ Expanding earlier legislation focused on protecting children from cruelty, in 1906, Nova Scotia passed a public bill, entitled the *Act for the Protection and Reformation of Neglected Children* with provisions concerned with the standards of care for children.
- ⁴⁴ PT Rooke and RL Schnell, "Childhood and Charity in Nineteenth-Century British North America," *Histoire sociale/Social History* 25 (Mai–May, 1982): 488.
- ⁴⁵ "Home for Colored Children Landmark in Nova Scotia", *The Ottawa Journal*, January 12, 1963, referred to Kinney Jr. being called "Daddy" by the residents).
- ⁴⁶ PT Rooke and RL Schnell, "Childhood and Charity in Nineteenth-Century British North America," *Histoire sociale/Social History* 25 (Mai–May, 1982).
- ⁴⁷ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 91.
- ⁴⁸ RI, Research File, Doc 13, Promotional Pamphlet, "Seventh Annual Report of the Nova Scotia Home for Colored Children" 1928, page 5.
- ⁴⁹ RI, Research File, Doc 13, Promotional Pamphlet, "Seventh Annual Report of the Nova Scotia Home for Colored Children" 1928, page 5–6.
- ⁵⁰ HF, Box 40–059, "Evaluations of the NSHCC 1970s to 1980s", Evaluation of the NSHCC Prepared by Rafuse, Dwyer & Marentette, page 31.
- ⁵¹ NSA, R.G. 72, Vol. 198, File 6, "Nova Scotia Home for Colored Children", Doc 65, Inspection Report by Lillian Romkey, Social Worker, September 13, 1948.
- ⁵² Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 12.
- ⁵³ Jessie B. Ramey, *Child Care in Black and White: Working Parents and the History of Orphanages* (Champaign: University of Illinois Press, 2012): 162, 170. Also see: William Seraile, *Angels of Mercy: White Women and the History of New York's Colored Orphan Asylum* (New York: Fordham University Press, 2011).
- ⁵⁴ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 86–87.
- ⁵⁵ *Report of the Children's Committee*, Appendix A in AR, JHA (1919), pt. 2, app. 28, 107–11.
- ⁵⁶ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 86.
- ⁵⁷ See generally: Renée Lafferty, "Race Uplift, Racism, and the Childhood Ideal: Founding and Funding the Nova Scotia Home for Colored Children" in *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013).
- ⁵⁸ Matt Finn and Cheryl McEwen, "Left in the Waiting Room of History," *International Journal of Postcolonial Studies* 7:1 (2015): 113–34.
- ⁵⁹ Bettina Bradbury, "Pigs, Cows, and Boarders: Non-Wage Forms of Survival among Montreal Families, 1861–91," *Labour/Le Travail* 14 (1984): 9–46.
- ⁶⁰ Shelley Gavigan and Dorothy Chunn, "From Mother's Allowance to Mother's Need Not Apply: Canadian Welfare Laws as Liberal and Neo-Liberal Reforms" *Osgoode Hall Law Journal* 45:4 (2007): 733–771. (Citations omitted).
- ⁶¹ HF, Box 40–246, "Board of Directors Meeting Minutes 1970–1978", Correspondence from Nova Scotia Human Rights Commission to Board May 1970, Report of Matron Paris to Special Meeting of the Board of Directors at the Nova Scotia Home for Colored Children, May 4, 1970.

- ⁶² HF, Box 40–246, “Board of Directors Meeting Minutes 1970–1978”, Correspondence from Nova Scotia Human Rights Commission to Board May 1970, Report of Matron Paris to Special Meeting of the Board of Directors at the Nova Scotia Home for Colored Children, May 4, 1970.
- ⁶³ Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 16.
- ⁶⁴ Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 134.
- ⁶⁵ Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 136.
- ⁶⁶ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 214.
- ⁶⁷ Eric Smit was the Executive Secretary of the Family and Child Welfare Department of the Canadian Welfare Council. He conducted a review of child caring institutions and CAS in Halifax over a year and a half with the final report in 1958.
- ⁶⁸ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 215.
- ⁶⁹ NSA, Eric Smit, *Report of the Survey of Child Welfare Services having membership in the Welfare Council of Halifax* (Ottawa: Canadian Welfare Council, 1958): 3
- ⁷⁰ NSA, RG 72, Vol. 198, File 6, “Nova Scotia Home for Coloured Children”, Doc 9.3, Letter to Blois from St. Joseph’s Orphanage, March 3, 1917; NSA, RG 72, Vol. 198, File 6, “Nova Scotia Home for Coloured Children”, Doc 9.3, Letter to Blois from Halifax Protestant Orphanage, March 9, 1917.
