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How To Be Biased in the Classroom: Kwayeskastasowin - Setting Things Right?

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**HOW TO BE BIASED IN THE CLASSROOM:
KWAYESKASTASOWIN - SETTING THINGS RIGHT?**

Jaime M.N. Lavallee[†]

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PREFACE

As an Indigenous person, I know introductions are important. Introductions place you. They provide others with an understanding of where you come from and what values or perspectives you *might* have because of this placement.¹ Introductions provide your legitimacy, your credibility, and your “authenticity” as an Indigenous person.² The introduction of myself has changed throughout my life because of this placement of self. It has shifted as I have shifted from place to place, from space to space, and have gained and lost “knowledge” and family.³ Therefore, this Article will start with an introduction of myself to you.

After I’ve introduced myself, I will then describe how I developed this Article. I will then discuss what methods I use in this Article and why I do so. After getting through the why and how of this Article, I will then take you along my story of the first few years of teaching law. The main focus will be on teaching a mandatory first-year course at the University of Saskatchewan College of Law, but it will also bring in experiences from along the way with my students, colleagues, myself, and others encountered.⁴ I am both an “Early Career Academic” (“ECA”) and a beginner storyteller. Thank you for being here while I hone my skills as a storyteller and ECA.

The goal of this Article is to share the ups and the downs, the wide-eyed naivety, the crush of disappointments. Hopefully along the way, you will learn a lesson or two, even if it is how *not* to do something. I think I have always been a good role model for others’ learning of what *not* to do. I just wish for your sake, Listener,⁵ that I was a better storyteller. I wish I was funnier, wittier, and had the ability to describe a story in ways that could

¹ See Eric Hemenway, *Finding our Way Home*, in ACCOMPLISHING NAGPRA 83 (Sangita Chari & Jaime M.N. Lavalée eds., 2013); PATRICIA MONTURE-ANGUS, THUNDER IN MY SOUL: A MOHAWK WOMAN SPEAKS 42, 88 (1995).

² MONTURE-ANGUS, *supra* note 1, at 42.

³ *Id.* at 2-3; see also TARANA BURKE & BRENÉ BROWN, YOU ARE YOUR BEST THING: VULNERABILITY, SHAME RESILIENCE, AND THE BLACK EXPERIENCE (2021); Anjali Sastry Krebechek, *Where We Come From: What’s in a Name?*, NPR (Oct. 25, 2021), <https://www.npr.org/2021/10/25/1049092966/where-we-come-from-whats-in-a-name> [https://perma.cc/W898-G7LU].

⁴ For a short video on cognitive dissonance, see Andy Luttrell, *Cognitive Dissonance Theory: A Crash Course*, YOUTUBE (July 7, 2016), <https://www.youtube.com/watch?v=9Y17YaZRRvY> [https://perma.cc/LRK5-CC6A].

⁵ I know that you are reading this, and therefore, are the reader. However, I believe that if you are reading this, then maybe you are here and are ready to *listen*. Therefore, I shall address you as Listener.

make you smell,⁶ not just see and feel.⁷ However, I value honesty, truth-telling, authenticity, and genuineness. Therefore, although I honestly believe I am one of the funniest, wittiest, and best storytellers around, I also know that I am not.⁸ Yes, I am already introducing you to the cognitive dissonance of holding two simultaneous, yet conflicting, beliefs at the same time.

One skill I do have is my ability to laugh (very loudly) at my own jokes, and my stories usually have others joining in. Although it may be them laughing *at* me. However, since I'm laughing at the same time, I prefer the narrative that they are laughing *with* me since I am also laughing at the same time as them, and, ultimately, *with* them too. This is why I must also state that the truth and honesty that I provide in this story will be my own. It is mine based on what I will be providing you, based on what I know now, and how I know it.⁹ In future years, I may have a different narrative to tell. But speaking from experience with accuracy and precision, as I know it now, is my understanding of a Cree principle: Tápwêwin.¹⁰ Therefore, what I write is *my truth*.

I. INTRODUCTION OF SELF

A. *Where Do You Come From?*²

This introduction and placement of self is longer than I would usually undertake. I ask that you follow with me as I believe it strongly informs why I am a law professor and why I am at my current law school. The introduction also influences my scholarship, my reasons for writing this Article, and why I have chosen this narrative form for it.

⁶ Sense of smell is said to be one of the most powerful of our senses. It triggers memories and makes connections that sometimes the other senses cannot. *See generally* Marta Zaraska, *The Sense of Smell in Humans is More Powerful Than We Think*, DISCOVER MAG. (Oct. 10, 2017), <https://www.discovermagazine.com/mind/the-sense-of-smell-in-humans-is-more-powerful-than-we-think> [<https://perma.cc/32XA-2LYW>]; Colleen Walsh, *What the Nose Knows*, HARV. GAZETTE (Feb. 27, 2020), <https://news.harvard.edu/gazette/story/2020/02/how-scent-emotion-and-memory-are-intertwined-and-exploited/> [<https://perma.cc/F2BJ-ANNB>]; *Psychology and Smell*, FIFTH SENSE, <https://www.fifthsense.org.uk/psychology-and-smell> [<https://perma.cc/6QL6-WR6R>].

⁷ Although I would “settle” for seeing and feeling the story, “[t]he power of the storyteller to make the listeners/readers visualize events [see] and feel like they are part of the story is a principle [of storytelling] that I have heard from others . . .” JO-ANN ARCHIBALD, *INDIGENOUS STORYWORK: EDUCATING THE HEART, MIND, BODY, AND SPIRIT* 3, 21 (UBC Press ed., 2008).

⁸ I state that I am not a storyteller (yet); however, my biological maternal grandmother is known to be one of Muskeg Lake Cree Nation’s cherished story tellers.

⁹ MONTURE-ANGUS, *supra* note 1, at 35, 77, 81–83.

¹⁰ H. CARDINAL & W. HILDEBRAND, *TREATY ELDERS OF SASKATCHEWAN: OUR DREAM IS THAT OUR PEOPLES WILL ONE DAY BE CLEARLY RECOGNIZED AS NATIONS* 48–59 (2000).

The question of “where do you come from” is one that is fraught with many considerations. My flippant response (and I am flippant, at times, as it has been my shield, and I like to think it is funny) to the question of “where do you come from?” is: my mother. While this is true, I also know that when people ask, “Where do you come from?” they are looking for more. They are trying to place me or trying to figure out my indigeneity and my motivations. Therefore, although it is flippant, the truth of that statement does answer all those underlying implicit questions. For this Article, my starting place for an introduction and sense of self is with where my mother started my life’s journey.

1. *In The Beginning...*

My mother was a permanent ward in the foster care system—just one of the tens of thousands.¹¹ She was in a foster home when she became pregnant with me, and, therefore, I was born as a foster child to a foster child. We were two generations of the child welfare system for the price of one! At times, I am not certain if I was born *into* foster care or if I was born *for* foster care. Nonetheless, by the time I was two years old, I had been in four foster homes. It seems like I have always been traveling around. My last foster home was a Métis home that adopted me. With this adoption, I was given a whole new name and a borrowed identity. I went from being a First Nations child named Bobbie Lee Venne to a Métis child named Jaime Marie Nadine Lavallee. Therefore, from that time until I turned eighteen and reached out to my birth mother, I was an adopted Métis who was formerly a foster child. This is how I described myself whenever I was asked: where are you from?

¹¹ 5 TRUTH AND RECONCILIATION COMM’N OF CAN., CANADA’S RESIDENTIAL SCHOOLS: THE LEGACY 4 (2015), https://publications.gc.ca/collections/collection_2015/trc/IR4-9-5-2015-eng.pdf [<https://perma.cc/ZP9E-V945>]. In this volume, the legacy of Canada’s policy of assimilation and the residential schools is continued through the use of the child welfare system. This policy of assimilation heavily influences other areas of education, language and culture, health, and justice. *Id.* at 11–60. A permanent ward is the term used for a child that is placed permanently into the child welfare system with no adoption plan or plan for return to family. This child welfare system wardship is different than the one imposed by the Canadian government to all status Indians under the Indian Act, but was sometimes used to apprehend children. *See id.* at 155; FRANK DORNSTAUER & DAVID MACKNAK, 100 YEARS OF CHILD WELFARE SERVICES IN SASKATCHEWAN: A SURVEY 31 (2009), <https://sasw.in1touch.org/uploaded/web/CW/100-ChildWelfarePaper.pdf> [<https://perma.cc/TUA9-GJSJ>]. *See also*, JOHN BORROWS, NAT’L CRT. ON FIRST NATIONS GOVERNANCE, SEVEN GENERATIONS, SEVEN TEACHINGS: ENDING THE INDIAN ACT (2008) (offering more information on the Indian Act and its effects); JOHN GIOKAS, ROYAL COMM’N ON ABORIGINAL PEOPLES, THE INDIAN ACT: EVOLUTION, OVERVIEW AND OPTIONS FOR AMENDMENT AND TRANSITION 68 (1995), (Can.), https://publications.gc.ca/collections/collection_2016/bcp-pco/Z1-1991-1-41-130-eng.pdf [<https://perma.cc/EP4K-AAGD>] (offering a detailed account of the history of the Indian Act).

Upon re-discovery of my birth mother, I re-established my identity as a citizen of her, now my, Indigenous Nation—the Muskeg Lake Cree Nation.¹² Muskeg Lake Cree Nation’s home reserve is located within Treaty 6 Territory in what is now called Saskatchewan.¹³ With the re-establishment of being a Muskeg Lake citizen, I lost my identity as a Métis.¹⁴ I mourned a little at that loss, as any change can do to someone, even positive ones. I also rejoiced in this gaining. I had my own identity and nationhood. I also had more family! I could begin connecting to these people and lands. I could stop being that foster child. I could just be me—not borrowing or being adopted by others’ identities. However, no sooner had I regained being a Muskeg Lake citizen, I left Saskatoon. I thought it would be only for a few years to acquire a legal education, but I must have taken a wrong turn at Albuquerque¹⁵ because it would be more than a decade before I came back to Saskatchewan and another six years after that before once again living in Saskatoon and Treaty 6 Territory.

2. *Taking Time Away...*

During my time away, I came back to Saskatoon and Muskeg Lake only for brief visits. My journey so far has taken me from the living skies of the Prairies of Western Canada to the urban landscape of Central Canada to the east. I then traveled to the American South and Southwest, before finally coming full circle back to the lands and skies of my birthplace and ancestors on the Prairies. The eastern journey to what is called Central Canada¹⁶ is where I graduated from the University of Toronto Faculty of

¹² Muskeg Lake Cree Nation Band No. 375 ᐃᓂᓄᓄ ᓂᓂᓄᓄ maskêko-sâkahikan, <https://muskeglake.com/> [<https://perma.cc/82XQ-N4TJ>].

¹³ To know more about Treaty 6, see *Treaty Map, Treaty 6*, OFF. OF THE TREATY COMM’R, (Can.), http://www.otc.ca/pages/treaty_map.html [<https://perma.cc/PZ7A-T4V5>]; CONFEDERACY OF TREATY SIX FIRST NATIONS, (Can.), <https://www.treatysix.org/> [<https://perma.cc/35ZU-9QGH>] (Can.). To read the text of Treaty 6, see GOV’T OF CANADA, Treaty No. 6, (Roger Duhamel, F.R.S.C., Queen’s Printer and Controller of Stationery, Ottawa, 1964), <https://www.rcaanc-cimac.gc.ca/eng/1100100028710/1581292569426> [<https://perma.cc/6D84-28ZA>].

¹⁴ See *R. v. Powley*, [2003] S.C.R. 207, 30–33 (Can.). The Supreme Court of Canada outlines three factors to consider that could be included in the defining who is a Métis: self-identification, ancestral connection, and acceptance by a modern community. Métis Nation of Saskatchewan has four criteria: “Métis means a person, who self identifies as Métis, is distinct from other Aboriginal peoples, is of historic Métis Nation Ancestry[,] and is accepted by the Métis Nation.” *Citizenship, MÉTIS NATION SASK.*, <https://metisnation.sk.com/citizenship/> [<https://perma.cc/T5KB-6PBC>].

¹⁵ This is an ongoing Bugs Bunny joke from the cartoon *Looney Tunes*. See, e.g., *Herr Meets Hare* (Warner Bros. Cartoons Jan. 13, 1945) (in which Bugs Bunny for the first time offers his catch phrase “I KNEW I ‘shoulda’ (should have) made ‘dat’ (that) left ‘toin’ (turn) at ‘Albakoikie’ (Albuquerque)”).

¹⁶ Canada is commonly divided into: Western Canada (British Columbia, Alberta, Saskatchewan, and Manitoba—with the latter three provinces considered Canadian Prairies);

Law. My journey to the South had me spending a few years in Virginia—leaving it to go to the Southwest. In the Southwest, I went to the University of Arizona James E. Rogers College of Law for a master of law. Afterwards, I once again moved back to Virginia, working in Washington, D.C. for a number of years before returning to Arizona for my doctoral work in law.¹⁷ During that time, when I was asked, “where are you from?” I answered: I am Jaime Lavalée, a Cree and Canadian from Saskatchewan.¹⁸ Before my course work ended, I felt the pull to return home. I wanted to see if I could find the piece of me that I felt was missing because for so long I wasn’t near enough to connect with my people and to get to actually know my lands, and I had spent so much of my early years in a borrowed identity.

However, I did not return immediately back to Saskatoon. Instead, my job search had me close, and I spent several years in Treaty 4 Territory.¹⁹ I was nearby, but not yet “back home.” When I was asked, “where are you from?” my response was: I am Dr. Jaime Lavalée, Muskeg Lake Cree, Treaty 6. No, this last name is not from Piapot or Cowessess,²⁰ but a Métis last name from my adopted family.

My journey had not taken me full circle yet, but before we get to the part about my return, I will now explain why I chose law. Without the legal education I acquired, I would not be a law professor, and I would not be at the University of Saskatchewan College of Law (USask Law).

B. Why Law?

Before attending law school, I went to the Summer Program at the Native Law Centre (now the Indigenous Law Centre).²¹ Our first day in the

Central Canada (Ontario and Quebec); Atlantic Canada (Nova Scotia, Prince Edward Island, Newfoundland and Labrador, and New Brunswick); and Northern Canada (Yukon, Northwest Territories, and Nunavut).

¹⁷ There are many different ways that people can achieve a doctoral degree in law—the one I have is the S.J.D., which means Doctor of Juridical Science. Edmund Bellegarde, Former Tribal Chair of File Hills Qu’Appelle Tribal Council, has called it a “super J.D.” I think that sounds like a good enough description.

¹⁸ Be very careful saying “Cree and Canadian,” as saying it quickly can sound like “Korean Canadian.” The confusing looks I got in the United States when people thought Korean was the ambiguous-looking ethnicity that I possessed was comical.

¹⁹ See generally *Treaty Map*, OFF. OF THE TREATY COMM’R, http://www.otc.ca/pages/treaty_map.html [https://perma.cc/PZ7A-T4V5] (Can.) (offering more about Treaty Four); Treaty No. 4 between Her Majesty the Queen and the Cree and Saulteaux Tribes of Indians at the Qu’Appelle and Fort Ellice, Sept. 15, 1874, P.C. No. 944, (Can.), <https://www.rcaanc-cimac.gc.ca/eng/1100100028689/1581293019940> [https://perma.cc/JSK7-PRGB].

²⁰ There are people with the last name “Lavalée” within Treaty 4 Territory, specifically and usually from Piapot First Nation and Cowessess First Nation.

²¹ The Summer Program was an eight-week program where Indigenous students could take property law before entering law school. It started in 1973 and ended in 2020. See INDIGENOUS L. CTR., <https://indigenouslaw.usask.ca/ilc-summer-program.php#Admission> [https://perma.cc/9Y25-5KLD]; MONTURE-ANGUS *supra* note 1, at 118.

program, we were asked something along the lines of why do you want to go to law school? Many people responded with, “to become a criminal lawyer,” or, “to do family law,” or generally, “to help Indigenous people.” My answer was that I wanted to learn to think like a tree. There was silence, and before I could expand on that answer, they went on to the next person. But for me, it was and remains the essential important answer to the question when someone asks: why law? Now that I have the chance (of course, you could also skip ahead), I will expand on what I mean by wanting to think like a tree.

