

Background Note to the Collection of Materials on the Catholic Church and the Indian Residential School Settlement Agreement

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This Collection of material and information is about truth, justice and accountability in relation to the Catholic Church and the Indian Residential School System in Canada.

The Catholic Church operated the majority of residential schools in Canada under the authorization of the federal government. After years of legal battles regarding the accountability of the Church for its role in the operation of the residential schools, Survivors reached a settlement with Canada, the Catholic entities and other religious denominations that would see them each pay compensation and undertake key actions to address repair of the harms done. The Indian Residential School Settlement Agreement was approved in 2006 by the Canadian Courts and administered by Canada.¹ There were more than 50 Catholic entities involved in the Settlement Agreement.

Lacking a national oversight body, the Catholic entities formed an organization specifically for the purpose of implementing and carrying out their obligations under the Settlement Agreement. This entity was the Corporation of Catholic Entities Party to the Indian Residential School Settlement (CCEPIRSS), which I refer to as the “Catholic entities.” The entity was to be monitored by Canada in terms of fulfilling its obligations, involving financial compensation, services and participation in the Truth and Reconciliation Commission.

The Catholic entity did not pay what the Court settlement required of it in 2006 – even though the amount owed under the settlement was very small compared to settlements for institutional abuse in other jurisdictions. To this day, the full reasons for this are unknown. What is known, is that the federal government—as the administrator of the settlement—treated the Catholic entity differently from the other churches almost from the beginning. It permitted the Catholic entity to make “best efforts” to raise funds to fulfill obligations and, from what is known, did only minimal monitoring of whether the entity met its obligations.

¹ For details on the settlement of the civil claims for harm filed by residential school survivors, see <https://www.thecanadianencyclopedia.ca/en/article/indian-residential-schools-settlement-agreement>. Prior to 2006, the Jesuit Order reached a settlement on their residential school operations in Ontario. The Jesuits spoke out separately from the other Catholic entities and made the following statement after the public information about unmarked graves at Kamloops Indian Residential School in May 2021. https://jesuites.ca/wp-content/uploads/sites/16/2021/07/FAQ_Reconciliation_Jesuits_of_Canada_Indigenous_Peoples_13072021ENG-3.pdf

In 2014, the government tried to get the Catholic entity to fulfill its commitments, and the Courts were involved to provide directions on whether Canada had reached a special arrangement to allow the Catholic entity to reduce its obligations. The Saskatchewan Court of Queen's Bench in 2015 found that the parties agreed to a settlement and released the Catholic entity from its obligations to residential school Survivors and communities. Why the federal government permitted this to happen, or did not vigorously appeal and pursue fulfillment of the obligations, remains a mystery.

The lack of a full implementation of the settlement with the Catholic entity, and the lack of transparency and access to records about why the federal government gave the entity a pass on their duty to implement the settlement, is a cause of substantial and growing controversy for Survivors, Indigenous peoples, and the general public.

Much work has yet to be undertaken if Survivors and Indigenous communities are to uncover the full truth of the residential schools and the settlement of the 2006 class action. The discovery of unmarked graves on the grounds of Kamloops Indian Residential School in May 2021, and at a number of other schools thereafter, serves as a stark reminder of the unfinished work, and the ongoing trauma associated with this shortcoming. Holding the government and the churches accountable is a critical part of the work. Indigenous peoples cannot possibly uncover the full truth if the government and churches do not cooperate, provide support to find the missing children, and adopt a position of complete accountability. The result of Canada's 2015 agreement with the Catholic entities has been to further delay understanding, healing, and justice for the genocide of which the residential school system was an integral part.

Throughout 2021, there has been growing public pressure, advocacy, investigative journalism, and specific court applications to gain access to full records about the 2015 deal between the Catholic entities and the federal government. One result of these efforts was obtaining several of the records that had not previously been released, and the resulting creation of this Collection.

The Indian Residential School History and Dialogue Centre at the University of British Columbia (the "Centre") has issued this Collection to support knowledge, advocacy, and so that Survivors can have access to a complete record of what occurred, as these negotiations and settlements did not include them, even though they were the individuals who brought to the court actions outlining the harms they suffered at the residential schools.

The Centre's Indigenous Advisory Committee has advised on the preparation of this Collection. Survivors have been clear that the Collection must be accessible and include appropriate timelines and supporting information, so that further work can advance.

While the Collection provides a window into these critical issues, it remains incomplete. The federal government and Catholic entities have not shared all of the records that exist, nor provided full explanations of what occurred after the settlement in 2006, and why the 2015 agreement was made. The Centre has requested the full records on the operation and monitoring of the Catholic entities, the mediation of the settlement, and the work of government officials who were monitoring the entity and permitted it to expense items that were not part of the settlement agreement. There is important information in the control of government that can shed light on this chapter, and this must be made available.

While requests have been submitted in the form of access to information, and through other channels on numerous occasions – there has been no substantive response by Canada. Transparency is of utmost importance, as is accessibility of records. Canada needs to disclose everything so that it meets the requirements of transparency and accountability, and this is urgent and pressing.

The current lack of transparency contributes to the enduring human rights violations against Indigenous peoples across Canada, and is not consistent with humanitarian and other legal principles.

I urge Canada to adopt a position of absolute transparency and honour in relation to these matters, and they, along with the Catholic entities must disclose *all* records and information in their possession. I also encourage individuals who may have relevant information to provide it to the Centre so that we may work to have a complete record.