

Transitional justice for Indigenous Peoples should be a key federal election issue

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[“Transitional justice,”](#) centred on accountability and redress for victims, refers to the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations.

But applying transitional justice and its mechanisms, such as truth and reconciliation commissions, to the relationship between Indigenous Peoples and the Canadian state is contested terrain.

[Scholars debate](#) whether the term transitional justice makes sense in settler colonial contexts like Canada where there is no political transition to speak of, no massive regime change, no cessation of violent conflict and no progression from authoritarianism to democracy.

But this debate isn’t just academic — how we understand the term transitional justice and whether it applies to the Canadian situation could form the basis of policy decisions. And as we head towards an election on Sept. 20, justice for Indigenous Peoples should be a key campaign issue given the discoveries of hundreds of mass graves at the sites of former Indian Residential Schools.

The goals of transitional justice

The aim of transitional justice is to usher in a peaceful society after mass atrocity, periods of systemic human rights violations and violent authoritarian regimes.

Transitional justice is not a form of justice itself, but a way of understanding justice and its aims. The term first appeared in the 1990s as a way to describe the different approaches taken by nations as new regimes came to power and had to grapple with the massive violations [of their predecessors](#).

The term and concept have grown into their own field of study and practice to promote peace, generally focusing on a number of now-established approaches, including criminal trials, truth and reconciliation commissions, political reform and reparations.

Why is this debate important? Why should we care whether transitional justice applies to Canada? It’s important because transitional justice is not just a catalogue of mechanisms to address systemic human rights violations. It’s also the recognition that a nation is either undergoing monumental change or that it needs to — and that considerations of justice are necessary to support this transition.

Those who believe the Canadian context does not demand transitional justice or who believe the word “transition” doesn’t apply in Canada are not fully understanding the term “transition” or the fact that it’s urgently needed here.



A woman is consoled during a gathering and march to honour Indigenous children, denounce genocide and demand justice for residential school victims in Montréal on Canada Day, 2021.

They see a transition as requiring political change of the type seen in a country emerging from violent conflict to peace or from authoritarian rule to democracy. Such transitions usually require the deposing of political leaders.

Some critics of transitional justice see the need for justice to address past harms or to rectify current injustices, but disagree that there's a need for political transition. But they're overlooking the massive societal and political transition that is required to restore or develop trust and confidence among Canadians and Indigenous peoples.

The goals of transitional justice

Instead, it's better to take a big-picture approach and look at all of transitional justice's options by focusing on its goals.

The goal in Canada should be, at a minimum, transforming a society in which mass human rights violations and settler colonial violences were and are commonplace, accepted and endured — the [clean drinking water denied to many Indigenous populations](#), the [over-representation of Indigenous children in the child welfare system](#), the [forced sterilization of Indigenous women](#) and [stolen Indigenous land](#), to name just a few — into one where such violations are simply not tolerated.

Transitional justice in Canada is far bigger than merely addressing past wrongdoings or filling more public roles with Indigenous people (though these are valuable endeavours). The concept of transition should include societal and political change that focuses on establishing real relationships of value, trust and equity and recognizes many sovereignties. What's needed in Canada is a fundamental shift in perspective.

We also need to consider what peaceful co-existence looks like, and then consider what mechanisms and political actions would help pave a path to that new reality. All transitional justice options should be on the table, including those tried and commonly accepted approaches like reparations and criminal trials, but also more creative options that are specific to Canada.



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Orchard, of Shoal Lake 40 First Nation on the Manitoba and Ontario border, poses for a photograph while attending a ceremony and vigil for the children who died at the Kamloops Indian Residential School.

From the perspective of Indigenous Peoples, such place-based options must draw on the continuity of their rich history, values and practices of self-governance on their lands, rooted in ancestral ways of life.

This election campaign provides a real opportunity to discuss creative, place-based solutions. But recognizing and choosing to apply these solutions after election day requires our political leaders to accept that a major Canadian transition needs to happen. Embracing transitional justice will prevent Canada from simply accepting and prolonging the status quo.