- ⁷¹ Charles R. Saunders, *Share and Care: The Story of the Nova Scotia Home for Colored Children* (Halifax: Nimbus, 1994): 167.
- ⁷² RI, Research File, Doc 40, “Letter to Blois from NSHCC Matron, Sadie Steen R.N.”, July 8, 1921.
- ⁷³ For a full and helpful discussion of the role of religion in child care institutions in Halifax, see: Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013).
- ⁷⁴ The term total institutions was coined and defined by Canadian Sociologist Erving Goffman see his essay “Asylums: Essays on the Social Situation of Mental Patients and Other Inmates” in Donald R. Cressey, ed., *The Prison: Studies in Institutional Organization and Change* (New York: Holt Publishing, 1961). Also see, Samuel E. Wallace, *Total Institutions* (New Jersey: Transaction Publishers, 1971).
- ⁷⁵ Charles R. Saunders, *Share and Care: The Story of the Nova Scotia Home for Colored Children* (Halifax: Nimbus, 1994): 67.
- ⁷⁶ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Government of Canada, 2000): 22.
- ⁷⁷ NSA, RG 72, Vol. 198, File 6, “Nova Scotia Home for Coloured Children”, Doc 22.2, Letter to George Murray from Blois, September 27, 1918.
- ⁷⁸ RI, Research File, Doc 11, Letter from Blois to Brookfield, August 6, 1917.
- ⁷⁹ LAC, MG 28, I 10, Vol. 190, no. 11 (Nova Scotia Home for Colored Children, 1958–1968), Field Report by Clare McAllister, March 31, 1962.
- ⁸⁰ LAC, MG 28, I 10, Vol. 190, no. 11 (Nova Scotia Home for Colored Children, 1958–1968), Field Report by Clare McAllister, March 31, 1962.
- ⁸¹ LAC, MG 28 I 10, Vol. 190, no. 11 (Nova Scotia Home for Colored Children, 1958–1968), Letter to Smit from Ross Kinney, June 22, 1961.

- ⁸² NSA, Eric Smith, *Report of the Survey of Child Welfare Services having membership in the Welfare Council of Halifax* (Ottawa: Canadian Welfare Council, 1958): 17
- ⁸³ NSA, Eric Smith, *Report of the Survey of Child Welfare Services having membership in the Welfare Council of Halifax* (Ottawa: Canadian Welfare Council, 1958): 3
- ⁸⁴ NSA, Eric Smit, *Report of the Survey of Child Welfare Services having membership in the Welfare Council of Halifax* (Ottawa: Canadian Welfare Council, 1958): 13
- ⁸⁵ NSA, Ernest Majury, *The Report of a Survey of Child Welfare Services in Nova Scotia and Recommendations* (Halifax, Nova Scotia Department of Public Welfare, 1964): 104.
- ⁸⁶ NSA, RG 72, Vol. 53, File 27, "NSHCC", Doc 19, Letter to Timothy Daly (Assistant Director of Child Welfare) from F.A. Kenney Re: Program of Foster Home Finding for Coloured Children, April 4, 1966.
- ⁸⁷ NSA, RG 72, Vol. 198 File 6, "Nova Scotia Home for Colored Children", Doc 77, Letter to Miss Casey, Department Secretary from J.A. Ross Kinney, July 12, 1954.
- ⁸⁸ NSA, Eric Smit, *Report of the Survey of Child Welfare Services having membership in the Welfare Council of Halifax* (Ottawa: Canadian Welfare Council, 1958): 5
- ⁸⁹ RI, Research File, Doc 14, Untitled document outlining reasons for the Government of Nova Scotia to financially augment the operation of the Nova Scotia Home for Colored Children.
- ⁹⁰ RI, Research File, Doc 15, Letter to Mr. Grayston, Treasurer NSHCC, from Minister of Public Welfare Kennedy Jones, July 31, 1962.
- ⁹¹ PT Rooke and RL Schnell, "Childhood and Charity in Nineteenth-Century British North America," *Histoire sociale/Social History* 25 (Mai–May, 1982): 489.
- ⁹² PT Rooke and RL Schnell, "Childhood and Charity in Nineteenth-Century British North America," *Histoire sociale/Social History* 25 (Mai–May, 1982):493.
