ABORIGINAL TRADITIONS OF TOLERANCE AND REPARATION

Introducing Canadian Colonialism

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As societies around the world struggle to contain ethnic and religious conflicts, Canada is often seen as a beacon of multicultural hope. Canadian jurists, scholars, and politicians are proud to export our now-entrenched ideals of respect for equality and protection of minorities. Few would mention Canada and colonialism in the same breath. As a matter of political history, Canada is understood to have shed its colonial status sometime between Confederation and the Second World War, with the patriation of the Constitution in 1982 definitively signalling the emergence of the post-colonial Canadian state.

Aboriginal people, however, understand that colonialism is more than a matter of the political and legislative arrangements between former empires and colonies. On the ground, colonialism turns on the dispossession of Aboriginal peoples by settler societies. While it is hard to deny that Aboriginal people in Canada have been and continue to be colonized, few Canadians self-identify as colonizers. They are deemed to be a thing of the past, with the event of colonization a fait accompli. The act of dispossession is seen as a past tragedy, not as a continuing wrong. Even if enlightened Canadians can agree, with hindsight, that colonial dispossession was morally wrong, few are prepared to extend that judgment backwards in time to question its legal validity, or the legitimacy of the successor regime.

For citizens of Canada, however, there can be no perch outside the social dynamics of colonialism. Questions of blame aside, there is no difficulty distinguishing the victims from the beneficiaries of colonialism. But what, if any, responsibility should the beneficiaries bear? In my view, every citizen is responsible for knowing the history of the aboriginal land upon which they live. Who has been displaced? How did the displacement happen? Where are the displaced people living now? How are they living now?

The sad answer is that Aboriginal people live in third-world conditions in the midst of a first-world country. In his 2005-2006 Report on Plans and Priorities, the Minister of Indian Affairs acknowledged that “applying the United Nations Human Development Index would rank on-reserve Aboriginal communities 68th among 174 nations, while Canada overall was ranked first.” As long as the displaced continue to live in poverty and despair, in shocking contrast with the displacers, or their place-holders, colonialism is alive and well in Canada.
Blindness to the persistence of colonialism requires the corrective lenses of memory and truth. The transition to post-colonialism is not simply a matter of constitution making or institutional change. It must be purchased by an acknowledgement of the Wrong of colonialism and reparation to the Wronged. In Canada, colonialism was facilitated by the refusal of Europeans to respect Aboriginal ideals of reciprocity and non-contradiction. Ethnohistorical evidence from the early encounter period demonstrates that current Canadian ideals of tolerance and pluralism were deeply embedded in Aboriginal societies. Judged by indigenous standards, the disrespect and interference which characterized Canadian colonization were clearly wrong. However, an exploration of the language and protocols relating to Aboriginal reparations can provide guidance to Canadians seeking a path to post-colonialism.

### Comparing Canadian Colonialism

I take dispossession and marginalization of Aboriginal peoples to be the markers of colonialism. When this dispossession occurs without the consent of the dispossessed, and in breach of promises that were purchased and relied upon, then the wrong of colonialism should be incontrovertible. Canadian colonial consciousness, however, is assuaged by a sense of relative superiority. When compared to the violent history of our British imperial cohorts, the United States and Australia, the Canadian colonial experience appears almost benign.

The absence of conquest, however, does not mean that the dispossession was less radical in Canada. In fact, in spite of a well-established treaty protocol, Aboriginal people in Canada have managed to maintain the smallest percentage of the national land base when compared to U.S. tribes and Australian Aborigines. According to the Royal Commission on Aboriginal People, "lands acknowledged as Aboriginal south of the sixtieth parallel (mainly reserves) make up less than one-half of one per cent of the Canadian land mass." By contrast, considerably more lands have been allocated to proportionately smaller Aboriginal populations in the United States and Australia. American Indians, constituting 0.008% of the U.S. population, enjoy 4% of the land base; while Aborigines, representing 1.2% of Australia’s population, hold 10.3% of the land.4

The pattern of reserve creation in Canada has further disadvantaged already land-poor communities. Canadian reserves are smaller and more dispersed than their American and Australian counterparts. Roughly 6.6 million acres of land have been parcelled into more than 2000 reserves and divided among nearly 600 First Nations. This compares poorly with the 64 million acres reserved in the United States and the more than 193 million acres set aside in Australia. All the Indian reserves in Canada would take up less than half the Navajo Nation’s reservation. In South Australia, the average reserve size (over 12 million acres) is nearly double the Canadian total. These comparisons prompted the Royal Commission to conclude that the land base of Aboriginal peoples in Canada is inadequate and should be “expanded significantly.”