For me, thinking like a tree meant, and means, that a (legal) issue has roots that go far down. One may not even now from whence it came exactly, but it may be possible to trace, if you look hard enough. Therefore, nothing exists without a history. It also means that you can see only the one issue: this is the trunk. There are a variety of ways in which it can be seen and grow: these are the branches, and they might provide seed to grow another tree/issue. It means that at one point in time, or many times, these issues from this tree will take root and, itself, become another solid issue with a history that might not be known from whence it came unless you look for it. Finally, even though you see the tree and its branches, but not the roots, there is also another aspect that is unseen: the rings inside it. The dendrology of the tree is important as the issue grows. This is how I see law. I see law as a tree. There is more to this metaphor and viewpoint, but this explanation will be enough. Therefore, why law? Because I wanted, and still want, to think like a tree. Why a law professor? Because I want others to find their answer to “why law?”

On July 1, 2018, I joined USask Law. I had finally made my way home to Saskatoon. I was now within Treaty 6, a “hop, skip, and jump” from the home reserve, and just down the street from Muskeg’s urban reserve.²² I had come full circle. Muskeg Lake is just down the street (urban) and an hour up north (home territory). As seen, there were many shifts in my introduction of self during that time dependent on where I was in the world and where I was in my educational journey—some subtle, some simple. However, now there are fewer shifts, as my sense of place, space, and self are more solidified. What is now the result for when I’m asked, “where are

²² “[T]wo agreements—Asimakaniseekan Askiy in 1988 and the Treaty Land Entitlement (“TLE”) Trust in 1992—led to the growth of Muskeg Lake.” *Muskeg Lake History*, MUSKEG LAKE CREE NATION INV. MGMT. CORP., <http://mleninvestment.ca/> [<https://perma.cc/RS2S-HPX4>]. These agreements led to the development of the urban reserve which fostered economic development and community consultation with the surrounding governments and municipalities. *Id.* See also Lester Lafond, *Creation, Governance, and Management of the McKnight Commercial Centre in Saskatoon*, in *URBAN INDIAN RESERVES: FORGING NEW RELATIONSHIPS IN SASKATCHEWAN 188-212*, (Laurie Barron & Joseph Garcea eds., Saskatoon: Purich Publ’g Inc. 1999).

you from?” I introduce myself as: Dr. Jaime Lavallee,²³ a Muskeg Lake Cree citizen, Indigenous legal scholar, and juridical scientist. But, what does this answer now mean?

C. Where Are You Going?

I believe strongly in two Cree principles, which, in my opinion, interplay and interconnect with each other—Miskâsowin²⁴ and Tâpwêwin.²⁵ Miskâsowin refers to finding one’s sense of origin or belonging, finding oneself, or finding one’s core. For me, that means remaining true to my identity, my community or communities, and discovering more about the world. This can be done through listening, research, education (formal and informal), and teaching (formally and informally). Tâpwêwin refers to speaking with truth, accuracy, and precision. It means that you speak to your truth as it is now, based on what you know, feel, and have experienced. It allows you to gain more and express another truth or to have your truth become more fulsome as you go along your journey. It allows for cognitive dissonance to pass through rather than arise for combat, causing distress. I can hold two beliefs that may conflict, but they actually do not. This is because it is about being open and not blocking your path to finding yourself and being true to yourself—Miskâsowin. I am actively working on embodying, embedding, and modeling these two principles of truth. I will be forthright with you, Listener. I find (probably too many times) that I am not always successful. I do believe, though, that successful achievement is increasing, and this is also a result of my commitment to incorporating more of my Nation into my life and continuing to have compassion with myself when I ‘fail,’ so that I may find support within myself to continue to try.

II. METHODOLOGY & PREVIOUS “GOOD” IDEAS

A. Why a Narrative?

One early reviewer of this Article suggested I remove these upcoming questions, as it may undercut my Article. Narrative is a valid approach—full

²³ I am in the midst of changing my last name from the borrowed one of Lavallee, to one that is from Muskeg Lake. I will be doing this under the Call to Action 17, which reads: “We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver’s licenses, health cards, status cards, and social insurance numbers.” *INAN - Truth and Reconciliation: Call to Action 17 and Other Immigration, Refugees and Citizenship Canada Initiatives*, GOV’T OF CANADA, (Jan. 28, 2021), <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/inan-jan-28-2021/inan-truth-reconciliation-call-to-action-17-other-ircc-initiatives-jan-28-2021.html> [https://perma.cc/7V6D-YT5U].

²⁴ CARDINAL & HILDEBRAND, *supra* note 10, at 21–24.

²⁵ *Id.* at 48–59.

stop, no need to justify. However, I also believe people will wonder why I'm doing this Article as a narrative. I like to get ahead of questions. This is one thing I have learned in the past few years of teaching: anticipate questions, be prepared to answer them, and write them down in the lecture (or in this instance—Article). Therefore, I imagined such questions as:

- Don't you know enough pedagogy? (Yes.)²⁶
- Don't you know enough theory? (You bet.)²⁷
- Aren't you able to write a conventional law journal article?²⁸
(Probably not. I am not often described as conventional, so I doubt my law journal articles ever will be conventional. I see research and writing (and teaching) as extensions of myself and my interests and values, and therefore, they will never be conventional topics of law review journals. Although, the sheer number of footnotes in this narrative may point to the probability of being able to do so.)

I am certain there may be more questions. Sometimes, I am not very imaginative. But this is probably even more about putting up my defenses to judgments about my first law article being a narrative. Therefore, to put you at ease in your wondering, but not to take away your judgements as only those with law degrees may judge and many of you reading this may indeed have at least one law degree, I will tell you that I cannot explain my first few years without it being a story. It needs to be a narrative.

My first few years of academia needs to be told as a story because my Indigenous soul craves meaning from storytelling. I am ready to share my experiences and hope that others may learn, and I fully grant my permission for you – Listener – to share with others that may also be willing to become

²⁶ I have taken a lot of workshops from the Gwenna Moss Centre for Teaching and Learning. See *Gwenna Moss Centre for Teaching and Learning*, UNIV. OF SASK. <https://teaching.usask.ca/about/units/gwenna-moss-centre-for-teaching-and-learning.php> [<https://perma.cc/WV3G-YJWH>] [hereinafter Gwenna Moss Centre].

²⁷ See Jaime M.N. Lavalée, NAGPRA: Using Western Legal Principles for Tribal Advocacy (May 13, 2016) (S.J.D. dissertation, University of Arizona) (on file with author). But I also teach Law 498.92, Indigenous Nation Building Theory. However, Lee Maracle sums up theory in a useful way: "It's a real dilemma for most scholars – all scholars, whether they come from Africa, Indian, America, are Black, White, or whatever. Everything is taught and expressed in a White, upper-class male style. Anything else is weird, or impossible to market" See Lee Maracle, *An Infinite Number of Pathways to the Centre of the Circle*, in *SOUNDING DIFFERENCES: CONVERSATIONS WITH SEVENTEEN CANADIAN WOMEN WRITERS* 171 (Janice Williamson ed., 1993).

²⁸ See MEERA E. DEO, *UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA* 89 (Stanford Univ. Press, 2019) (discussing that faculty of color usually do research, and hence publish in non-normative areas of law). Some have had their work devalued because it's about identity-issues because it's not seen as real scholarship. *Id.* "That attitude results in them 'diminishing the work that I do,' which draws from experimental and critical theory, because her colleagues prefer "more traditional doctrinal [research]." *Id.*

a Listener. This works out well since my academic soul, which is highly influenced and can't exist apart from my Indigenous soul, craves building dialogue and providing "lessons learned" and "wise practices."²⁹ However, the academy demands that we not (merely) tell stories—we must write and write with the goal of publishing. Therefore, I *thought* about writing (because all academics must publish or perish).³⁰ I was also told by many others, "you should write about your experience." However, I realized after many failed attempts that I could not move from *thinking about* writing to *actual* writing, except through narrative. I could not divorce my academic soul and Indigenous soul. Instead, for this experience I had to bring both together and build my storyteller soul. I believe being an Indigenous legal scholar and academic provides fertile soil for my beginning storyteller soul. I do this because there has already been much written about the academy; its treatment of women, Indigenous, untenured, and the intersectionality among these groups.³¹ It is usually done within the academic writing style, which has its benefits, but which I think would only provide one side of myself and not my whole self as an Indigenous legal storyteller. Instead, to achieve this wholeness, I thought I would try to convey to you my experiences like we were sitting down with a cup of coffee or tea—leaving out some (but not all since I earned a doctorate degree and I think verbosity comes with that title) academic aspects and concentrate on the interesting, the innovative, and the "you have to laugh or you'll cry" aspects. In other words, I want to tell you a story that uses humour, or what I consider to be humour. You may not consider it as funny as I do (see the Preface for my caveat), but I believe it is the better way to give a glimpse into three of my toughest, roughest, and, so far, most defining years. In order to convey my experiences, this Article uses some aspects of the autoethnography method and Storywork. Each of these will be dealt with in turn.

There are different ways to view autoethnography because of its method. It can be a personal narrative or it can be a method where concepts are connected to literature and a personal experience.³² There are also different ways it can be used. It can be used to create a personal connection,

²⁹ Although writing about Indigenous economic justice, I believe that wise practices are applicable to other areas that must or should include Indigenous people. "We use the concept of wise practices, in contrast to best practices, because best practices tend to present a corporate, neo-liberal model of what is best or what success means. Best practices do not provide for local or Indigenous experience or knowledge. Wise practices allow for Indigenous experience and knowledge to play a prominent role in community economic development." WISE PRACTICES: EXPLORING INDIGENOUS ECONOMIC JUSTICE AND SELF-DETERMINATION 34 (Robert Hamilton, John Borrows, Brent Mainprize, Ryan Beaton, Joshua Ben & David Nichols EDs., 2021).

³⁰ DEO, *supra* note 28, at 88–90.

³¹ See, e.g., *Id.*; Sonia Lawrence & Signa Daum Shanks, *Indigenous Lawyers in Canada: Identity, Professionalization, Law*, 38 DALHOUSIE L.J. 503, 515 (2015).

³² See generally Sarah Wall, *Easier Said than Done: Writing an Autoethnography*, 7 INT'L J. QUALITATIVE METHODS 38, 39 (2008).

to evaluate personal actions, or to explore or critique topics and issues that have personal meaning within the larger society or literature.³³ For the autoethnography method, I will start with a personal story (“auto” means self)³⁴ and attempt to evaluate my actions and explore the issues that I believe arose in teaching while tying it to literature and society. I acknowledge that there are limits and cautions for using this method. There are also issues of legitimacy, reliability, motivations, credibility, and validity with the use of “self” as the data point.³⁵ “No subject can be a fully self-identified, fully aware, or fully intentional author because unconscious desire makes fully intentional subjectivity impossible.”³⁶ This Article could be critiqued as performance used to conceal myself and my true motivations, desires, and representations, and to make myself seem better than I am.³⁷ However, I think that making myself seem better than I am would take a lot more than this Article, as I am perfectly fine being my own personal “tire fire.” You will see that I am at ease with my tire fire (or dumpster fire, or whatever label you want to use) to describe my personal journey to move from intergenerational trauma to intergenerational wealth/knowledge transferer, if you ever get to meet me. However, because I value honesty and truthfulness, I will be as up-front as possible with you, Listener, and remind you that I am still on this journey and there is no roadmap or knowing when I may ‘arrive’ at my destination.

I am also utilizing, according to my understanding of her work, Dr. Jo-ann Archibald’s, *Indigenous Storywork*.³⁸ “I coined the term ‘storywork’ because I needed a term that signified that our stories and storytelling were to be taken seriously.”³⁹ It is created based on her Stó:lo, and Coast Salish culture. Storywork incorporates seven principles or teachings: respect, reverence, responsibility, reciprocity, holism, interrelatedness, and synergy.⁴⁰ For me, writing this Article has all seven principles embedded within, although not explicitly parsed out. Overall, you may disagree, and that is fine. I take from both the autoethnographic and Storywork what I need and have left the rest—for now, and maybe for always. In that way, I feel like I am fulfilling a gathering or hunting role—where you take only what you need.

Furthermore, for me, these two methods intertwine. Neither will be fully implemented here if you are a purist. I believe the only purist that I am is in my aptitude for adaptation, to finding my “self” through mixing, taking

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 41.

³⁷ *Id.* at 42.

³⁸ ARCHIBALD, *supra* note 7, at 3. Dr. Jo-ann Archibald is also known as Q’um Q’um Xiem, and she is from the Stó:lo Nation.

³⁹ ARCHIBALD, *supra* note 7, at 3.

⁴⁰ *Id.* at 2.

what I need (and sometimes may want), and finding an understanding that fits into my soul, heart, mind, and emotions. I often say that my ideas are popcorn (*mes idées son mais*). I say this because I am a person who has attention deficit hyperactivity disorder (“ADHD”), and I am therefore neurodiverse.⁴¹ My ideas pop out sometimes uncontrollably and in what looks like a sort of randomness. I believe they pop like that because of the sparks that comes from the hyperactivity even when I do not realize what it is doing.⁴² I also believe strongly in Indigenous people being adapters.⁴³ This is why I use some autoethnography methods as they relate to writing about personal experience; it is also why I use Storywork, as it relates to my identity as an Indigenous person because the values that storytelling holds, and the fundamental reason why I am sharing and putting myself out there to you is embodied by it.⁴⁴ I write this as my catharsis. I write this knowing there is a lot of criticism about “story as scholarship,”⁴⁵ and I take the possibility of that criticism full on, as I am not writing for the critics. You will see soon enough I have had many. Instead, I write to make sense of my experience. I write about my experiences because if I did not start writing, I would perish. I am not being melodramatic either. I mentioned above the “publish or perish” in academia, but I also believe I could no longer hold onto my sense of self as an Indigenous legal scholar without learning and sharing through storytelling. You are always free to take what you need from this narrative, and leave the rest—for now, and maybe for always.

Finally, I write this Article because of my own personal journey to reconciliation and healing. Trite, I know, but it is my truth. Reconciliation

⁴¹ ADHD is considered neurodiverse. See Maracle, *supra* note 27, at 166–78 (1993). Maracle describes how the different way in which she thinks is identified by some as being at spiritual level or the centrifuge. This centrifuge is what sparks her imagination. *Id.* at 177. I do not know if she has ADHD, is clinically neurodiverse, or merely thinks differently. I would like to think that maybe there is a small part of my neurodiversity that sparks my imagination.

⁴² *Id.* at 176. *Intensity* and focus is the other side of ADHD. Lee Maracle talks about how her thinking is like a tornado, which she thinks is also how Paula Gunn Allen thinks and writes. “There is a - [mini tornado sound] - and I love that tornado, it’s very disquieting, but you know the end of the tornado is this wonderful peace, and clam, and knowledge. For most of our people knowledge is sacred . . . every now and then, there is a wonderful tornado of thought, perception, sense, and then clarity.” *Id.* at 176.

⁴³ See Sherry Farrell Racette, *Preserving Aboriginal Heritage: Technical and Traditional Approaches*, in PROCEEDINGS OF A CONFERENCE SYMPOSIUM 2007 15 (Carole Dignard, Kate Helwig, Janet Mason, Kathy Nanowin & Thomas Stone eds. 2008); see also Farrell Racette, *Caring for the Living, Not Embalming the Dead: Stored Objects and Precious Legacy in Museum Collections*, in PROCEEDINGS OF SYMPOSIUM 2007 15–22 (Carole Dignard et al. eds. 2008). Indigenizing is merely adapting, and this has been going since forever, and can be seen since contact with things as simple as artistic works and utilitarian items, like pouches. *Id.* at 15.

⁴⁴ Maracle, *supra* note 27, at 167 (describing the value of storytelling where the structure of Indigenous story is like poetry, not European poetry or story, but “oratory” poetry).

⁴⁵ *Id.* at 40.

holds many different meanings.⁴⁶ For me, reconciliation means finding myself. It is also my sense of self. It is Miskâsowin. You might think it was Kwayeskastasowin, since that's the name of the course that is implemented at USask Law that I am writing about in this Article. You might have thought it because it is the Cree principle that is supposed to embody the closest term for reconciliation, since it is supposed to be "setting things right."⁴⁷ However, I do not think, most times, that I have been "set wrong" or "incorrectly." Therefore, reconciliation for me is finding myself and my sense of identity and building that connection to my Nation, our lands, and our ways of knowing and being. I have been a product of borrowing, and now I will become the agent of belonging.

When Lee Maracle, a renowned Stó:lo writer, was asked why she writes in oratory, she says it's because she doesn't know any other way to plainly tell people in a way that they can understand her life from "different angles" and to "give a picture of colonialism as a whole, not in abstract theoretical terms, but as it affects us [Indigenous people] in our real lives . . ."⁴⁸ This is what you will be getting here. You will learn how the "isms" have affected me, as a young(er), female, Indigenous legal faculty. These "isms" have affected me greatly and deeply—in profound ways and in ways I would prefer never to talk about much less write for all to see. However, I believe that if I share my story, it may help others. That is the story I want to share—a helping story.