- ⁹³ Renee Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 65.
- ⁹⁴ NSA, Eric Smit, *Report of the Survey of Child Welfare Services having membership in the Welfare Council of Halifax* (Ottawa: Canadian Welfare Council, 1958): 4
- ⁹⁵ NSA, Ernest Majury, *The Report of a Survey of Child Welfare Services in Nova Scotia and Recommendations* (Halifax, Nova Scotia Department of Public Welfare, 1964): 120–121.
- ⁹⁶ HF, Box 40–059, "Family and Children's Services" Correspondence, Mrs. Croft (NSHCC) to Minister of Child Welfare (Sullivan), June 26, 1971.
- ⁹⁷ HF, Box 40–059, "Family and Children's Services" Correspondence from Minister Sullivan to NSHCC Mrs. Croft, June 29, 1971.
- ⁹⁸ HF, Box 246, "Board of Directors Meeting Minutes 1970–1978", Board Meeting Minutes, July 21, 1970.
- ⁹⁹ NSA, MG 20, Vol. 750, "File: N.S. Home for Coloured Children – Reports, Programmes, Minutes, 1917–78, (scattered)", Report: *Nova Scotia Home for Colored Children* by J.R. Oliver, Chairman, Casework Committee, September 14, 1971.
- ¹⁰⁰ NSA, MG 20, Vol. 750, "File: N.S. Home for Coloured Children – Reports, Programmes, Minutes, 1917–78, (scattered)", Report: *Nova Scotia Home for Colored Children* by J.R. Oliver, Chairman, Casework Committee, September 14, 1971.
- ¹⁰¹ Wayne MacKay, "Transracial Adoption: Meeting the Needs of the Black Adoptive Child." (1977) *Ansul: Dalhousie Law Forum*, Vol 9, Number 2, page 5.
- ¹⁰² American Association of Black Social Workers, 1972, Position Statement on Trans-Racial Adoption [https://cdn.ymaws.com/www.nabsw.org/resource/collection/E1582D77-E4CD-4104-996A-D42D08F9CA7D/NABSW_Trans-Racial_Adoption_1972_Position_\(b\).pdf](https://cdn.ymaws.com/www.nabsw.org/resource/collection/E1582D77-E4CD-4104-996A-D42D08F9CA7D/NABSW_Trans-Racial_Adoption_1972_Position_(b).pdf)

- ¹⁰³ Wayne MacKay, "Transracial Adoption: Meeting the Needs of the Black Adoptive Child." (1977) Ansul: Dalhousie Law Forum, Vol 9, Number 2, page 8.
- ¹⁰⁴ NSA, Hall, *Children with Special Needs: A Report to the Minister of the Department of Public Welfare of the Province of Nova Scotia Regarding Possible Future Programs of Five Voluntary Child-Caring Institutions* (National Study Service, 1970): 19.
- ¹⁰⁵ Wayne MacKay, "Transracial Adoption: Meeting the Needs of the Black Adoptive Child." Ansul: Dalhousie Law Forum, Vol 9, no. 2, (1977): 9.
- ¹⁰⁶ Wayne MacKay, "Transracial Adoption: Meeting the Needs of the Black Adoptive Child." Ansul: Dalhousie Law Forum, Vol 9, no. 2, (1977): 9.
- ¹⁰⁷ For more information on these traditions see: Alfred H. Katz and Eugene I. Bender, "Self-Help Groups in Western Society: History and Prospects," *Journal of Applied Behavioral Science* (1976): 265–282.
- ¹⁰⁸ Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 64, 83.
- ¹⁰⁹ Sharon Graham, "The Jewish Orphanage of Western Canada and the Economics of Religious Communal Identity," *Manitoba History* no. 81 (Summer 2016): 24–27.
- ¹¹⁰ Hyman Bogen, *The Luckiest Orphans: A History of the Hebrew Orphan Asylum of New York* (Urbana & Chicago: University of Illinois Press, 1992).
- ¹¹¹ Amoaba Gooden, "Community Organizing by African Caribbean People in Toronto, Ontario," *Journal of Black Studies* 38: 3 (January 2008): 413.
- ¹¹² Sharon Roger Hepburn, *Crossing the Border: A Free Black Community in Canada* (Champagne, Illinois: University of Illinois Press, 2007): 141–142.
