



## TRC WELCOMES COURT'S CLARIFICATION OF ITS MANDATE

January 30, 2013 – The Truth and Reconciliation Commission of Canada (TRC) today welcomed a decision by the Ontario Superior Court of Justice regarding the Commission's mandate to gather documents related to Indian Residential Schools in Canada.

The decision, by Mr. Justice Stephen Goudge, concerned the scope of Canada's obligations under the 2007 Indian Residential Schools Settlement Agreement (IRSSA) to produce to the Commission documents housed in Library and Archives Canada. Justice Goudge found that the Government of Canada must produce all relevant documents housed in Library and Archives Canada to the Commission under the terms of the IRSSA.

TRC Chair Justice Murray Sinclair welcomed the decision.

"The TRC asked the Ontario Superior Court of Justice for clarification of its mandate as laid out in the Indian Residential Schools Settlement Agreement, and this is precisely what we have received today," said Justice Sinclair. "We're grateful to be able to continue the Commission's work of gathering and protecting for future generations documents that are relevant to the history of the Indian Residential Schools in Canada. We look forward to carrying out this work in cooperation with the Government of Canada. We especially acknowledge the clarity of Justice Goudge's decision."

Justice Goudge based his decision on the "plain meaning" of the language in the IRSSA. He found that Canada is required to "provide all relevant documents to the TRC ... unlimited by where the documents are located within the government of Canada." The Court recognized that the TRC was charged with the task under the IRSSA of "compiling an historical record ... [which is] accessible to the public in the future," and that "... Canada's documents, wherever housed, would have been seen as vital to this task." Justice Goudge also found that the task of identifying and organizing documents from Library and Archives Canada was never intended to be borne by the TRC, given its budget and time-limited mandate.

Justice Goudge also provided important guidance on the definition of "relevance" under the IRSSA. He found that the TRC's mandate to examine the legacy of Residential Schools was not subject to "an arbitrary cut-off date", nor could Canada's obligation to produce documents be limited to those relating to "policy and operations." He found that documents relevant to the devastating and ongoing impact of Residential Schools on the health of survivors and communities must be produced by Canada to the TRC.

TRC counsel Julian Falconer explained that prior to today's decision, Canada had released a number of documents from a pre-existing litigation database, but the larger issue of federal archives was unresolved.



“This is truly a landmark judgment,” Falconer said. “The Court’s answers to the Commission’s reference will ensure that this dark chapter of Canadian history that is the Residential Schools story will never be forgotten. The question of whether the Government of Canada was required to go into its own archives and produce documents to the Commission under the Settlement Agreement had been a significant roadblock. Now that this issue has been resolved by the Court, the TRC can complete its work of preserving the historical record of Residential Schools for future generations.”

The Truth and Reconciliation Commission is an independent commission established as a result of the IRSSA. The Settlement Agreement imposes on the TRC the primary task of truth-telling about the harms and injustices experienced by Aboriginal peoples during the 150-year history of the residential schools, and guiding and inspiring a process of reconciliation and renewed relationships based on mutual understanding and respect.

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