I will be using my experiences and, primarily, student evaluations, as well as direct classroom interactions, to inform these experiences and to tell the story. It may not come across in this Article, but I do take student evaluations seriously. When reviewing student evaluations, three main areas arose. First, I looked for substantive evaluations about the course itself, e.g., reading load and types of materials. Second, I looked for recurring themes

⁴⁶ See TRUTH & RECONCILIATION COMM'N OF CAN., HONOURING THE TRUTH, RECONCILING FOR THE FUTURE: SUMMARY OF THE FINAL REPORT OF THE TRUTH AND RECONCILIATION COMMISSION OF CANADA 6 (2015), http://epe.lac-bac.gc.ca/100/201/301/weekly_acquisition_lists/2015/w15-24-F-E.html/collections/collection_2015/trc/IR4-7-2015-eng.pdf [https://perma.cc/A5YM-4NDG] [hereinafter HONOURING THE TRUTH]; see also TRUTH & RECONCILIATION COMM'N OF CAN., TRUTH AND RECONCILIATION COMMISSION OF CANADA: CALLS TO ACTION (2015), http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf [https://perma.cc/P7X3-Z4CW] [hereinafter CALLS TO ACTION].

⁴⁷ Tansi Nitôtémik, *The Law in Language: Wahkohtowin, Pastamowin, Ochiwin, & Kwayeskastasowin* (Sept. 25, 2017), <https://ualbertalaw.typepad.com/faculty/2017/09/tansi-n%C3%AE%C3%B4temik-there-is-no-cree-word-for-reconciliation-but-as-lorena-sekwan-fontaine-explained-during-this-weekendsre.html> [https://perma.cc/HD9P-8EKV] (discussing how Dr. Lorena Sekwan Fontaine during her keynote address stated that Kwayeskastasowin was the closest word to the meaning of reconciliation, which means "setting things right") (referencing Lorena Fontaine, Univ. of Winnipeg, Keynote Address at the Centre for Constitutional Studies Conference: Kwayeskastasowin (Setting Things Right) (Oct. 19, 2017)).

⁴⁸ Maracle, *supra* note 27, at 170.

about my teaching style, e.g., how I ask questions and how I treat students. Third, I looked at the recurring themes (I hadn't originally looked *for* them, but they became glaringly apparent for me) that bespoke of racism, prejudice, and oppression to myself and for this course. The complaints about readings and disorganization that were mentioned in the student evaluations will not be included here. I tried my best to stay on top of things, but as the sole professor for the single largest class in USask Law history, and it being new, I think I did pretty well; however, it did have organizational issues. Instead, the focus will be about the latter two aspects, which I believe overlap: teaching style and the "isms."

I asked other faculty how they viewed and read their student evaluations, and the responses were basically to take them with a grain of salt. I did not find that helpful. It has been only through sharing, and re-sharing, and asking if this is what others have experienced, have I found out that it is not. It is not normal for other faculty at USask to be told that a "victimized group [should not be] having the sole voice"⁴⁹ in a class by being the professor because it is biased teaching. However, as stated by other students, this provision of the Indigenous perspectives, which is usually lacking (but not usually seen to be lacking because the status quo is for Indigenous silencing), is actually a:

[m]uch needed perspective on law and Indigenous Peoples of Canada in that she puts legal decisions to the test of the TRC's [Truth and Reconciliation Commission] ideas of reconciliation. I often found myself realizing that I read many Aboriginal case decisions as well justified on their faces but Prof. Lavallee provides many implications of the decisions that I found to be questionable.⁵⁰

I now understand why, in *The Chair*, Holland Taylor, who plays Joan Hambling, an English professor, states that she has not read student evaluations in over three decades. Once she does start reading them, she gets focused on the negative ones given by one commentator and seeks to find them and, of course, hilarity ensues.⁵¹

I am almost ashamed to admit it (although I am not anymore, which is why this Article is getting written), but I did deeply feel shame from reading these student evaluations. I do not want to see myself, much less read dozens of comments, where people see me as mean, unwelcoming, or bullying (all words used at various times and more than once). But I also didn't want to bury, fester or have others define me.

⁴⁹ Law-436-01 Aboriginal Law, 2020-2021 Term 1, 402603.

⁵⁰ Law-436-01 Aboriginal Law, 2020-2021 Term 1, 401006.

⁵¹ *The Chair: Brilliant Mistake* (Netflix Aug. 20, 2021) (she is asked by the Chair when she last looked at her student evaluations); *The Chair: Don't Kill Bill* (Netflix Aug. 20, 2021) (she goes to look for the student that gives negative comments).

Dr. Brené Brown, a shame researcher, writes about how stories have a role in confronting shame and how building resiliency is a process.⁵² Regarding this process, she has stated:

Own the story! Don't bury it and let it fester or define me. I often say this aloud: *'If you own this story you get to write the ending. If you own this story you get to write the ending.'* When we bury the story we forever stay the subject of the story. If we own the story we get to narrate the ending. As Carl Jung said, 'I am not what has happened to me. I am what I choose to become.'⁵³

Therefore, in the summer of 2020, I had the 2019 Kwayeskastasowin student evaluations undergo a thematic analysis by a research assistant. Going forward, I will get an analysis of my evaluations or ask a colleague to read them to separate the "wheat from the chaff." However, because of the negativity in student evaluations,⁵⁴ I will no longer be reading them directly for the sake of my own resiliency.⁵⁵

Unlike other faculty, I have experienced students who do not want to speak up in class because they are afraid that they will "re-victimize" me because I am Indigenous. It took me a while to realize that this is not my own fault, but a flawed belief held by some of the students. There are some who see me as a victim, but I am not. These "some" see me as presenting a bias because I will not validate how good the Indians either got it because of all their benefits or how bad the Indians are because of their negative social-economic determinants. I will provide context. I will make them question, and I will make it uncomfortable to voice these negative viewpoints. Therefore, I will continue to provide students with context beyond the textbook. I will continue to provide a perspective that is usually silenced and victimized even if it is seen, by some, as biased. I believe without this context and lived experience, the bias of the status quo will remain unchecked and unacknowledged, and I will be made to see myself as a victim and ashamed of giving my voice. I refuse to have that be my story. I will narrate my own.

These are all the reasons why I write this Article as a narrative—from my perspective and my truth—embodying, for me, my two most important principles and values of Tâpwêwin and Miskâsowin. In other words, I have

⁵² BRENE BROWN, DARING GREATLY: HOW THE COURAGE TO BE VULNERABLE TRANSFORMS THE WAY WE LIVE, LOVE, PARENT, LEAD 80 (2015).

⁵³ *Id.*

⁵⁴ I believe that I am resilient. I also believe that I shouldn't put my hand in a fire to test to see if it's hot. Therefore, after three years of reading my student evaluations and, after reading and re-reading ad nauseum the evaluations for inclusion in this article, I think I have some bruises, but overall, a slightly thicker skin.

⁵⁵ BROWN, *supra* note 52, at 91. Dr. Brené Brown states that she also "stopped reading anonymous comments. If you're not in the arena with the rest of us, fighting and getting your ass kicked on occasion, I'm not interested in your feedback." *Id.*

also made this into a story or narrative to help me. Thank you, Listener, for being part of my catharsis.⁵⁶ I have been, as Lee Maracle has described, both outraged and enraged, and both of these feelings are destructive.⁵⁷ They are destructive to having people hear what I have to say (as Monture-Angus writes no one wants to hear another angry Indian [woman]).⁵⁸ If I have something to say, but no one is listening, then that merely continues the 500 year “history of silence.”⁵⁹ It is destructive to myself, too. Instead, I believe that humour is the method which will allow these words, lessons, experiences, voice, and my truth to be heard.⁶⁰ I also believe that you are now ready to hear and listen. As Maracle states: “Our folks believe we will know when people are prepared to hear.”⁶¹ Maracle doesn’t speak unless she feels you are prepared to listen.⁶² Therefore, I write because I am prepared to share, and I feel you are prepared to be a Listener.

B. Previous “Good” Ideas: Development to Current Paper

1. Previous “Good” Ideas

In 2019, I applied for, and was awarded, the Canadian Foundation for Legal Research (“CFLR”) fellowship.⁶³ My original project was to canvas

⁵⁶ *Id.* at 82–83. Dr. Brown and other researchers have shown that writing about experiences is helpful. It helps with increasing the ability to develop courage to talk about difficult matters. It is a way to engage yourself in a conversation so that you can start having these conversations with others. Not keeping it secret and eating away at your physical, mental, emotional, and spiritual health. *Id.*

⁵⁷ Maracle, *supra* note 27, at 167, 182.

⁵⁸ See MONTURE-ANGUS, *supra* note 1. Monture-Angus writes about being an angry Indian woman and how the characterization provides an excuse for others not to listen, even when she is not angry. The label helps justify what I would call “earmuffs.” *Id.* at 35. Monture-Angus also explains that being mad, complaining, or whining about having to do more, to learn another way, and be teacher/student, and be pushing back against colonization, racism is “learned helplessness.” A result of colonization and oppression. Even though Indigenous people have a double responsibility/obligation it is not necessarily a burden—it is part of being a bridge. *Id.* at 82.

⁵⁹ Maracle, *supra* note 27, at 167.

⁶⁰ Maracle talks about how Paula Gunn Allen makes her laugh, and it is through the laughter that one realizes that Paula is inside all of us. *Id.* at 176. “Some things she writes about are tragic, but at the same time we’re laughing because her manner of expression is exactly how we think.” *Id.* I am *not* comparing myself to either of these writers. What I am stating is that I am going to try to present this material in as humorous a way as I can, because I do not know any other way to get the point across, and I am tired of being cross. I may fail at this intention—I do have a tendency to take serious subjects seriously, but I am trying and none of you are Yoda, so I can try all I want.

⁶¹ *Id.* at 167.

⁶² *Id.* at 169.

⁶³ *Improving Canadian Legal Practice through Research*, CANADIAN FOUND. FOR LEGAL RSCH., <https://cflr-fcrj.ca/> [https://perma.cc/3QW3-A5RU]; *Research Grants Recipients*, CANADIAN FOUND. FOR LEGAL RSCH., <https://cflr-fcrj.ca/research-grants/research-grant-recipients/> [https://perma.cc/4D4R-F99B].

Canadian law schools, specifically the law schools that have or will respond to the Truth and Reconciliation Commission (“TRC”)⁶⁴ and the Call to Action (“CTA”) #28.⁶⁵ The CTA28 reads:

We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and antiracism.

My goal was to examine and evaluate their curriculum to identify issues, challenges, and successes, as well as why and how each law school implemented the CTA28 (e.g., mandatory or not, first or upper year). I opted to write about this in a peer-reviewed paper because I wanted an outcome that would be useful for other law schools, and colleges, that are considering implementing the CTA28. Overall, the goal was to showcase the different responses to the TRC being undertaken by law schools and that “one size does not fit all.” Just as Indigenous peoples are not monolithic, the implementation of a course on reconciliation in law school should not be monolithic. It should be adaptable to their environment and the Indigenous peoples and lands in which the school is situated.

I think that is still a good project (but, full disclosure, I am biased about it since it was my idea, and I believe my ideas are almost always good to great). In 2020, I asked for, and received, an extension from CFLR. At that time, I changed some of the project.

My new project was to focus only on the USask Law course. This would include analyzing student comments and responses, which would support curriculum development and my academic paper. My analysis of the course would focus on intercultural competency skills, TRC CTA implementation, and the use of experiential learning activities (such as ceremonial use in law schools to illustrate Indigenous legal orders). I had changed the curriculum substantially in the second year of the course, incorporating some aspects of anti-racism, anti-oppression, and Indigenous pedagogy. From teaching the course over the two years, I had determined that there was a need for a two-stage approach, where students are first educated in anti-racism and anti-oppression before taking a course on Aboriginal/Indigenous issues. My revised project would explore this two-fold approach in further detail. It would analyze the incorporation of Indigenous pedagogy in Canadian law schools, the role of anti-racism and anti-oppression in legal education, and the USask course, in particular. My

⁶⁴ *TRC Website*, NAT. CTR. FOR TRUTH & RECONCILIATION, <https://nctr.ca/about/history-of-the-trc/trc-website/> [<https://perma.cc/HR7W-HWSB>].

⁶⁵ CALLS TO ACTION, *supra* note 46, at 3.

project would have significant, impactful outcomes. The peer-reviewed paper and the revised curriculum would be useful to other law schools and colleges that are currently, or are considering, implementing the TRC and CTA. These are good goals, but I did not score with this revised project.

Instead, after two years, I decided to change my focus once more. As the late Patricia Monture-Angus, Indigenous legal scholar, identifies in her book, *Thunder in My Soul: A Mohawk Woman Speaks*, by the 1990s, most of the literature about Indigenous people in schools was about evaluating programs.⁶⁶ Therefore, I wanted to step away from evaluating programs and move into giving voice. I kept the peer-reviewed paper aspect because I am in academia, and it is either “publish or perish.” It doesn’t matter what your research is about or what your teaching impact is. If you do not have the publication “cred,” then you do not have nothing (but six years of being on probation).⁶⁷

2. *Current Good Idea*

In the end, my project became an autoethnographic approach where I will describe the Kwayeskastasowin course through my own experiences and reflections. My personal narrative’s goal is to illuminate various aspects of the course and provide insights and reflections. I also use the student course evaluations, which are anonymous, and what I said in the classes that were recorded to inform these insights and reflections as much as I can and according to what I think these insights or reflections are. At the time of the recordings and teaching, I did not have this research project in mind. It was only after teaching this course twice that I realized the extent of the need for me to examine myself and my experiences in the incorporation, or disincorporation,⁶⁸ of Indigenous pedagogy in Canadian law schools and for autoethnographic literature in the area.

Therefore, this is what we have within this Article. For good, or not so good, this Article is about my experiences. I acknowledge that there may be additional ethical considerations when writing about my own experiences, as it also affects and includes others’ experiences.⁶⁹ However, I have

⁶⁶ MONTURE-AGNUS, *supra* note 1, at 103.

⁶⁷ For more on the Renewal or, “probation,” until you get Tenure, see *Tenure, Promotion and Renewal*, UNIV. OF SASK., <https://vpfaculty.usask.ca/tenure-promotion/index.php#AboutTenurePromotionandRenewal> [https://perma.cc/7DGS-S72X].

⁶⁸ Please note, I make up words and phrases all the time. One of my favourite phrases is “baby bearing.” As in, you got that “just right.” I later learned that this is called “Goldilocks” or “Goldilocking,” but I refuse to give the credit for getting things “exactly right” to a white, blonde girl who breaks into houses—I do not think that’s fair.

⁶⁹ Sarah Wall identifies that a critique in writing narrative is the possibility of a power imbalance. Wall, *supra* note 32. The people involved are unable to represent themselves, they cannot fully consent to the materials that are being written about them nor the

submitted twice to the USask Research Ethics Board⁷⁰ before finally receiving approval for the current project, and I am going to take that approval as required by the research ethics office at USask and use it.⁷¹

I also acknowledge that there is a danger of having only my experience as told by only me in this story. I am not speaking for all. I am speaking for me and only me. I speak for me because I believe, as Maracle speaks: “It needs to be approached from every angle, but at the same time, not have only one voice speak for all, as there is a real issue that people may look at this as the only experience or that I speak for all, which I do not.”⁷²

I recognize that if I worry so much about my writing, to the point of not writing it, then I am one less voice, and I will contribute to the silencing of Indigenous peoples.⁷³ Instead, “[e]very single Native person who writes is pointing to a road over there. . . [b]ut it needs to be said and thought about. It needs to be approached from every angle we can.”⁷⁴ This means that each and every single one of us can contribute to the broader understanding of what it means to be Indigenous, and what it means to be an Indigenous legal scholar, scientist, faculty, or human being. Therefore, while it may be scary to put this story “out there,” I think it is far scarier to not do it and continue to be isolated in my experience and be outraged or enraged alone because I believe far more strongly in fulfilling my view that my Indigeneity is powerful (why else would “they” want to silence me?). Sharing what one has learned fulfills important Indigenous traditions, which creates even more power as an individual Indigenous person,⁷⁵ as well as within the mainstream

interpretation of their actions. This could be especially so because of and when there is a “trust-based relationship.” *Id.* at 49. She also goes on to identify the issue that some people may only read to see the damage. *Id.* at 50. In other words, you may be reader not a Listener, and are here to rubberneck either myself, the law school, the course, and/or the students, and see this as gossip not scholarship. But I will take my chances. Although I feel like I am risk averse, I take chances all the time when I am pushing for inclusion of Indigenous voice.