Such an expansion could occur without impinging on private lands. In every province there is a wealth of Crown lands as yet unappropriated. Two of Canada's richest provinces, Ontario and British Columbia, happen to have both the largest First Nations populations and the highest percentage of Crown lands, 87% and 92% respectively. Since the intent of the land surrender treaties in Ontario and the Prairies was to share the land with newcomers, the existence of such surpluses could justifiably accommodate an expansion of Aboriginal lands. In the absence of land surrender treaties in British Columbia, Quebec, and the Maritimes, the Crown lands are arguably still Aboriginal lands. There is no shortage of lands, just a shortage of political will. Until Canadians take seriously the wrong of colonialism, there will be little impetus for redress.

Some suggest that colonial actors were incapable of recognizing the injustice of their actions; that they were products of their time; that times and standards have progressively evolved. I come from an Aboriginal tradition

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3. The land and populations statistics maintained by the Department of Indian and Northern Affairs are restricted to registered Indians. They do not include Inuit and Metis and non-status Indian populations. See Department of Northern and Indian Affairs, Schedules of Indian Bands, Reserves and Settlements including Membership and Population Location and Area in Hectares (Ottawa: Government Services Canada, 1992), indicating a total population of 533,189 and a total area of 2,676,469.9 hectares (or 6.6 million acres). Using the DIAND figures, the registered Indian population represented 0.02 per cent of the 1991 Canadian census count of 27,296,859. However, inclusion of Metis and Inuit populations doubles that figure.
5. Ibid.
6. Ibid., at p. 601.
7. Ibid., at p. 588.
which does not share the Western notion of “progress.” I do not believe that my ancestors were less humane, or less capable of dialogue and empathy and moral judgment than I now am. If the settler societies were exposed to Aboriginal norms of tolerance and respect for diversity, then judging colonialism is not a question of imposing modern standards backwards in time. Rather, it demands attentiveness to the moral choices that were, as a matter of historical fact, available to actors at the time.

ABORIGINAL TOLERANCE AND THE FRENCH RESPONSE

Among the first Europeans to be escorted beyond the Island of Montreal and into the Great Lakes region were the French geographer Samuel de Champlain and the Recollet priest Joseph Le Caron. Both had grown up in a country torn by religious warfare. Although the Catholic-Huguenot conflict had reached an uneasy truce by the early seventeenth century, this strained forbearance did not extend to non-Christians. Both Champlain and Le Caron entered this new country bent on proselytism. The French colonial appetite included a thirst for souls as well as a hunger for land.

In his published narrative, Champlain claimed that France's trans-Atlantic ambitions were more spiritual than material:

The most illustrious palms and laurels that kings and princes can win in this world are contempt for temporal blessings and the desire to gain the spiritual. They cannot do this more profitably than by converting, through their labor and piety, to the catholic, apostolic and Roman religion, an infinite number of savages, who live without faith, without law, with no knowledge of the true God.

Ironically, although Champlain characterized Aboriginal people as faithless, lawless savages, his writings are an early testament to the values and ethics which governed the societies he encountered.

11. For a later account of the duty of non-contradiction, see Nicolas Perrot, “Memoir on the Manners, Customs, and Religion of the Savages of North America,” in E.H. Blair, editor, The Indian Tribes of the Upper Mississippi Valley and the Region of the Great Lakes (Cleveland: The Arthur H. Clark Company, 1991) at p. 134: “He [the stranger] is invited to all the feasts that are given in the village, and in conversation they inquire of him for some news from his own part of the country. If he knows of nothing new, he draws on his imagination for it; and even if he lies no one would venture to contradict him, even supposing that they were quite certain of facts contrary to his stories. There is but one person alone of the entire assembly who converses with the stranger; all the rest keep silence, with the reserve and modesty that are prescribed for a novice in a religious order, in which he is obliged to maintain this behaviour under penalty of the severe measures belonging to the most strict rule on this point.”