- ¹¹³ D. Williams, *The Road to Now: A History of Blacks in Montreal* (Montreal: Vehicule Press, 1997); and David C. Este, "The Black Church as a Social Welfare Institution: Union United Church and the Development of Montreal's Black Community, 1907–1940," *Journal of Black Studies* 35:1 (September, 2004): 3–22. <http://journals.sagepub.com/doi/pdf/10.1177/0021934703261938>
- ¹¹⁴ Suzanne Morton, "Separate Spheres in a Separate World: African-Nova Scotian Women in late-19th-Century Halifax Country," *Acadiensis* 22: 2 (Spring 1993): 61–83.
- ¹¹⁵ Judith Fingard, "KINNEY, JAMES ALEXANDER ROSS," *Dictionary of Canadian Biography*, 16, University of Toronto/ Université Laval, 2003. http://www.biographi.ca/en/bio/kinney_james_alexander_ross_16E.html.
- ¹¹⁶ Jessie B. Ramey, *Child Care in Black and White: Working Parents and the History of Orphanages* (Champaign, Illinois: University of Illinois Press, 2012).
- ¹¹⁷ Craig Chouinard, "A Tale of Two Synagogues: Culture, Conflict and Consolidation in the Jewish Community of Saint John, 1906–1919," *Canadian Jewish Studies* 2 (1994): 6.
- ¹¹⁸ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 2.
- ¹¹⁹ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 6.
- ¹²⁰ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 21.
- ¹²¹ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 14.
- ¹²² Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 95.

- ¹²³ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works, 2000) http://publications.gc.ca/collections/collection_2008/lcc-cdc/JL2-7-2000-2E.pdf
- ¹²⁴ See generally on such imagery in the legal system: Elizabeth Thronburg, "Metaphors Matter: How Images of Battle, Sports, and Sex Shape the Adversary System" 10 *Wis. Women's L.J.* 225 (1995).
- ¹²⁵ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 89.
- ¹²⁶ Randall, Melanie and Haskell, Lori, "Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping", *The Dalhousie Law Journal* 501, (Fall 2013): 522–523. Available at SSRN: <https://ssrn.com/abstract=2424597>. Also see Judith Lewis Herman, "The Mental Health of Crime Victims: Impact of Legal Intervention", *Journal of Traumatic Stress* 16:2, (2003): 159; Judith Daylen, Wendy van Tongeren Harvey & Dennis O'Toole, *Trauma, Trials, and Transformation* (Toronto: Irwin Law, 2006).
- ¹²⁷ Lori Haskell, *First Stage Trauma Treatment* (Toronto: CAMH, University of Toronto, 2003).
- ¹²⁸ Randall, Melanie and Haskell, Lori, "Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping", *The Dalhousie Law Journal* 501, (Fall 2013): 522–523. Available at SSRN: <https://ssrn.com/abstract=2424597>
- ¹²⁹ Randall, Melanie and Haskell, Lori, "Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping", *The Dalhousie Law Journal* 501, (Fall 2013): 514. Available at SSRN: <https://ssrn.com/abstract=2424597>
- ¹³⁰ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 129.
- ¹³¹ Albie Sachs, *The Strange Alchemy of Life and Law* (Oxford: Oxford University Press, 2009): 84.
- ¹³² Jennifer J. Llewellyn, "Bridging the Gap between Truth and Reconciliation: Restorative Justice and the Indian Residential School Truth and Reconciliation Commission" in M. Brant-Castellano, L. Archibald, M. DeGagne eds., *From Truth to Reconciliation: Transforming the Legacy of Residential Schools* (Ottawa: Aboriginal Healing Foundation, 2008).
- ¹³³ Jennifer J. Llewellyn, "Bridging the Gap between Truth and Reconciliation: Restorative Justice and the Indian Residential School Truth and Reconciliation Commission" in M. Brant-Castellano, L. Archibald, M. DeGagne eds., *From Truth to Reconciliation: Transforming the Legacy of Residential Schools* (Ottawa: Aboriginal Healing Foundation, 2008).
- ¹³⁴ Truth and Reconciliation Commission of South Africa Report (1998): 110–114.
- ¹³⁵ Truth and Reconciliation Commission of South Africa Report (1998): 114.
- ¹³⁶ Truth and Reconciliation Commission of South Africa Report (1998): 114.
- ¹³⁷ See generally: Sue Campbell, *Relational Remembering: Rethinking the Memory Wars* (Lanham MD: Rowman and Littlefield, 2003) and Sue Campbell, "Memory, Reparation and Relation: Starting in the Right Places" in Llewellyn J.J. and Downie J. *Being Relational: Reflections on Relational Theory and Health Law* (Vancouver: UBC Press, 2011): 132–160.