⁷⁰ *Human Ethics*, UNIV. OF SASK., <https://research.usask.ca/rei/researchers/ethics/human-ethics.php> [<https://perma.cc/KVM4-UPFT>].

⁷¹ *Human Research Ethics Policy*, UNIV. OF SASK., <https://policies.usask.ca/policies/research-and-scholarly-activities/human-research-ethics-policy.php#AuthorizationandApproval> [<https://perma.cc/KC8F-ELRJ>].

⁷² Maracle, *supra* note 27, at 173.

⁷³ There are some others that have also written about their experiences, that I would recommend: HAROLD JOHNSON, *PEACE AND GOOD ORDER* (2019); Robert A. Williams, Jr., *Vampires Anonymous and Critical Race Practice*, 95 Mich. L. Rev. 741 (1997); and MONTURE-ANGUS, *supra* note 1.

⁷⁴ Maracle, *supra* note 27, at 172.

⁷⁵ ARCHIBALD, *supra* note 7, at 3. “Some teachings from my nation, the Stó:lō, are about cultural respect, responsibility, and reciprocity. According to these teachings, important knowledge and wisdom contain power. If one comes to understand and appreciate the power of a particular knowledge, then one must be read to share and teach it respectfully and responsibly to others in order for this knowledge, and its power, to continue.”

culture and institutions for Indigenous people.⁷⁶ That is going to be very scary for some.

III. WHY HAVE A MANDATORY COURSE? RECONCILIATION IMPLEMENTATION?

A. *The Truth and Reconciliation Commission*

The TRC⁷⁷ was created as part of the Indian Residential School Settlement (“IRSS”).⁷⁸ The TRC spent six years traveling Canada—collecting the stories from Indian Residential School (“IRS”) survivors.⁷⁹ As part of its mandate, the TRC also issued a multi-volume report in 2015.⁸⁰ In tandem with the six volumes, the TRC issued 94 Calls to Action.⁸¹ These 94 Calls to Action address areas including, but not limited to:

- Child Welfare (1-5)⁸²
- Youth (66)⁸³
- Education (6-12; 62-65)⁸⁴
- Language (13-17)⁸⁵
- Health (18-24)⁸⁶

⁷⁶ MONTURE-ANGUS, *supra* note 1, at 80. “We must learn to rely on ourselves and not on institutions of colonial governments. We must always have in our sights the process and nature of our oppression and colonization. Education is important if and when we are able to educate our young in a decolonized way. Colonialism and its consequences are the obstacles.”

⁷⁷ The TRC was created “to contribute truth, healing and reconciliation.” *See Indian Residential Schools Settlement Agreement, Schedule “N,”* TRUTH & RECONCILIATION COMM’N CAN., https://www.residentialschoolsettlement.ca/SCHEDULE_N.pdf [<https://perma.cc/JE2P-MJEU>] (establishing the mandate of the TRC). For more information on the TRC, see *TRC Website*, NAT’L CTR. FOR TRUTH AND RECONCILIATION, <https://nctr.ca/about/history-of-the-trc/trc-website/> [<https://perma.cc/8B7X-839X>].

⁷⁸ For additional information on the Indian Residential Schools Settlement Agreement and Schedules, see *Indian Residential Schools Settlement Agreement*, TRUTH & RECONCILIATION COMM’N CAN., <https://www.residentialschoolsettlement.ca/settlement.html> [<https://perma.cc/6G2Z-E7ZU>]. For more information and background on the IRSS, see *Indian Residential Schools Settlement Agreement*, GOV’T OF CAN., <https://www.rcaanc-cirnac.gc.ca/eng/1100100015576/1571581687074> [<https://perma.cc/XJD2-WHFW>].

⁷⁹ HONOURING THE TRUTH, *supra* note 46, at 6.

⁸⁰ These reports and other findings and resources are available through the National Truth and Reconciliation Centre at: <https://nctr.ca/> [<https://perma.cc/WXLA-X4E5>]. *See also* HONOURING THE TRUTH, *supra* note 46.

⁸¹ *See* HONOURING THE TRUTH, *supra* note 46.

⁸² *Id.* at 1.

⁸³ *Id.* at 8.

⁸⁴ *Id.* at 1-2, 7-8.

⁸⁵ *Id.* at 2.

⁸⁶ *Id.* at 2-3.

- Justice (25-42)⁸⁷
- Equity in the Legal System (50-52)⁸⁸
- Newcomers (93-94)⁸⁹

There are also other broader goals of reconciliation such as repudiating the Doctrine of Discovery, or acceptance of the United Nations Declaration on Indigenous Peoples (“UNDRIP”) (43-50).⁹⁰ These Calls to Action are addressed according to their respective areas, but primarily are for the federal, provincial, territorial, and Aboriginal governments. However, it also includes museums and archives (67-70),⁹¹ churches (48, 58-61, 73-75),⁹² and business/industry (92).⁹³ The progress on the CTAs is unknown. There are various websites that look at the progress, but each one has their own methods of reporting and measurements; some focus on individual calls, and some update on an ongoing basis, others yearly, or not in quite some time.⁹⁴ However, the websites are a useful starting point if you wish to see what others consider progress, where actions have stalled, or where, unfortunately, they might not be started at all.

One area that had not gained much traction were the CTAs 71-76, Missing Children and Burial Information.⁹⁵ These CTAs ask for access to information about burials, to create a registry of the burials, “to inform the families of children who died at residential schools of the child’s burial location, and to respond to families’ wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.”⁹⁶ Even before the 2015 final report of the

⁸⁷ *Id.* at 3-4.

⁸⁸ *Id.* at 5-6.

⁸⁹ *Id.* at 10-11.

⁹⁰ *Id.* at 4-6.

⁹¹ *Id.* at 8.

⁹² *Id.* at 4-9.

⁹³ *Id.* at 10.

⁹⁴ See, e.g., *Delivering on Truth and Reconciliation Commission Calls to Action*, GOV'T OF CAN., <https://www.rcaanc-cimac.gc.ca/eng/1524494530110/1557511412801> [https://perma.cc/AP5S-4YK7]; Jorge Barrera, Teghan Beaudette, Chantelle Bellrichard, Alex Brockman, Meagan Deuling, Kelly Malone, Nic Meloney, BNrandi Morin, Lenard Monkman, Kieran Oudshoorn, Jason Warick & Bridget Yard, *Beyond 94: Truth and Reconciliation in Canada*, CBC NEWS (Apr. 5, 2022), (Can.), <https://newsinteractives.cbc.ca/longform-single/beyond-94?&cta=1> [https://perma.cc/T2GU-NA8C]. See generally *Latest Status Updates*, INDIGENOUS WATCHDOG, <https://indigenouwatchdog.org/latest-status-updates/> [https://perma.cc/ENQ3-XDGA]; ASSEMBLY OF FIRST NATIONS, PROGRESS ON REALIZING THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION, (2020), https://www.afn.ca/wp-content/uploads/2020/12/2020_TRC-Report-Card_ENG.pdf [https://perma.cc/LZ6F-UJELP]; Eva Jewell & Ian Mosby, *Calls to Action Accountability: A 2021 Status Update on Reconciliation*, YELLOWHEAD INST., <https://yellowheadinstitute.org/trc/> [https://perma.cc/FNX7-6QLV].

⁹⁵ HONOURING THE TRUTH, *supra* note 46, at 9.

⁹⁶ *Id.*

TRC, the TRC had asked in 2009 for funding to find these unmarked and undocumented graves and were denied.⁹⁷ The Canadian government had denied funding to have families know where their deceased loved ones were buried. Not until there were 215 unmarked graves (re)discovered in May 2021,⁹⁸ and another 715 a month later—both on former IRS grounds—was there movement on these CTAs.⁹⁹ Later that summer, the Government of Canada announced they would be funding ground penetrating radar to find the unmarked graves that are at former IRS sites.¹⁰⁰ I guess all it takes are (enough) dead bodies to get things moving. The question remains though: how many is enough to get movement on a CTA?

The CTA that is relevant to this Article, as described in Part 2.2, is Call to Action 28 (“CTA28”).¹⁰¹ In addition to teaching about the history of IRS, CTA28 also includes anti-racism skills-based training.¹⁰² This skills-based training is also in four other CTAs: CTA24 Medical and Nursing Schools;¹⁰³

⁹⁷ Katie Dangerfield, *TRC Requested \$1.5M to Find Graves at Residential Schools. The Feds Denied the Money in 2009*, GLOB. NEWS (June 1, 2021), (Can.), <https://globalnews.ca/news/7907424/trc-mass-graves-residential-school-federal-funding/> [https://perma.cc/2ABT-SJLT].

⁹⁸ Ian Austen, *‘Horrible History’: Mass Grave of Indigenous Children Reported in Canada*, N.Y. TIMES (Oct. 5, 2021), <https://www.nytimes.com/2021/05/28/world/canada/kamloops-mass-grave-residential-schools.html> [https://perma.cc/HYM3-N4YF]; Courtney Dickson & Bridgette Watson, *Remains of 215 Children Found Buried at Former B.C. Residential School, First Nation Says*, CBC NEWS (May 27, 2021), (Can.), <https://www.cbc.ca/news/canada/british-columbia/tk-enl%C3%BAps-te-secw%C3%A9pemc-215-children-former-kamloops-indian-residential-school-1.6043778> [https://perma.cc/7Z5F-7YRW].

⁹⁹ Amanda Coletta & Michael E. Miller, *Hundreds of Graves Found at Former Residential School for Indigenous Children in Canada*, WASH. POST (June 24, 2021), (Can.), <https://www.washingtonpost.com/world/2021/06/23/canada-cowessess-residential-school-graves/> [https://perma.cc/75D5-SPDE]; Bryan Eneas, *Sask. First Nation Announces Discovery of 751 Unmarked Graves Near Former Residential School*, CBC NEWS (June 24, 2021), <https://www.cbc.ca/news/canada/saskatchewan/cowessess-marieval-indian-residential-school-news-1.6078375> [https://perma.cc/2JQ8-G7QK].

¹⁰⁰ *Backgrounder: Special Interlocutor on Indian Residential Schools (IRS) Unmarked Burial Sites*, GOV’T OF CAN. (Aug. 10, 2021), (Can.), <https://www.canada.ca/en/department-justice/news/2021/08/backgrounder-special-interlocutor-on-indian-residential-schools-irs-unmarked-burial-sites.html> [https://perma.cc/JZH6-LFCX]; Maan Alhmidi, *Feds Commit \$321M to Help Residential School Survivors, Support Burial Site Searches*, GLOB. NEWS (Aug. 10, 2021), <https://globalnews.ca/news/8100943/feds-fund-residential-school-investigation/> [https://perma.cc/59PH-H5AS]. “Crown-Indigenous Relations Minister Carolyn Bennett says \$83 million will be added to an existing \$27-million program to fund searches of burial sites and commemorate the children who died at residential schools.” *Id.*

¹⁰¹ HONOURING THE TRUTH, *supra* note 46, at 3, 89.

¹⁰² *Id.*

¹⁰³ *Id.* at 3, 24 (“We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples,

CTA27 Law Societies;¹⁰⁴ CTA57 Public Servants;¹⁰⁵ and CTA92 Business.¹⁰⁶

Maracle states that to be a racist is painless, but to “un-become and become something new is going to be excruciating.”¹⁰⁷ To self-hate, to be self-racist, is painless, and it is part of the shame that is and was easy to learn and was and is taught.¹⁰⁸ What wasn’t taught or learned was the un-becoming and healing from the shame and racism. This is why I believe part of the reason why so many CTAs have the skills-based training included—there is an attempt by the TRC to have people unlearn the racism.¹⁰⁹ I can say from personal experience that it is hard and painful—to change racist thinking. I say I am a racist. You should see the looks when I say that because I think the first instinct is that it means I am racist against white people, but I am not. Instead, it is the acknowledgement that I am a product of the society I live in which is racist, and therefore, I am a racist, but one that is actively trying to be an anti-racist. It is painful, it is difficult, and it is draining at times to be vigilant in my thinking. Sometimes, I do not succeed. I do not think of this as failing, as not doing it would be failing. I take this quote from Maite Z. Alday to heart, mind, and action: “No matter how open-minded, socially conscious, anti-racist I think I am, I still have old, learned hidden biases that

Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”).

¹⁰⁴ *Id.* at 3, 27 (“We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”).

¹⁰⁵ *Id.* at 7, 57 (“We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”).

¹⁰⁶ *Id.* at 10; CALLS TO ACTION, *supra* note 46, at 10 (“We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following: iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”).

¹⁰⁷ Maracle, *supra* note 27, at 183.

¹⁰⁸ *Id.* at 184.

¹⁰⁹ CTAs that ask for education, training: CTA28; CTA24 Medical and Nursing Schools; CTA27 Law Societies; CTA57 Public Servants; and CTA92 Business. HONOURING THE TRUTH, *supra* note 46, at 3, 7, 10.

I need to examine. It is my responsibility to check myself daily for my stereotypes, prejudice and, ultimately, discrimination”.¹¹⁰

What I have found is that it is even more painful (definitely for me) to create the space for others to unlearn racism and re-learn how to think and act without it.

B. The Mandatory Course: Kwayeskastasowin

My first course at USask Law was Kwayeskastasowin. It is listed as Law 232.¹¹¹ It is USask Law’s response to the CTA28, and the course description reads the same as the CTA28:

Call to Action #28	Kwayeskastasowin Course Description
<p>We call upon law schools in Canada to require all law students to take a course in <i>Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and antiracism.</i></p>	<p><i>A course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.</i></p>

I taught one section of the first-year class (“1Ls”) during the first semester of the 2018/2019 academic year. The “pushback” from many (but not all) students does not showcase the acceptance of the Truth and Reconciliation Commission findings nor CTAs. Although there were a few who did write about how this class has changed their understanding, more were still entrenched in their views that intercultural competency is not needed in law.

In the second year of the course, I changed the curriculum substantially, incorporating some aspects of anti-racism, anti-oppression, and Indigenous pedagogy. Originally, I had thought this viewpoint of why

¹¹⁰ Maite Z. Alday (@shes_mightymighty), INSTAGRAM, https://www.instagram.com/shes_mightymighty/ [<https://perma.cc/QTW9-Y4PU>].

¹¹¹ *Law 232.3: Kwayeskastasowin Setting Things Right*, in COURSE & PROGRAM CATALOGUE, UNIV. OF SASK., <https://catalogue.usask.ca/LAW-232#Description> [<https://perma.cc/QNL9-THCD>].

this course was not needed indicated the need to show relevancy, and, thus, how inclusion of Indigenous legal orders as equal to other forms of Western law (common and civil law) is of utmost importance and urgency in the legal profession. I partnered with Legal Research and Writing (Law 243), and we incorporated a day of story analysis.¹¹² The idea being to showcase how Indigenous story telling could be utilized, using the Indigenous Legal Research Unit (“ILRU”) methodology.¹¹³ The goal was to have first-year law students be introduced to both the case briefing method (“FILAC”) and the ILRU Story Analysis in order to show the equality and credibility of both methods. This desire for more inclusion of Indigenous issues was started in 2018, when the Indigenous Engagement Committee (“IEC”), a faculty committee, also undertook a survey of the first-year instructors to see if there were any gaps or areas that were being undertaken to incorporate more about Indigenous issues. However, with the departure of the then-Director of the ILC and chair of the IEC, this endeavor stopped.

In general, after teaching this course twice and with the incorporation of story analysis in LRW, I have since changed my interpretation of what this pushback indicates. Instead, I believe it goes to a far more foundational issue of “ism.”

349120: I wish I could have something good to say about this class, from talking to my peers I have not heard a single student tell me that they enjoy this class. It is disappointing that a class that was meant to accomplish good in the end is now doing more harm Firstly, members of the class with prior knowledge of the subject matter tend to ‘hijack’ the class discussion oftentimes turning into what feels like more of a conversation between 2-3 students rather than a discussion with the class.¹¹⁴

Time, and time again, I heard how disappointing the class was and mostly because I was teaching it. However, I think it wouldn’t have mattered how I was teaching it. For the 2020/2021 academic year, the course was redesigned again to engage with more focus on anti-racism and anti-oppression. I have not taught any subsequent iterations of this course since the 2019/2020 academic year, and I have zero plans to teach this course

¹¹² LRW- Kwayeskastasowin, September 6, 2019. Storyteller: Joseph Naytowhow. Written materials used: Val Napoleon & Hadley Friedland, *An Inside Job: Engaging with Indigenous Legal Traditions through Stories*, 61 MCGILL L.J. 725 (2016) (Can.). Students were asked to skim *Accessing Justice and Reconciliation: Cree Legal Summary*, UNIV. OF VICT. INDIGENOUS L. RSCH. UNIT CREE LEGAL TRADITIONS REP., (Can.), http://indigenousbar.ca/indigenouslaw/wp-content/uploads/2012/12/cree_summary.pdf [https://perma.cc/V9HL-L3KZ].