Thirty Years War. Yet he was convinced that it was the Europeans’ mission into the calamitous religious conflict which would become known as the Thirty Years War. Yet he was convinced that it was the Europeans’ mission to “civilize” these tolerant “barbarians”. Eventually, the Recollets tired of their missionary work in New France and the torch was passed to the Society of Jesus.

One of the first Jesuits to over-winter among the Montagnais of the Upper St. Lawrence was Paul Lejeune. His Relation of 1633-34 gives a gruelling account of the hardships suffered by hunting communities when game was scarce. Even in the most trying conditions, the duty of non-contradiction was observed. Lejeune recounts that during a time of hunger his host family was joined by a young hunter from another territory. This guest was treated to what little food was available. His leave-taking coincided with the disappearance of a good portion of a moose recently captured by his hosts. Lejeune reported that their reaction to the young man’s conduct:

> When the theft became known to our people, they did not get into a rage and utter maledictions against the thief; – all their anger consisted in sneering at him; and yet was almost taking away our life, this stealing our food when we were unable to obtain any more. Some time afterward, this thief came to see us; I wanted to represent to him the seriousness of his offence, but my host imposed silence; and when this poor man attributed his theft to the dogs, he was not only excused, but even received to live with us in the same Cabin.

Although he saw this protocol in action, Lejeune did not feel obliged to refrain from contradicting his hosts, particularly on matters of faith. He repeatedly ridiculed their practices, dismissing their beliefs as nonsense.

And, in spite of having recounted many acts of courage, generosity and forbearance, LeJeune reveals the narrowness of his vision by concluding “I would not dare to assert that I have seen one act of real moral virtue in a Savage.”

After one winter in the bush, LeJeune realized that he had neither the stamina nor the linguistic skills required to effect the conversion he desired. Lamenting his lack of fluency, LeJeune imagined that Aboriginal beliefs could be defeated by French logic, “that any one who knew their language perfectly, in order to give them good reasons promptly, would soon make them laugh at their own stupidity; for sometimes I have made them ashamed and confused, although I speak almost entirely by my hands, I mean by signs.” LeJeune would be chagrined to discover that many of the beliefs and traditions which he ridiculed, such as those concerning the souls of humans and animals, and the associated burial, feeding, and fire-avoidance rituals, have survived more than three hundred years in the face of French Catholicism and English Protestantism alike.

LeJeune, however, should not be dismissed simply as an overzealous bigot. The core features of his 1634 programme, “On the Means of Converting the Savages”, have been the pillars of all subsequent Canadian colonial regimes. His first prescription was to replace the Aboriginal cycle of seasonal aggregation and dispersal with a sedentary lifestyle. Based on the hardships he had experienced among the Montagnais, Le Jeune wrote: “I do not believe that, out of a hundred Religious, there would be ten who could endure the hardships to be endured in following them [...] We shall work a great deal and advance very little, if we do not make these Barbarians stationary.” Of course, the concentration of Aboriginal peoples within proximity of the missionaries would not only facilitate their religious conversion, but also open up their lands for non-native settlement.

In addition to attempting to change settlement patterns and lifestyles, LeJeune aspired to changing Aboriginal education and culture. He understood the importance of intergenerational transmission and recommended separating children from their parents in order to effect conversion:

> The reason why I would not like to take the children of one locality [and teach them] in that locality itself, but rather in some other place, is because these Barbarians cannot bear to have their children punished,
not even scolded, not being able to refuse anything to a crying child.
They carry this to such an extent that upon the slightest pretext they
would take them away from us, before they were educated.20

The Jesuits established the first residential schools in Canada but,
during the French regime, Aboriginal parents could not be forced to surren­
der their children.

Lejeune’s ambitious assimilation plans were initially widely shared by
French colonial administrators. But their sphere of influence was limited to the
so-called “domiciled Indians”, that is those communities who chose to remain
within the areas of French settlement. Cornelius Jaenen points out that by
1685, colonial officials realized that they lacked the wherewithal for whole­
sale acculturation.21 This rapprochement, however, was dictated by force of
numbers, not by a new-found receptiveness to Aboriginal tolerance.