- ¹³⁸ Sue Campbell, *Relational Remembering: Rethinking the Memory Wars* (Lanham MD: Rowman and Littlefield, 2003): 44.
- ¹³⁹ Amy Harbin and Jennifer J. Llewellyn, "Restorative Justice in Transitions: The Problem of 'The Community' and Collective Responsibility" in Kerry Clamp ed., *Restorative Justice in Transitional Settings* (Oxford: Routledge, 2015): 133–151.
- ¹⁴⁰ Diane Burns et al., "Wicked Problems or Wicked People? Reconceptualising Institutional Abuse" *Sociology of Health & Illness* Vol. 35 No. 4 (2013): 514.

- ¹⁴¹ Department of Justice Canada, *State of the Criminal Justice System 2019 Report* <https://www.justice.gc.ca/eng/cj-jp/state-etat/2019rpt-rap2019/>
- ¹⁴² Corrections in Nova Scotia: Key Indicators, April 2019 <https://novascotia.ca/just/publications/docs/Correctional-Services-Key-Indicator-Report-2017-18.pdf>
- ¹⁴³ Nova Scotia Department of Justice, Business Plan 2019–2020 <https://novascotia.ca/Government/accountability/2019-2020/2019-2020-business-plan-Department-of-Justice.pdf>
- ¹⁴⁴ See the Report of the Marshall Inquiry at https://novascotia.ca/just/marshall_inquiry/_docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr%20Prosecution_findings.pdf
- ¹⁴⁵ Report of the Action Committee on Access to Justice in Civil and Family Matters (October 2013) available at: www.cfcj.fcj.org
- ¹⁴⁶ Report of the Action Committee on Access to Justice in Civil and Family Matters (October 2013) at p.3 available at: www.cfcj.fcj.org
- ¹⁴⁷ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Government of Canada, 2000): 400.
- ¹⁴⁸ Justice Fred Kaufman, *Searching for Justice: An Independent Review of Nova Scotia's Response to Reports of Institutional Abuse*, January 2002 at Chapter XVIII: 1.
- ¹⁴⁹ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works, 2000): 391–392. http://publications.gc.ca/collections/collection_2008/lcc-cdc/JL2-7-2000-2E.pdf
- ¹⁵⁰ Justice Fred Kaufman, *Searching for Justice: An Independent Review of Nova Scotia's Response to Reports of Institutional Abuse*, January 2002 at Chapter XVIII: 2.
- ¹⁵¹ Justice Fred Kaufman, *Searching for Justice: An Independent Review of Nova Scotia's Response to Reports of Institutional Abuse*, January 2002 at Chapter XVIII: 5, Recommendation #10.
- ¹⁵² Justice Fred Kaufman, *Searching for Justice: An Independent Review of Nova Scotia's Response to Reports of Institutional Abuse*, January 2002 at Chapter XVIII: 6 Recommendation #18.
- ¹⁵³ JE Beer, ed., *Public Inquiries* (Oxford, UK: Oxford University Press, 2011).
- ¹⁵⁴ *Canada (AG) v. Canada (Commission of Inquiry on the Blood System)*
- ¹⁵⁵ Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Ministry of Public Works and Government Services, 2000): 7.
- ¹⁵⁶ Law Commission of Canada, *Minister's Reference on Institutional Child Abuse: A Discussion Paper* (Ottawa: Law Commission of Canada, 1999): 4.
- ¹⁵⁷ J.H. Gomery, "The Pros and Cons of Commissions of Inquiry," *McGill L.J.*, 51 (2006): 783.
- ¹⁵⁸ C.M. Angel et al. "Short-term effects of restorative justice conferences on post-traumatic stress symptoms among robbery and burglary victims: A randomized controlled trial", *Journal of Experimental Criminology* 10, no. 3 (2014): 291–307; J. Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford: Oxford University Press, 2002); J. Braithwaite & A. Gohar, "Restorative Justice, Policing and Insurgency: Learning from Pakistan", *Law & Society Review*, 48, no. 3 (2014): 531–561; L. Sherman & H. Strang, *Restorative Justice: The Evidence*. (London: The Smith Institute, 2007). H. Strang, "Conferencing and Victims" in E Zinsstag & I Vanfraechem (eds.), *Conferencing and Restorative Justice: International Practices and Perspectives* (Oxford, UK: Oxford University Press, 2012).