¹¹³ Hadley Friedland & Val Napoleon, *Gathering the Threads: Developing a Methodology for Researching and Rebuilding Indigenous Legal Traditions*, 1 LAKEHEAD L.J. 16, 23 (2016) (Can.).

¹¹⁴ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349120.

again.¹¹⁵ I do not know what the evaluations were like for 2020/2021. I imagine they may have been different since they had two years of my experiences, and they were different professors. Both of the professors were older than me, had taught for several years, and one of them was a white male and the Dean of USask Law. Again, I do not believe it would have mattered how I taught, instead, it was what I was teaching and how I felt about it—raw, open, and vulnerable. I say this because, in the first class in 2019, I stated the following:

But at a certain point, we all have to start acting. I know one of the lessons that I learned from last year was that a lot of students had said: it is great that we are learning it now, but it should have been learned earlier and it is too late to really start.

I challenged the students to consider that small steps could be taken today (or yesterday) that could affect our upcoming tomorrows. Tomorrow will be another day, and it is one that is even later than today, therefore compounding the excuse that it is “too late to really start.” What they do now is going to affect the future. In other words, it is going to be tough, but the answer is not inaction because it is “too late to really start.” Instead, they are being called upon to do something now, today, to build tomorrows where no one is excusing their inaction as “too late to really start.” I had high hopes, again, for that semester’s course. I had high hopes because I think that understanding of it being too late is false. I think it is accepting the status quo. This is not a popular opinion, and I think that is how mean a professor I am when I question values that are held. However, my high hopes, once again, didn’t fully bear fruit. But (and this is a huge but) even if small, I do know, personally, one student who did change their mind. This student recognized that reconciliation was necessary and that they had indeed had racist thoughts that needed to change, and I believe that student is a vastly different person now because of it and it has affected their entire law school experience (for the better in my opinion). I know that there were students in the class who were already “on board,” but I believe that was not a huge number, and changing the mind of one person is not the critical mass that is needed to make change. But, if that is all that happened from this course than that will be my “win.” It will be the example that action can happen. But maybe I can be proven wrong and more were positively affected by the course—anyone up for the challenge of proving me wrong? I hope so. I hope that there were many that I do not know about.

IV. WIDE-EYED & GRITTED TEETH

¹¹⁵ The 2020/2021 iteration was taught in Term 2 by the Dean, Martin Phillipson, and the then-Director of the Indigenous Law Centre, Marilyn Poitras. The 2021/2022 term was taught by sessionals. At this time, there are no other Indigenous faculty at USask Law.

A. *Wide-Eyed*

Based on the introduction of self above in Part 1, you know that I am an Indigenous person who has come from or was born into the child welfare system. My grandmother went to Indian Residential School. Therefore, I believed that I was a “good example” of the Canadian policies that were implemented against Indigenous peoples—IRS and the Sixties Scoop.¹¹⁶ With my personal experience and knowledge about Canadian Aboriginal Law,¹¹⁷ I thought it was kismet that I would teach for my very first course, one that was focused on reconciliation. I remember being excited about it. I remember hoping that I would do justice to those that had no voice before. I hoped that the Indigenous students would feel welcomed. At least a few did, as shown by the writing of Judy Ross-Rocher, a student in 2018, and a Teaching Assistant in 2019:

Many first-year law students were unaware that residential schools existed in Canada prior to taking this class or the depth of their oppression. This gave new meaning and context to how Indigenous people came to be at the lowest rung of the socio-economic ladder and changed the narrative that somehow Indigenous people created it As an Indigenous student, this class was validating as it created space to name and surface the realities.¹¹⁸

I hoped that this course would become a shining example of reconciliation. Much like my hopes for world peace—it did not happen.

The responses from the students were, to use an understatement, less than welcoming. There are a lot of reasons for this unwelcoming response. A few are introduced in Part 3. However, there were also supposedly even more reasons. One of them was because I was less than welcoming to the students.

349259: Dr. Lavallee is extremely biased and should not be teaching this course. She makes the entire class uncomfortable, and it seems to be that because she has been impacted by the subject matter personally, she is allowing that to affect how she

¹¹⁶ Erin Hanson, *Sixties Scoop*, INDIGENOUS FOUNDS. (2010), (Can.), https://indigenousfoundations.arts.ubc.ca/sixties_scoop/ [<https://perma.cc/6RAF-HYBC>].

¹¹⁷ Canadian Aboriginal law is the law and policies that are created by the Canadian government—federal and provincial—that are about and for Aboriginal peoples in Canada. It is not Indigenous law or Indigenous Legal Orders, which are the laws that are from the Indigenous peoples.

¹¹⁸ Judy Ross-Rocher, André Bear & Rory Erickson, *Students' Perspective: Kwayeskastasowin*, 34.2 BARNOTES CANADIAN BAR ASS'N SASK. BRANCH 13 (Winter 2020), https://issuu.com/cbasaskatchewan/docs/barnotes_winter_2020_final [<https://perma.cc/GA3S-YNAQ>].

teaches the course.¹¹⁹

In general, a lot of students felt that I held a bias. I do not know if I stated that I would be coming from and teaching with an Indigenous perspective in 2018. However, in 2019, I was upfront with the students that this is where my stance comes from—it comes from being an Indigenous person. However, this upfront admission wasn't well received. I know I tried to accept others' views, but sometimes I failed, as illustrated by this comment:

381787: Also, fiercely dismissive of questions or comments outside of her narrow scope of what is considered correct, (such as doubting white privilege, the total negativity of residential schools, or saying assimilation can be beneficial).¹²⁰

Imagine my chagrin when I read that student evaluation! I probably should've incorporated Eric Bays' book, *Indian Residential Schools: Another Picture*, to ensure that I had the "proper" incorporation of others' perspectives.¹²¹ After all, the Indians were getting free education and learning English! I can only infer that if I was teaching on the subject of slavery, I better mention the free housing that was provided to them through the slave quarters or the free boat ride that had brought them to the Americas. After all, if I did not, then I would not be providing another and fuller perspective about slavery, like I did by not providing the benefits of the IRS experience.

I looked upon this evaluation and knew I was a failure. I had failed as a professor to be accepting of others' viewpoints even though I had stated on multiple occasions that I would be open to them. I was not open to these perspectives by failing to accept the viewpoint that white privilege did not exist. I had failed to accept that there were positive aspects of residential schools, and I had failed to acknowledge that assimilation can be beneficial. Unfortunately, I was not the only one to notice my failures of accepting these other perspectives and beliefs held by some students. This failure to validate made the classes uncomfortable for many students, as seen in this comment (this is not the only evaluation that had "uncomfortable" in it):

349189: While the professor was knowledgeable about the

¹¹⁹ Law-232-02 Kwayeskastasowin, 2018-2019, Term 1, 349259.

¹²⁰ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 381787.

¹²¹ See ERIC BAYS, *INDIAN RESIDENTIAL SCHOOLS: ANOTHER PICTURE* (Baico Publishing 2009). For more about what I wouldn't want to include in this book, see the Anglican Journal articles: *Not Everyone Was Forced*, ANGLICAN J. (Nov. 1, 2009), <https://www.anglicanjournal.com/not-everyone-was-forced-8769/> [<https://perma.cc/9KYS-W38Z>]; *Book on Residential Schools 'An Exercise in Revisionist History'*, ANGLICAN J. (Jan. 15, 2010), (Can.), <https://www.anglicanjournal.com/book-on-residential-schools-an-exercise-in-revisionist-history-8908/> [<https://perma.cc/A7PJ-XMZJ>].

subject matter, she had no patience for those being introduced to the topic for the first time The classroom environment was extremely hostile and prevented me from engaging with the subject matter. Overall, there was a fear to ask questions both during and after class, and a fear to contradict or disagree with the professor's opinion. Never before have I felt so uncomfortable and unwelcome in a classroom setting.¹²²

In one way, I wanted the classroom to be an open and inviting place. I also acknowledge I didn't leave space for people to deny what had happened and have it continued as a valid perspective, as seen by the writings of Andre Bear, an Indigenous law student in the 2019 Kwayeskastasowin:

The class had encouraged open dialogue, and it was **unapologetically honest** in teaching the horrific injustices Indigenous peoples have faced in historical and contemporary society [an encounter in a class] exposed the extent to which racism hides behind the motives of people who don't have the tools to cope with the racism embedded in our systems. It was difficult to watch the transformation of my peers because it made me realize how the legal system itself might be different today if every legal professional had this opportunity. That said, even though we cannot cure racism with a mandatory first-year law class, it is undeniable how Kwayeskastasowin made a room full of future lawyers and judges deeply reflect on whether they are going to be a part of the problem or are going to be part of making strides toward true and equal justice for all.¹²³

I believe if I had not been challenging the students, these ideas of the IRS experience or assimilation being beneficial would have continued. As one student points out: "Prior to this class, some students believed that Indian Residential Schools were actually good experiences."¹²⁴ I am unapologetic for seeming to be hostile, defensive, or aggressive when students expressed views such as those. However, I am working on not actually being or feeling hostile, defensive, or aggressive when views such as these are expressed. This is because I believe these reactions can stymie the learning process. However, I also believe that even if I do fully reach this state of Zen, there will still be the question of a student's own subjectivity of my reactions. Nonetheless, I believe that I did come across as hostile, defensive, or aggressive because of *how I challenge* or *don't accept certain comments* and that this viewpoint is derived from two sources: one is

¹²² Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349189.

¹²³ Ross-Rocher, et al., *supra* note 118, at 12.

¹²⁴ *Id.*

complex, and the other is more simple.

First, let us start with the “simple”. The simple reason for why I could be viewed as hostile, defensive, or aggressive is: I am not a good at playing poker. Yes, it is good to play poker *against* me, as you will have my money in no time. But I am not a good poker player because I don’t have much of a “poker face.” This means that I wear what I am thinking and feeling very openly. My frustration and disappointment that these types of views (which I consider racist) were still alive and well in law schools would definitely have my hackles raised and my voice more impassioned (described in the evaluations as loud, yelling, sharp or sarcastic). My voice would become more impassioned because, “are they really asking this question?” I had banned people being the “devil’s advocate” unless they were actually representing the devil, and since they weren’t full-fledged lawyers, they could not yet do so without severe breaches of professional conduct. Therefore, when questions or comments were asked about why it is such a big deal about corporal punishment in the IRS¹²⁵ since that’s the type of corporal punishment that was done to everyone at the time, this would definitely be the time when I asked the student or class if they had actually read the materials. I acknowledge that it would not make for a safe classroom environment. However, it is also not a safe classroom environment to leave these views as expressed as valid and credible.

In my other classes that are not a mandatory first year course, I have had white students state that they feel uncomfortable not because it is not safe or welcoming, but because the views that they have held for so long are being shattered, and they feel like they have little to contribute since they did not know what they did not know. I believe these students were being highly reflective, and were no longer buying into the excuse of “too late to really start.” Because upper year classes are chosen by the student, I believe because they have the choice to take one of my classes, they are “self-selected” in their learning, which translates to open to understanding that their views about benevolent colonizers isn’t acceptable as a starting point. That “self-selection’ is a big difference.¹²⁶ However, mandatory first year courses provide all students with the same foundational materials—this is why the Kwayeskastasowin course is important and also why I believe it will

¹²⁵ Martha Troian, ‘A Very Painful Artifact’: Strap Used at Residential School Moves from Family Home to Archives, APTN NAT. NEWS (Nov. 1, 2018), (Can.), <https://www.aptnnews.ca/national-news/a-very-painful-artifact-strap-used-at-residential-school-moves-from-family-home-to-archives> [https://perma.cc/QF8W-D8K2].

¹²⁶ Karen Drake, *Finding a Path to Reconciliation: Mandatory Indigenous Law, Anishinaabe Pedagogy, and Academic Freedom*, 95 CAN. B. REV. 9, 10-12 (2017). Drake addresses the issue of mandatory course requirements and discusses how non-mandatory courses or the ability of students to select from various ones offered can be seen as less coercive and may advance reconciliation and align better with Indigenous (Nishnaabeg) concepts of learning in the context of land-based learning where students may become self-led to continue their own learnings (this is usually called self-selected students, as the student gets to select the course). *Id.*

continue to face challenges for quite some time.

Nonetheless, I do believe that students should feel free to express their thoughts. Sometimes their thoughts are merely ignorance of the matter, not racism. Therefore, I have worked hard(er) at hiding my frustration that this view or similar ones still exist, and therefore, I hope I come across as “less defensive.”¹²⁷ I still wouldn’t be up to snuff to play poker, but I think I can now mask myself enough for a rousing game of Go Fish!

To help with not only looking less defensive, but also feeling less frustrated, I believe reframing the narrative within the classroom is important. I suggest to myself and my students: if there are two ways to take a question, and one is that the questioner is genuinely trying to learn, then let us take the view of the genuinely trying to learn. I know it helps me to see them coming from a place of genuine no-knowledge, rather than from a place of wanting my validation for their on-going racism. They are merely asking “dumb questions,” and I should be more receptive:

353225: The professor was not open to counter opinions and was very defensive. The class did not feel like an open or safe place to ask questions. Students were concerned that an honest question would be misinterpreted as ignorant or discriminatory or racist. Students need to be allowed to ask ‘dumb’ questions and not be ashamed of their lack of knowledge. Making people feel bad about themselves does not facilitate learning. The professor also was not interested in engaging in any critical conversations about the TRC process or the Indigenous community. I felt that she wasn't able to set aside her opinions/beliefs/emotions.¹²⁸

Therefore, I am now in total agreement with this student—please ask dumb questions! I will also try hard to hide my disbelief that this is the question you are asking in public (rather than in a private student appointment). I also believe that the view of *how I challenge* is my intersectionality of gender, age, and Indigeneity, which because of its complexity will be discussed in the next sections.¹²⁹

¹²⁷ This hiding, though, comes at an emotional and physical toll. “This *emotional labor* includes ‘the management of feeling to create a publicly observable facial and bodily display,’ where women of color faculty regulate their true ‘emotions to comply with [workplace] norms.’ The toll of daily performance of emotional labor has been linked not only to broad ‘negative psychological outcomes,’ but also to depression and low job satisfaction, self-esteem, and overall health. These resulting negative health effects for academics of color have been termed the *Clyde Ferguson syndrome*, after the revered Harvard Law School professor, a Black man who faced numerous professional challenges before his premature passing.” DEO, *supra* note 28, at 47-48, footnotes omitted.

¹²⁸ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 353225.

¹²⁹ See generally DEO, *supra* note 28.

1. *Age Is Also an Experience*

I am not young, but I am not yet old (if you do not ask my knees, back, or bedtime). I have many decades left until retirement (which is unfortunate, unless I can get my FIRE¹³⁰ going). Based on my age, I do not have the weight of more than a few decades of learning and living. This puts me at a disadvantage when students look for an older, white, male faculty to be teaching them. This expectation of who should be at the podium is well-documented.¹³¹ However, at least one student was more open-minded, and requested a white, *female* professor teach this course:

353225: From my interactions with Professor Farnese I think she would be very well-suited to teach this course in the future.¹³²

It was also tough to teach this course as a young(er) faculty because, based on my age, I am also an ECA. Being an ECA means I am learning how to teach, and it is an entirely new skill set. I have trained thousands of people, but being a professor, especially a law professor, sets up different standards. At least one other student also realized that it's tough to teach this course while being an ECA:

381202: I have a lot of respect for Jaime. I know this is only her second year teaching the class so it cannot be expected to be perfect. I know it can be tough because there is so much negativity towards her and this class but there are a lot of us who really appreciate her . . . Some of the readings are repetitive and I think it's difficult because there are people with zero knowledge on Indigenous people and those with vast knowledge. It is hard to find the middle ground . . . I think this is a difficult class to teach and Jaime is doing a good job. This is an important class that people should feel lucky to have the opportunity to take. Even if she gets a lot of negative feedback, I hope she focuses on the positive because there are a lot of us who appreciate everything she is trying to do. I know she is incredibly knowledgeable, and I feel privileged to be taught by her.¹³³

Starting any new job can be difficult. Starting a new career can be

¹³⁰ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 353225; Alexandra Kerr, *Financial Independence, Retire Early (FIRE)*, INVESTOPEdia (Mar. 5, 2022), <https://www.investopedia.com/terms/f/financial-independence-retire-early-fire.asp> [<https://perma.cc/83QL-WCVS>].

¹³¹ DEO, *supra* note 28, at 61.

¹³² I have mentioned this comment to Professor Farnese. She was surprised by it. She has not taught this course. She did help to set up an abbreviated, six-week course for faculty and sessionals in May-June 2021.

¹³³ Law-232-02, Kwayeskastasowin, 2019-2020 Term 1, 381202.

difficult, too. Starting a new job in a new career while teaching a new course that is “a difficult class to teach,” meant I hit the trifecta, and not in a good way. Without the latter (new difficult class), I was and still am an ECA. Being an ECA has its own issues. One New Zealand study found that the success of an ECA (tenure, job satisfaction) relies on the ECA to fulfill the following:

As well as being knowledgeable and up to date on important new developments in their disciplines, successful early career academics:

- are resourceful in the ways that they seek support, help, advice and guidance;
- have a strong sense of relational agency and have developed broad networks of support;
- demonstrate resilience in the face of setbacks and obstacles,
- rather than being defensive or risk-averse; are respectful, organizationally aware, astute and committed, and;
- are conscious of balancing work and home life and getting enough rest and recreation.¹³⁴

I don't know about you, but THAT sounds easy, peasy, lemon squeezey! Merely do all these in addition to educating students in “Indigenous people and the law, addressing areas such as inter-cultural competency, human rights and anti-racism.”¹³⁵ I not only need to be knowledgeable, which, thankfully, a few students have pointed out (with caveats), I am, at least in this subject-matter:

349189: While the professor was knowledgeable about the subject matter, she had no patience for those being introduced to the topic for the first time.¹³⁶

349254: Ms. Lavallee is highly knowledgeable on the subject matter. I don't feel that her style of teaching allows for an environment for people to feel free to share. She doesn't seem to value people's input, yet continually asks for it which feels

¹³⁴ See Sutherland, Kathryn, *Surviving and Succeeding as an Early Career Academic: Personal Characteristics to Help You Succeed*, VICTORIA UNIV. OF WELLINGTON (2013), <https://ako.ac.nz/assets/Knowledge-centre/NPF-10-023-Success-in-Academia/HANDBOOK-Surviving-and-succeeding-as-an-early-career-academic.pdf> [https://perma.cc/KA4N-5VGE] (N.Z.). This booklet is part of a suite of resources developed from the Ako Aotearoa-funded project *Success, Productivity and Satisfaction in Academia: The Experiences of Early Career Academics in New Zealand . . .*” *Id.*

¹³⁵ See Sarah Trefiak, *Drawing Conclusions: New Course Uses Art to Reimagine the Canadian Legal System*, UNIV. OF SASK.: OF NOTE COLL. OF L. MAG. 4 (2019), https://law.usask.ca/documents/alumni/of_note_summer_2019_web.pdf [https://perma.cc/F26A-5CPE].

¹³⁶ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349189.

contradictory.¹³⁷

349087: Professor Lavallee is clearly knowledgeable (sic) and passionate about the topics discussed in this course. I do not feel that she has created a safe space for everyone . . .¹³⁸

So, I got knowledgeable, even if not comforting—I also need to be “in the know” for any new developments. I tried that—I took a *lot* of teaching workshops from the Gwenna Moss Centre for Teaching and Learning.¹³⁹ What that did was keep me up-to-date, and it did help my in-class and online teaching skills (you will have to trust me, my evaluations have gotten better albeit they were for different classes. Maybe, again, it is not me, it is you (the course)?)¹⁴⁰ Participating in these teaching workshops also meant that I spent considerable amount of time *not* doing teaching prep or researching. In hindsight, although I appreciate the information and skills I learned, these actually do not help me get tenure because it is a “publish or perish” field. I recognize that I also have to balance work-life and rest-recreation, be astute, resilient, network, and be resourceful. I think they should have thrown in the ability to juggle while riding on a unicycle too, but maybe that is in the rest-recreation and resourceful category.

My colleagues and administration at USask Law are, for the most part, open and willing to help. They frequently told me to ask for whatever I need. Unfortunately, I do not know what I needed, as an ECA, and new to USask, I am still trying to figure out what I need, much less what I want. Now that I think about it, having an office that does not melt butter in the summer or require a blanket in the winter would be nice. I have asked about that, but that is not possible in the old part of the law building.

When I did reply to their question of, “how’s it going,” and I said it was difficult, they would respond with something along the lines of “that’s the way it is.” Usually, I had no idea how or why anyone would want to continue teaching if this was also their experience in the first years. I definitely debated resigning a few times. It was not until the second semester of the 2018/2019 academic term, when there was a meeting for the professors that taught the first-year law students, that I think they actually heard what I meant as difficult.

Many were shocked with the student evaluations—I read a few. Many stated that it was not their experience when they were an ECA. After that meeting, I felt that I had been listened to, and that went a long way for me with continuing into the next academic year. I also invited all the faculty, on numerous occasions, to join my class. I know I had to repeat that invite a

¹³⁷ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 329254.

¹³⁸ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349087.

¹³⁹ See Gwenna Moss Centre, *supra* note 26.

¹⁴⁰ Drake, *supra* note 126, at 10.

few times. A few didn't think I was serious, as they said they get nervous when others besides students are in the class. But I am not any more nervous with my peers in the classroom. Having peers in my classroom actually produces less nerves because I know they are there to learn about what I am teaching. I specifically invited the Dean to join my first class in the 2019/2020 term. I believed that the more the faculty showed support, and listened to what I taught and how I taught, maybe there would be more common understandings of the materials and the classroom environment. I know that for the 2019/2020 academic year, my peer evaluation was good.¹⁴¹ I believe peer evaluations speak a lot more about the teaching and materials than student evaluations, as I'm being assessed by another law faculty on the substance rather than merely my "style."

381786: Professor Lavallee, while a nice individual, simply doesn't present the course in a way I feel teaches me well.¹⁴²

353580: I feel that most of my classmates left this course having a more jaded view of the Indigenous population than before. This is not because of the course material that was taught, but rather the style of Professor Lavallee's teaching. I appreciate her taking the role of teaching this course for the first time in law school, but I think she needs to be more conscious of other students' opinions that differ from her own, and be more welcoming if a student does not know the answer to her question.¹⁴³

This lack of welcoming is a repeating phrase for my style of teaching this course, and I believe my age was a factor because of the lack of experience teaching. That also means I have decades more to go before age ages out of the equation. However, I also believe that this lack of welcoming style plays a larger role in my gender and Indigeneity. I believe these two factors affect the way in which I'm seen as a professor will not go away with time, since I plan on being and remaining a female and Indigenous.

2. *Teaching "Anti" or Teaching Auntie?*

but an auntie is an auntie
and the mean ones
tell truth you don't want to hear
and the nice ones
hold you when you break

¹⁴¹ I didn't get a peer evaluation for the first year in 2018-2019 academic year. The person in charge of the peer evaluations at that time told me to save my peer evaluation for a real law class. I never bothered to follow up about what that meant since I was absolutely dumbfounded.

¹⁴² Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 381786.

¹⁴³ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 353580.

and the quiet ones
 keep secrets whispered in the dark
 and the loud ones
 match your wild stories
 and the elderly ones
 watch us all
 remember the aunties
 who came before.¹⁴⁴

I include the above poem because it speaks to me about my place inside and outside of the law school. I am an auntie. For one nephew, I am only “Auntie.” I have no other name. For him, I am like Madonna or Prince. I am not the best auntie and I am not the worst auntie. I have had a lot of lessons learned. I think this sums up me as a professor. I have been a good professor (for some). But this is where it differs: I have been the worst professor (for most). I believe some of this “worstness” though is tied into my gender, age, and Indigeneity. I believe the negativity of students primarily in Kwayeskastasowin arises because I won’t play “Auntie” in the classroom, or at least not the molly-coddling auntie. I am the mean auntie.

349102: **I am highly disappointed** by my experience in this class. Before I started this class, I was very excited as I thought that the content would be interesting and I believe that having a strong basis of knowledge in Indigenous issues is essential for anyone who wishes to be an effective lawyer in Canada. However, from day one, I was shocked and appalled at how aggressive, harsh, and combative Professor Lavalée was during class . . . Although when I’ve spoken to her in person she has seemed quite warm and welcoming, during class time, she is extremely hostile [emphasis added].¹⁴⁵

I think this evaluation shows that I am the “mean one.” I was also highly disappointed in the class. I was disappointed because I genuinely thought society had entered into a stage where age, gender, or Indigeneity wouldn’t matter. However, I believe that my age, gender, and Indigeneity intersect, and, as the study in *Unequal Profession* recognizes, this *racexgender* equation informs a lot of how a faculty that isn’t white, older, and male is treated within the classroom.¹⁴⁶ Therefore, let us discuss gender. I am a cis-female and identify as such. This means that there are certain societal understandings of what this genderization means. Dr. Brown

¹⁴⁴ TENILLE K. CAMPBELL, NEDÍ NEZŪ: GOOD MEDICINE 108 (2021).

¹⁴⁵ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349102.

¹⁴⁶ DEO, *supra* note 28, at 7-9 (2019) (describing the Intersectional Framework it uses). They use *racexgender* because “. . . utilizing the *racexgender* nomenclature emphasizes the multifactorial effects of race ‘times’ gender for women of color.” *Id.* at 8.

discusses feminine norms and the double-bind situation, as well as the competing and conflictual expectations that are placed on women:

[W]e have to be willing to stay as small, sweet, and quiet as possible, and use our time and talent to look pretty. Our dreams, ambitions, and gifts are unimportant . . . Because every successful woman whom I've interviewed has talked to me about the sometimes daily struggle to push past "the rules" so she can assert herself, advocate for her ideas, and feel comfortable with her power and gifts.¹⁴⁷

I believe that most of us can agree that there are certain norms for what is considered to be feminine. We may not agree on what those norms are, but we can agree that there are certain ideas that are held about what society generally thinks women should be or do. When female faculty are described as mean, aggressive, or hostile, it reinforces the norms of femininity.¹⁴⁸ When we don't exude femininity (but not too much because that would be too sexual),¹⁴⁹ nor fulfill the role of "other mothering",¹⁵⁰ or what I'd called being an "Auntie" (because that's culturally matched for me), then female faculty are routinely denigrated for their non-femininity.

The view of not being nice inside the classroom was prevalent, but not being nice outside of the classroom was less frequent - maybe I was unconsciously buying into the gender role?

383059: I do not think I have ever hated an Indigenous class so much and this is someone who had strong interest in advocating for Indigenous people. I had taken 45 credits in Sociology with specific courses dedicated to Indigenous studies and have never hated an Indigenous class so much! If only I could have applied to another school. *At least professor is very nice and amazing to talk to!* [emphasis added].¹⁵¹

383208: She is not approachable [in class] but once you do go and talk with her she is very kind.¹⁵²

I did not exude warmth in the classroom. Honestly though, I do not

¹⁴⁷ BROWN, *supra* note 52, at 89.

¹⁴⁸ DEO, *supra* note 28, at 90.

¹⁴⁹ *Id.* at 43.

¹⁵⁰ *Id.* at 59. Other-mother is: Treating women of color professors as other-mothers relegates them to the familiar role of "Mammy," where they are "categorized as a service worker, here to provide instead of guide. Students and faculty alike also associate other-mother faculty not "as leaders with positions of power, but instead as caretakers" who should cater to the needs of others. *Id.* (footnotes omitted).

¹⁵¹ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 383059.

¹⁵² Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 383208.

know how I could exude warmth and welcoming when discussing the overrepresentation of Indigenous peoples in the legal system, children being taken away from their families, colonization, or the sexist and demeaning nature of what occurred in the *Barton* decision.¹⁵³ Listener, if you have ideas on how to make it a warm, welcoming, and cuddly classroom environment when discussing these issues, then let me know. All I know is that I was proud of myself that I did not cry (in class—do not ask about my office because that is behind closed doors and I wear waterproof mascara) because then that would definitely have been “too emotional”.

349255: I was excited to take this class and have the opportunity to learn more about reconciliation in Canada, and the past of Indigenous peoples, however, this class quickly became my least favourite. From the first day Professor Lavalée came off as too emotionally invested in the topic. I genuinely believe that Professor Lavalée is using this class and the students as a way to project her personal feelings and issues, which is not only unprofessional but stressful to students.¹⁵⁴

This is not to say though that all the students thought the same. It was acknowledged that there was an immense difficulty of being in the classroom teaching these issues, and how it would be received, as seen in this evaluation. It is a long quote, but I feel like it deserves the attention:

349323: I will first begin by acknowledging how much negative feedback Professor Lavalée is receiving. My comment will be absolutely opposite. I understand many of my classmates find the professor “combative”, “harsh”, or “cold”. I truly believe Professor Lavalée is not any of those things . . . she is taking this content seriously. At a time where the political climate of Saskatchewan insinuates a white man can shoot an Indigenous “trespasser” and face zero consequences, now is not the time to be “soft” or “nicey nice” to the students. Are people in the class uncomfortable? If so, good. These topics are not light, they are not optional, and if anyone believes this class is not the most important class we will take this year, if not our legal career, they are choosing to ignore their responsibility as a citizen of this

¹⁵³ *Barton* was found non-guilty of manslaughter at trial. The decision was appealed based on trial judge errors and discrimination. The procedures about sexual history of the victim (i.e., rules instituted to dispel the perpetuation of myths about women and sexual assault) were not followed at trial. The evidence allowed at trial also disrespected the dignity of the victim; her preserved pelvis was brought as evidence. Additionally, the trial judge allowed the use of “Native prostitute” more than a dozen times without instructions to mitigate against prejudice or stereotyping of Indigenous women in the sex trade. See *R. v. Barton*, [2019] 2 S.C.R. 579 (Can.).

¹⁵⁴ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349255.

country and as a future lawyer. Students who complain that Professor Lavallee is not “nice enough” are only exposing their terribly obvious white fragility. . . . The content is all relevant the professor brings in multiple voices and perspectives. Yes, professor Lavallee will be getting many complaints. But whoever is reading this . . . I hope those comments are taken with a grain of salt, because opinions like these are exactly why this class needs to be taken.¹⁵⁵

Unfortunately for this student, the only people who read these evaluations are me, until now—I have put them out here for you to read (some) of them. I do agree with this student. It isn’t time to play “nicey nice” when the topics are this serious. But I can also see that by not being nice enough, it also meant that the reason to continue to not change views could continue unabated, and now with a good reason—the professor is mean and biased.

3. *No One Told Me the Joke that Humour is Cultural*

Let’s now talk about my Indigeneity, and how I believe at times what I thought was culturally appropriate wasn’t within the law school classroom. I will show you this through my use of humour inside the classroom.

First, I think it’s important to note that professors are actually evaluated on humour! The Student Evaluation of Educational Quality (“SEEQ”) has thirty-two questions.¹⁵⁶ Under “Enthusiasm” (yes, you’re evaluated on enthusiasm), question seven asks: “Instructor enhances the presentations with use of humour.”¹⁵⁷ I guess it is a specific type of humour that is acceptable, and mine was not. At least it was not for many of the students when I was actually able to find humour to bring forth in the topics (think memes). Vine Deloria Jr. writes about “Indian Humor.” In *Custer Died for Your Sins*, Deloria devotes an entire chapter to it.¹⁵⁸ There are two points that I want to bring your attention to about “Indian Humour” and my abysmal failure at using it, or maybe, my failure was actually using it in a law school classroom where the predominate student body isn’t Indian. Therefore, not only am I mean and biased, to compound the problem, I also am a bully.

¹⁵⁵ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349323.

¹⁵⁶ See *Course Feedback for Faculty and Instructors*, UNIV. OF SASK., <https://teaching.usask.ca/classes/course-feedback.php#SEEQ> [<https://perma.cc/T4LR-K9DQ>].

¹⁵⁷ All SEEQ questions and evaluation rankings can be found here: https://teaching.usask.ca/documents/seeq/Standardized_SEEQ_Instrument_at_UofS.pdf [<https://perma.cc/6SNM-4SQH>].

¹⁵⁸ VINE DELORIA JR., *CUSTER DIED FOR YOUR SINS: AN INDIAN MANIFESTO* 146-167 (1969).

349120: I understand that a lot of the insults are meant to be humorous but myself and I'm sure other students would agree feel it more akin to bullying.¹⁵⁹

I believe that I had done two grave errors when I used my humour in class. First, I used humour because I had seen it done by my professors when I went to law school—most of them during my J.D. time were older, white, and male. Maybe I could have gotten away with the cynical humour and used terms like “kiddie diddler” if I was also older, white, and male. Or maybe my humour came across as unprofessional because people misinterpreted it as making light of a serious situation. Second, I had used what is for me a culturally appropriate way to correct someone.

I know my humour is dark, dry, punny, sarcastic, and mocking. I know I have sarcasm, and I know I do use a mocking tone when I think someone is not getting something. It is obvious that I used it by the many evaluations that stated I mocked or bullied. However, I did not even think twice about the use of it because that is how I've learned. Deloria describes this method of humour:

For centuries before the white invasion, teasing was a method of control of social situations by Indian people. Rather than embarrass members of the tribe publicly, people used to tease individuals they considered out of step with the consensus of tribal opinion. In this way egos were preserved and disputes within the tribe of a personal nature were held to a minimum.¹⁶⁰

I guess my failure was using this tone on the “non-Indian.” And a classroom could be considered public. Also, telling a law student that they may not have gotten the answer 100% correct will damage egos and embarrass them. I have found that out, although I would like to believe that I did not have that issue when I was a law student. I can't remember anymore, so, at least it didn't damage my ego this many years later.

In addition, although I struggle to find humour when teaching serious issues, I also know I've done it. I can only assume that these two students shared either my cultural background or “black/dry” humour since they appreciated it.

381186: I really enjoy Prof Lavallee's humour and can appreciate the challenges with teaching a course such as Kwayeskastasowin.¹⁶¹

380948: I enjoy learning from Professor Lavallee. She has a

¹⁵⁹ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 349120.

¹⁶⁰ DELORIA, *supra* note 158, at 147.

¹⁶¹ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 381186.

strong grasp of the materials and a unique teaching style that is refreshing from the approach of all other classes in the Faculty. She is easily approachable and brings humor to the classroom.¹⁶²

This last student evaluation is near and dear to me. I am inferring from “brings humour” that the student found me funny. I can give you a small taste of my dark humour: the other day, I was saying how a lot of times I am the only one that finds myself funny. But that’s okay because the moment I stop laughing loudly with and at myself, is the day I better check to see how the assisted suicide law works. This type of humour does not usually go over well with non-Indigenous people. As Deloria states: “One of the best ways to understand a people is to know what makes them laugh. Laughter encompasses the limits of the soul. In humor life is redefined and accepted. Irony and satire provide much keener insights into a group’s collective psyche and values than do years of research.”¹⁶³ I told you in the earliest part of this Article that I can be flippant. I have found that this translates into insults and being viewed as a bully:

348958: At one point comments slandering other religions were made such as ‘Why don’t the bishops and priests just sell their bobbles and wands’ [to give money to the aboriginals].¹⁶⁴

In this instance, I remember I was talking about the Roman Catholic Church and how it had not been a part of the IRS settlement. Instead, the Roman Catholic Church has escaped any payments for the harms done in residential schools, and I mentioned something along the lines of the Pope having a disco-stick (I do not know what it is actually called—maybe a scepter?) that probably could pay for their share.¹⁶⁵ However, that comment was viewed as slandering others’ religion, which was definitely not my goal. For me, my goal was speaking the truth. The Church had not done reparations, and I was being solution-oriented: sell something to do it. But, as seen recently, the Roman Catholic Church might also have bobbles and wands too. I don’t know, but if they do, and they belong to Indigenous peoples, then I’m in favour of repatriation.¹⁶⁶

All this is to say that my humour was not appreciated by most. I

¹⁶² Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 380948,

¹⁶³ DELORIA, *supra* note 158, at 146.

¹⁶⁴ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 348958.

¹⁶⁵ Tom Cardoso, *How the Catholic Church Was Freed from Obligation to Residential School Survivors*, GLOBE & MAIL (Oct. 4, 2021), (Can.), <https://www.theglobeandmail.com/canada/article-how-the-church-was-freed-from-obligation-to-school-survivors/> [https://perma.cc/3KPB-NASC].

¹⁶⁶ Eric Reguly, *The Pope Has a Rare Antique Kayak and Many More Indigenous Artifacts Hidden Away in the Vatican Museums. Here is a Look at Some of Them*, GLOBE & MAIL (Nov. 30, 2021), <https://www.theglobeandmail.com/world/article-the-pope-has-a-rare-antique-kayak-and-many-more-indigenous-artifacts/> [https://perma.cc/7V8B-5SVT].

know I have toned down my sarcasm, cynicism, and humour. I now rely more on memes, as I feel they convey messages with more universality than my humour.

B. Gritted Teeth

Lee Maracle talks about how she sees herself as a dandelion:¹⁶⁷ misunderstood as a weed when it is a plant that can be used as medicine, to dye clothing, for food (very fancy salads nowadays), are beautiful “like a sunburst,” “[a]nd they can survive anywhere on almost *nothing*.”¹⁶⁸ Maracle sees herself as this because she believes she is, like other Indigenous people, full of grit. To push against institutions, structural oppression, and all the “isms” is when there is something to talk about—to share. Therefore, I share the times when I either had grit or, at the very least, gritted my teeth to push against the obstacles, challenges, and “isms” that I felt.

In my first class in the second year, I *thought* I did a good synopsis of the “lessons learned” from the previous year.¹⁶⁹ I also admitted from the very beginning that I am bilingual in English and sarcasm (definitely not my Indigenous language of Cree—I’m a butcher on that front). I also noted that my default language was sarcasm, and I apologized if it is directed to them—they can take it personally, but to let me know if they do because that is not my goal. It is merely my default language. I then went on to address some of the areas that had arisen in the first year based on the evaluations. However, this was not well-received:

380994: It was incredibly rude and discouraging for the professor to have started this course off by showing us a slide show of course-review comments that had been left by students from last year and then telling us why the feedback these students gave her was invalid. These reviews are meant to tell professors what their students think of their courses. Our opinions as students matter. The professor basically told us that she thought the opinions of her students from last year were wrong and did not matter.¹⁷⁰

This is not what I said—that they did not matter. I thought I was showing the students that what they said mattered and that I was addressing these areas. But I guess I am not pizza—and I cannot please everyone, which is most evident in the evaluations I got about how I did not provide enough feedback.

I had been criticized a lot about not providing feedback or the right

¹⁶⁷ Maracle, *supra* note 27, at 167.

¹⁶⁸ *Id.*

¹⁶⁹ The first class of Kwayeskastasowin was on September 10, 2019. The previous week Kwayeskastasowin’s class time had been utilized to combine with the Legal Research and Writing (“LRW”) course, Law 243.

¹⁷⁰ Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 380994.

amount of it. However, when you are grading about 130 papers in one week, it can be difficult to do. I know I opened my door to student appointments outside of the regularly scheduled appointment times, but I was also seen as unapproachable to some. For some, when I moved deadlines for papers it was still not enough.

380939: Organization of the course and communications with students is inconsistent. While the instructor was kind enough to move the due date for an assignment to give us more time, the revised rubric was given out only a few days before the assignment was due.¹⁷¹

I would also send out (too many) emails, some would be in an attempt to clarify a question that one student had (the answer being sent to all afterwards) or provide the reading that may have been missing or suggested by an upcoming speaker. However, these merely added to the view of my incompetence.

381734: This class could be good, but it's not. The professor is arguably the worst teacher at the University. Super disorganized class materials and constant emails readjusting things made the course and expectations confusing.¹⁷²

However, there was one student who realized the difficulties of being the sole professor for a class of 130 that was in its infancy and with many moving parts and sensitive materials. For that I am thankful, and think that this student either took a look around the room and counted the number of seats taken, or, maybe they were once also a teacher and knew the difficulties of turnaround times when grading.

381713: No other instructors are capable of what Dr. Jaime is capable of doing. She should be recognized for her efforts in how she goes above and beyond to listen and apply feedback. It's demeaning how she is held to the highest standard in the law school while she takes the most responsibility as a single instructor for 130 students.¹⁷³

V. EXPERIENTIAL LEARNING ACTIVITIES

A. *Experiential Learn Activities: Indigenizing*

Kwayeskastasowin had “experiential learning” activities. USask defines

¹⁷¹ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 380939.

¹⁷² Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 381734.

¹⁷³ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 381713.

experiential learning as “a philosophy and methodology which educators utilize to engage learners purposefully in direct experience, focused reflection, and authentic assessment in order to increase knowledge, develop skills and strategies, clarify values, and apply prior learning.”¹⁷⁴

However, for me, these “experiential learning” activities in Kwayeskastasowin encompassed not only the worldview expressed in the USask definition that I believe implicitly tries to make and push for space within the Western philosophy and methodology to learning, but, thankfully, also provided the means in which the Indigenous worldviews could engage students through invitation to ceremony—to step outside the classroom onto the lands and into a sweat lodge.

For the Western approaches that were “innovative” these were done through groupwork on a poster where art is seen as law, and utilizing reflection journaling. In 2019, each of the four reflection journals had a prompt. I believe that reflection journaling is helpful in exploring difficult topics. It was not, at times, the most well-received assessment; here are two examples:

380766: The College of Law forced students to pay Law level tuition for a class that (barely) amounts to a poorly organized Indigenous Studies 100. Material itself was stale and, despite for the few with seemingly no education on indigenous issues, a basic review of things learned in high school and undergrad. Methods of evaluation were questionable (reflections and a drawing? really??). I do not understand how professors and the dean cope with the cognitive dissonance of offering such courses while simultaneously professing the quality education USask supposedly has to offer.¹⁷⁵

352562: Students are expected to buy in with less than blind faith, and asked to reflect on situations and ceremonies with no history or background. Is this not where biases and stereotypes can be formed? Could this not create racism? If we want to be on the path of reconciliation, we need to move away from the tone of retribution.¹⁷⁶

However, there were others that did appreciate the goal of the

¹⁷⁴ *Experiential Learning*, UNIV. OF SASK.,

<https://teaching.usask.ca/curriculum/experiential-learning.php#About>
[<https://perma.cc/P8SW-MFUK>].

¹⁷⁵ Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 380766. I believe that the student who learned this in high school and undergrad was actually very fortunate. The changes in curriculum to include Indigenous peoples has taken a long time, and the implementation of it has been, at times, not uniform throughout Saskatchewan. Perhaps this student attended school in another province that had integrated Indigenous issues; that is unknown.

¹⁷⁶ Law-232-02 Kwayeskastasowin, 2018-2019 Term 1, 352562.

reflection journals. I believe this student probably ended up achieving a good grade since they understood the goal, and, I believe, their comment shows that they are pretty self-aware since they appreciated the reflection journal even when they struggled to achieve a good grade, which if you know students, especially law students, is the most important thing to get from a class:

381749: The course was difficult because I was unfamiliar with some of the concepts and methods of evaluation such as reflection journals. The learning curve I felt was a bit steep, but fair. Overall I think this class has helped me to better understand Indigenous knowledge and history, better understand the Canadian legal system, and will help me to be a better lawyer.¹⁷⁷

Even though these two types of assessments were within the Western philosophy and methodology, I incorporated some of my understandings of Indigenous pedagogy. As Sherry Farrell Racette explains, since Contact, Indigenous peoples have been taking what the Settlers have and creating it into something that is adapted to and for Indigenous—this is one way that Indigenization has occurred for centuries.¹⁷⁸ In this instance for Kwayeskastasowin, the first and the fourth reflection journals had the same prompt. I believe it brought the student back “full circle” and circles (and doing things in four) are important within Cree teachings.¹⁷⁹ The groupwork was to create a Ledger Drawing¹⁸⁰ which required the students to map and articulate a new vision of an equitable society where Indigenous legal traditions are an inclusive part of Canadian law. In this way, I was utilizing both “poster work” and Indigenous ideas. My goal of using both Western and Indigenous pedagogies was to help move all of us towards reconciliation. However, as with other aspects that I introduced that were not “standard” law school methods the reception was lukewarm at best:

380763: This class does not seem to fit well within the context of a law school curriculum. This may be in part due to its content, as it so far has covered mostly historical, sociological perspectives.

¹⁷⁷ Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 381749.

¹⁷⁸ Sherry Farrell Racette, *Caring for the Living, Not Embalming the Dead: Storied Objects and Precious Legacy in Museum Collections*, in PRESERVING ABORIGINAL HERITAGE: TECHNICAL AND TRADITIONAL APPROACHES 15 (2007).

¹⁷⁹ See generally Elder Mary Lee, *Cree (Nehiyawak) Teachings*, <http://www.fourdirectionsteachings.com/transcripts/cree.html> [<https://perma.cc/L5GM-69CG>].

¹⁸⁰ James (Sákéj) Youngblood Henderson, *Postcolonial Indigenous Legal Consciousness*, 1 INDIGENOUS L.J. 1–56 (2002). Henderson describes in his article how Ledger Drawings were created when Indigenous peoples were given ledger books to use for colonial thought, but instead used them to draw and record their experiences, dreams, and, in other words, for their own Indigenous purposes. *Id.* at 7–14.

These are valuable in themselves regarding Indigenous issues, however are not entirely relevant to law school training . . . The ledger assignment, again, seemed irrelevant to furthering my legal education and more like an undergraduate assignment. I understand the point of the assignment and while that has value in itself for cultural purposes, I do not see the value in an art project making me a better legal practitioner in the future or being more capable of serving future Indigenous clients.¹⁸¹

But this is not to say that all students felt the same, or even most—I had one group in 2019 that was so enthusiastic about their Ledger Drawing, they volunteered to present it to the class during the oral presentation (oral advocacy is important in lawyering, and within Indigenous cultures). The other groups were picked from a hat as we didn't have time to present all the groups' work in the classroom. Although there are some that were shared to an even broader audience than the classroom, I think many should be satisfied with their ability to encapsulate Canadian and Indigenous legal traditions.¹⁸²

Second, and, for me, the most important aspect that underlies all of my ideas of bringing Indigenous knowledge and ways of knowing and doing, was the invitations to experience Indigenous ceremony, such as a sweat lodge, and ways of interactions, such as Talking Circles.¹⁸³ I must note there is a difficulty in bridging what was being done in Kwayeskastasowin—ceremony, Indigenous pedagogy, and post-colonial Indigenous consciousness—with the academic term of experiential learning activities. However, it is the closest terminology within western teaching terms. I felt that having these experiential learning activities was important. It's cliché, but true, that: “Indigenous lawyers have described ways in which they see themselves as using cultural and experiential knowledge in their professional work. How that practice might engage with the transformative, decolonizing change . . . is less clear.”¹⁸⁴ I was no different. I wanted to bring students into experiencing Indigenous ceremony, and the result of doing so is still unclear

B. Bad Timing & Sweat Lodges

¹⁸¹ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 380763.

¹⁸² Sarah Trefiak, *Drawing Conclusions: New Course Uses Art to Reimagine the Canadian Legal System*, UNIV. OF SASK.: OF NOTE COLL. OF L. MAG. 4 (2019); Jaime Lavallee, *Kwayeskastasowin: Setting Things Right*, BARNOTES 10 (2020), (Can.), https://issuu.com/cbasaskatchewan/docs/barnotes_winter_2020_final [<https://perma.cc/E8BW-QWD7>].

¹⁸³ Alaina Winters, *Using Talking Circles in the Classroom*, HEARTLAND CMTY. COLL., <https://www.heartland.edu/documents/idc/talkingcircleclassroom.pdf> [<https://perma.cc/ZZP6-8ACP>].

¹⁸⁴ Sonia Lawrence & Signa A. Daum Shanks, *Indigenous Lawyers in Canada: Identity, Professionalization, Law*, 38 DALHOUSIE L.J. 503, 515 (2015).

I had no idea about the timing of the law school formal and scheduled the sweat lodge mere days afterwards. If you know sweat lodge protocols, then you will know that abstinence from alcohol and drug use is one of the preconditions to entering. A lot of the students chose not to abstain. This early miscalculation by me, I think, contributed to the perception of my being disorganized and incompetent.

381173: - Professor is not accommodating to her students at all, instead she expects them to always plan their lives around Kwayeskastasowin. Eg. Won't let students leave early, keeps students late in class the day of formal when people obviously want to go home so that they can have time to get ready, plans the Sweat Lodge for three days after formal where most students drank and therefore couldn't participate.¹⁸⁵

However, there were others that did appreciate the experiential learning activities:

381741: This course really brings into the Indigenous world. I get to know the Indigenous issues that I never knew or heard of before. I found the materials in the course are very stipulating. I really like that we have so many guest speakers talking about their views. And the sweat lodge ceremony was also giving me a lot of fun and some valuable experience.¹⁸⁶

I am still amazed that the student found it fun to be at a sweat lodge. I find it hot—unbearably hot. You endure until you do not think you can take it anymore. Then suddenly the flap is opened and coolness wafts over you and you are thankful - maybe you're not walking out of the sweat lodge with dirt on your cheek from laying down trying to keep cooler. Maybe some people find unbearable hotness to be fun. I think I would only find unbearable hotness fun if it was found in my date, if I was ever to be that lucky.

C. Talking Circles & Vulnerability

1. Talking Circles

Based on the feedback from the students in their evaluations—I told you I do take them seriously—I increased the amount of Talking Circles that were used in the class from two rounds in 2018, to four in 2019. For Kwayeskastasowin, there were modifications that were done for the Talking Circles. However, the main principles of Talking Circles were used. They

¹⁸⁵ Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 381173.

¹⁸⁶ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 381741.

are to be safe spaces that are non-judgmental where discussion could happen.¹⁸⁷ Although called a Talking Circle, only one person at a time talks. The person who talks is the one that is holding onto the “talking piece,” and others are to listen and reflect on what the person is saying.¹⁸⁸ Although this can be difficult to do, and I heard from some students that it was only *after* they had talked were they then able to listen to the others, as they were too worried about what they’d say when it was their turn.

The Talking Circles were the space that I thought would be the safest. It’s where I felt the safest. I was not at the podium. I was in a chair in a circle at the same level as the students. I had asked for and received six teaching assistants (“TA”) for Kwayeskastasowin for the 2019/2020 year and each TA was assigned to a Talking Circle. Sometimes, I would start the share, but usually the TA would. I know I would end the Talking Circle with what I thought I had heard. In order to facilitate these types of learning activities, especially with the use of Indigenous pedagogy, the Talking Circles were facilitated in small groups with approximately twenty-one to twenty-two students.¹⁸⁹ The smaller group sizes facilitated sharing by the students; the goal is to have people be comfortable enough to share openly and honestly about their biases, and to be vulnerable. For me, Talking Circles are always a place to be vulnerable:

Vulnerability is not weakness, and the uncertainty, risk, and emotional exposure we face every day are not optional. Our only choice is a question of engagement. Our willingness to own and engage with our vulnerability determines the depth of our courage and the clarity of our purpose; the level to which we protect ourselves from being vulnerable is a measure of our fear and disconnection.¹⁹⁰

However, although my intent is to have sharing that was open, honest, and vulnerable, which is what a Talking Circle is meant to do, it did not have that effect for some. Instead, they felt exposed and forced to be open, honest, and vulnerable with themselves to others:

381813: Prof. Lavalée has good intentions and does care, but the material is often dry. The class seems inauthentic, it seems we are almost ‘forced’ to expose our biases in talking circles and

¹⁸⁷ Winters, *supra* note 183.

¹⁸⁸ *Id.*

¹⁸⁹ Because of the smaller groups, this typically meant time spent on this experiential learning activity/implementation of Indigenous pedagogy was over the eighty minutes of class time on most Fridays (although the students were not assigned over this amount). This meant that I had about twenty-four hours of teaching instead of the allocated eight hours—a total of sixteen more hours, in order to achieve this “innovative technique” and does not include debriefing or creating question prompts for the Talking Circles.

¹⁹⁰ BROWN, *supra* note 52, at 2.

reflections to get a good grade. I see a lot of unintended consequences because of this, including some of the things that are said in the talking circles.¹⁹¹

Supposedly, some were merely feeding me what they thought I wanted to hear, which is unfortunate. I feel sorry for them, as they missed an opportunity for growth and to move beyond themselves—to become part of the broader circle of caring, discussion, and difficult talk on issues that Talking Circles are meant to facilitate. Talking Circles are where the participant gets to do “[c]ourageous acts of sharing often involv[ing] potentially stigmatizing information and can range from problems that are interfering with school work to not understanding the material to an unpopular point of view to identifying racism in the classroom to traumatizing personal experiences to just being willing to share at all.”¹⁹²

It must be noted that “courageous acts of sharing” means being vulnerable, and vulnerability is not necessarily the skill that one develops in or for law school. I think “ruthless” (or any other synonyms akin to that) is what society commonly thinks of when they bother to think about lawyers. Or on the flip side: the lack of “courageous acts” since there are a lot of lawyer jokes out there about being bottom-feeders, snakes, or “ambulance chasers.” However, for me, because of my understandings, Talking Circles are about being vulnerable. But the vulnerability that I express within them did not, and does not, stop only when I am in them.

¹⁹¹ Law-232-01 Kwayeskastasowin, 2019-2020 Term 1, 381813.

¹⁹² Winters, *supra* note 183.

2. *Hangovers: Vulnerability Ones - Not THOSE Other Ones*

It might seem misplaced to discuss and use an American, White female's materials in this paper since it has been pointed out over and over again by student evaluations that I may have an issue with white people:

381179: I would be interested in spending more time learning about Indigenous language and legal traditions rather than reading angsty articles and books about how terrible western culture and white people are.¹⁹³

380968: I will do my utmost to be honest. I feel professor Lavallee has many positive aspects to her and her course, but I do take issue with some things. While I don't necessarily feel like some others do, I do believe there is a strong underlying tone of what one might call, 'issue with white people'. I am not white myself, so maybe that changes my tone, however, I do feel that non-indigenous, and especially white, people do get a bit of a bad reputation. While some if it is genuine, I know that some of it is a little unfair as well.¹⁹⁴

However, I will take what I can from where I can regardless of race, gender, or age. I believe that Dr. Brown has succinctly described shame and vulnerability, and, therefore, I have utilized her work in this Article and in my classroom.¹⁹⁵ Tarana Burke has identified the gap of applying Dr. Brown's work to non-whites. To address this gap, Burke and Dr. Brown co-edited the book, *You Are Your Best Thing: Vulnerability, Shame Resilience, and The Black Experience*.¹⁹⁶ *You Are Your Best Thing* is an anthology that seeks to speak about shame and vulnerability through the experiences of twenty different Black activists, writers, academics, and other cultural figures. Therefore, I do not believe it would be a stretch to state that this material may not be 100% on point for the experiences of Indigenous peoples in the United States, much less in Canada. I extrapolate, based on the recognition that if Dr. Brown's research does not fully encapsulate the American Black experience because it did not have their voices, it would more likely than not fully encapsulate the Indigenous experience until there are voices to express it themselves. I have yet to find literature on the

¹⁹³ Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 381179.

¹⁹⁴ Law-232-02 Kwayeskastasowin, 2019-2020 Term 1, 380968.

¹⁹⁵ BURKE & BROWN, *supra* note 3 (See *Introduction: A Conversation*, where Brown and Burke describe how and why this book was created; the black experience of shame and vulnerability were missing because Brown uses herself as an example many times, and she is a Caucasian female).

¹⁹⁶ *Id.*

Indigenous experience of shame, vulnerability, and resiliency building that Dr. Brown addresses; although, it is easy to find literature on the shame and vulnerability of Indigenous people.¹⁹⁷ All this being stated though, I do draw upon some of Dr. Brown's works because the research that has been done on shame and vulnerability is important. Again, I take what I need—and leave the rest. Although if Dr. Brown ever wants to co-edit a book with me to address this gap in the literature and include Indigenous voices, I am not saying no.

I am going to sum up vulnerability in two words: Daring Greatly.¹⁹⁸ I know that I was most vulnerable during the Talking Circles. However, this “daring greatly,” for me, is also walking into a classroom to talk about people I care about—Indigenous peoples—and how they have been impacted by colonization, by the law, and by society. In other words, it is every time I do my job as a professor. I am usually simultaneously exhilarated and exhausted after teaching a class. I suffer tremendous “vulnerability hangovers” some days (most days). Maracle explains that:

‘everything you do and every word you speak, either empowers or disempowers.’ And you have to always double think. I know I have to make these decisions every time I’m in a white audience because sometimes a momentary disempowerment in the end is long-term empowerment. I am extremely open with that I think.¹⁹⁹

I am too, unfortunately, “extremely open with what I think” and, as mentioned previously, do not have much of a poker face. Therefore, I know that some of my openness and honesty is disempowering. I just do not know sometimes for whom. This is what causes my vulnerability hangovers, or what others may term emotional labour. For now, or maybe for always, I will continue to suffer through my vulnerability hangovers in the hopes that it will provide others with better days of empowerment.

¹⁹⁷ Andre Bear, *Many People Claiming to Be Indigenous Do Not Share Our Collective Experience*, CBC (July 27, 2021), (Can.), <https://www.cbc.ca/news/canada/saskatchewan/opinion-too-easy-claim-indigeneity-1.6114558> [https://perma.cc/8885-GVD5]; Cheryl Simon, *Fraudulent Claims of Indigeneity: Indigenous Nations Are the Identity Experts*, THE CONVERSATION (Nov. 22, 2021), <http://theconversation.com/fraudulent-claims-of-indigeneity-indigenous-nations-are-the-identity-experts-171470> [https://perma.cc/6S8D-ANTE]; DARRYL LEROUX, *DISTORTED DESCENT: WHITE CLAIMS TO INDIGENOUS IDENTITY* (2019); and for more non-fiction books see Matthew Michaud, *Indigenous Reading List - Centre for Teaching Excellence*, CAPILANO UNIV., <https://cte.capilanou.ca/wp-content/uploads/sites/19/2019/03/Indigenous-Reading-List-Non-Fiction-1.pdf> [https://perma.cc/DV6R-DBHR].

¹⁹⁸ BROWN, *supra* note 52 at 1.

¹⁹⁹ Maracle, *supra* note 27, at 168-69.

VI. WHAT I THINK I'VE LEARNED

This section will be what I think I have currently learned from my experiences. I phrase it this way because of my understanding of Tâpwêwin. Tomorrow, I may have learned more or better about what I experienced, or I may learn something new that has me discard a lesson in place for another one. It is simplistic, but I think of it as tying a shoe. Many of us start with “bunny ears,” but after a while, we don’t use “bunny ears” to tie our shoes. We continue to know how to tie our shoes. We merely do so in a different fashion, which is usually quicker, better, and more informed.

If reconciliation is new, since 2015, then how has there been a chance to build scholarship? In my second year, during the first class, I spoke to the students about how each and every one of them were the second year of building this scholarship and it becoming part of the legal community. I explained that I would hopefully one day write, interpret, teach, or learn even more about reconciliation scholarship. I am happy to say that this did occur (Finally! One time when I am psychic—wish it was with lottery numbers). In 2020, three students wrote for BarNotes about their experiences in Kwayeskastasowin.²⁰⁰ One who had taken the first iteration and became a TA for the second year; two who had taken the second year, and, of these, one of them became a TA in the third year it was taught. This was, and is, still a proud moment for me—three students who provided their experiences to help build up and critique the process that USask Law was doing in a constructive manner and encompassing many of the principles of Storywork. These students though were and are part of the few that were already “on board.”

What I learned was that I was naïve. Naively, I thought along the same lines as Lee Maracle: “When you’re teaching, you’re not actually doing anything except encouraging learning”²⁰¹ But, what no one told me before teaching Kwayeskastasowin, or maybe they did and I was not listening or understanding, is that that when teaching “anti” or about “-isms” because of the deeply embedded nature of how these views are held and perpetuated within society, specialized training is necessary.²⁰² It was only after Dr. Ibram X. Kendi explained how even if you experience racism on a daily basis, you do not know how to teach anti-racism did I realize why I was struggling so much and why although I am an Indigenous woman and *know in the core of my being why this course and content were so important*, I could not encourage the learning that Maracle speaks about

²⁰⁰ *Students’ Perspective: Kwayeskastasowin*, BARNOTES 13-14 (2020), https://issuu.com/cbasaskatchewan/docs/barnotes_winter_2020_final [<https://perma.cc/2W2Y-WV87>].

²⁰¹ Maracle, *supra* note 27, at 174.

²⁰² IBRAM X. KENDI, *HOW TO BE AN ANTIRACIST* (2019).

that happens with teaching. The unlearning of racism is painful and hard.²⁰³ Teaching the unlearning is also painful and hard. I did not realize that by being the person in the front of the room, asking these students to confront themselves, their families, their upbringing, and their society, that I would be the focus of so much tension, racism, and predetermined ideas of what I should be and what this course should be. As Rory Erickson, a white cis-male, wrote:

Kwayeskastasowin illuminated the expectations held by educators in their learning and teaching of racism and oppression as they exist within the system of law. A single course, workshop, video, or apology cannot alone dismantle the forces of racist progress. There is an imagining of racism that exists as a fixed category, whereby the polarizing conception of ‘a racist’ functions as someone who is fundamentally corrupt in their moral character. Racism functions instead as ‘productive,’ in the words of Ruha Benjamin, where it can adapt and evolve contemporaneously to remain undetected and without a name. This evolution of racism and white supremacy allows for a persistent devaluation of Black and Indigenous lives in maintaining that gratitude should be held to the bare minimum: At least you’re alive, and for that, you should be grateful.²⁰⁴

Another big lesson—which may come as a surprise to you (as it did to me)—is that I am in a relationship with the law school. I am in a partnership with USask Law. This realization was slow. I am still learning how to have healthy/healthier relationships. Most of what I have learned in my life was not healthy—intergenerational trauma anyone? However, one thing that I have learned in developing healthy relationships is that you must express when you have an “unmet need.” Therefore, all the times I was told to “let them know what I needed” may not have meant that I needed to know specifically what I needed. Can I only ask for five blue pens? Or can I also ask if the patriarchy could be dismantled by Friday?

Instead, I believe it now means I should tell them what my unmet need is, and we can work on it together. Sure, I can still ask for certain specific items, but that has to be with this viewpoint in mind—we’re in a relationship and I want it to be a healthy one. It also means, though, putting aside the intergenerational impacts of learned helplessness and, sometimes, also the cultural underpinnings of how and what you can ask for. Maracle explains how she comes from a culture where you don’t ask for something, she states: “I come from a culture in which asking for something is almost a crime! I come from a situation where I didn’t want to be up on the stage and talking

²⁰³ *Id.*

²⁰⁴ Rory Erickson, BARNOTES 14, (2020), https://issuu.com/cbasaskatchewan/docs/barnotes_winter_2020_final [<https://perma.cc/TV22-58TJ>].

...”²⁰⁵ That is the same for me but substitute podium. Maybe that is why I am a better online teacher. I do not have a podium, and we are all on the same level.

Therefore, because I am in a relationship with USask Law, I have had to take control of my one-half (better half? Hahaha) and voice these unmet needs. It is difficult, it is uncomfortable, and I still sometimes don’t know what I need (ECA issue). However, it is becoming easier when I view it as a relationship, rather than as a structural or institutional issue. I believe that the law school people want to help; they just don’t know *how* most of the times because they haven’t had these experiences. After all, the TRC has acknowledged that there was something “incorrect” about law school behaviour by explicitly having CTA28 “call upon law schools.” What remains to be answered is whether this behaviour is a “lesson learned” about history, and not current or future actions. This is one of the reasons I wrote this paper. I hope that it might help them, other law schools, and other faculty—Indigenous and non—to see this as a relationship and repair it so we get to “setting things right.”

I am also seeing these years of struggle, pain, and challenges as spiritual teaching – these students were and are my spiritual teachers. As the Dalai Lama states: In the practice of compassion and tolerance, the one you consider your enemy is your best spiritual teacher.²⁰⁶ Although I do NOT consider the students my enemy, I do consider the racism, oppression, dominance, and inequality that are held as the enemy. Therefore, I must strive for compassion and tolerance (and a better poker face) when I see it. The adage is that every cloud has a silver lining, and this is true. I have become a more competent and understanding teacher that *knows* that I will sometimes fail at my own ideals, that I will sometimes be my own enemy by being racist or perpetuating inequality, but that I must always remember that it’s *not* too late to really start (or to restart). The only failure would be to stop trying.

I have come to the end of what I will share with you, Listener. I hope that there were moments where you “qlol’d” (my made-up initialism for ‘quietly laughing out loud’, which I do sometimes, like when in the law library where you might be reading this Article). Maybe, it will take a while for you to find the humour in this journey, especially if you are on it yourself as either the one at the podium, the one in the classroom, or the one that is trying to support both as administrator or colleague. I must always continue to have compassion with myself when I ‘fail,’ so that I may find support within myself to continue to try. Maybe this may also be one way for you,

²⁰⁵ Maracle, *supra* note 27, at 170.

²⁰⁶ *Your Enemy Is Your Greatest Spiritual Teacher: His Holiness the Dalai Lama*, CENT. TIBETAN ADMIN. (May 11, 2016), <https://tibtet.net/your-enemy-is-your-greatest-spiritual-teacher-his-holiness-the-dalai-lama/> [https://perma.cc/SL76-58H4]. Or perhaps this is merely Trickster that has placed itself into my life to learn about the “good power of interconnection . . .” ARCHIBALD, *supra* note 7, at ix.

too, Listener? As I have allowed myself, I allow you to also take what you need and want—leave the rest for now, or for always. However, I will ask your heart, mind, and spirit: Will you move from Listener to Doer? And if so, when? And if so OR if not, why?