VARIATIONS ON A COLONIAL THEME

It would be a mistake to characterize Canadian colonialism as a unidirec­tional process of newcomer-imposed changes upon passively receptive
Aboriginal communities. Moreover, there were important differences
between the French and British approaches to colonialism. The French
established an extensive, thinly peopled trading network in the Upper Coun­
try with its settler population limited to the St. Lawrence River valley.22 In
contrast, the British settlements along the Eastern seaboard were very densely
populated.23 French colonial endeavours, both military and economic, relied
greatly upon intercultural diplomacy.24 Their adoption of Aboriginal proto­
col, oratory and gift-giving, in the maintenance of cross-cultural alliances,
set a very high standard for the British to follow as a successor colonial regime.


22. Jaenen refers to New France as a “riparian colony” due to its concentration of towns and seigneuries along the St. Lawrence River.

23. When New France was surrendered to the British by the Treaty of Paris in 1763, its population of 70,000 compared to 1.6 million in the Thirteen Colonies.


Initially the British were not inclined to observe the Aboriginal dictates
of generosity and reciprocity. Alexander Henry, the first British fur trader to
reach Michilimakinac after the Fall of Quebec, was warned by the Chippewa
Chief Minivavana of the danger of departing from the modus vivendi:

Englishman, although you have conquered the French, you have not
yet conquered us! We are not your slaves. These lakes, these woods and
mountains, were left to us by our ancestors. They are our inheritance;
and we will part with them to none […]

Englishman, our father, the king of France, employed our young men
to make war upon your nation. In this warfare, many of them have
been killed; and it is our custom to retaliate, until such time as the
spirits of the slain are satisfied. But, the spirits of the slain are to be
satisfied in either of two ways; the first is by spilling of the blood of
the nation by which they fell; the other, by covering the bodies of the
dead, and thus allaying the resentment of their relations. This is done
by making presents.

Englishman, your king has never sent us any presents, nor entered into
any treaty with us, wherefore he and we are still at war; and, until he
does these things, we must consider that we have no other father,
among the white men, than the king of France...25

British officials ignored Aboriginal protocols to their peril. Their
refusal to match French generosity in trade and their failure to compensate
for Aboriginal war losses precipitated Pontiac’s War in 1763.26

The destabilizing force of Pontiac’s War caused the British to be more
attentive to Aboriginal demands. On October 7, 1763, King George III
issued his Royal Proclamation, a substantial portion of which was devoted
to allaying the concerns of the Indian Nations:

And whereas it is just and reasonable, and essential to our Interest, and
the Security of our Colonies, that the several Nations or Tribes of Indians
with whom We are connected, and who live under our Protection,
should not be molested or disturbed in the Possession of such Parts of
Our Dominions and Territories as, not having been ceded to or pur­
chased by Us, are reserved to them, or any of them, as their Hunting
Grounds.27


27. Royal Proclamation, italics added.
The King's Proclamation issued in London, however, held no currency among Pontiac's allies in the Great Lakes region. Sir William Johnson, Superintendent of Indian Affairs in Northeastern North America, was called upon to extend the British connection to the Lakes Confederacy. In the summer of 1764, Johnson convened a congress at Niagara attended by more than 2000 chiefs and warriors from the region. At the end of the Congress, Johnson presented and the Lakes Confederacy Chiefs accepted two wampum belts whose images symbolically represented the newly formed alliance:

![Image of two wampum belts]

The first belt represents the Covenant Chain, by which the British and their Aboriginal allies were bound together. In return for peace, Johnson promised justice and prosperity:

> I shall be always ready to hear your Complaints, procure you Justice, or rectify any mistaken Prejudices. If you will strictly Observe this, you will enjoy the favor of the English, a plentiful Trade, and you will become a happy People.

The second belt, known as the “Twenty-Four Nations Belt”, illustrates the promised prosperity that would flow from their alliance with the British:

> My Children, see, this is my Canoe floating on the other side of the Great Waters, it shall never be exhausted but always full of the necessaries of life for you my Children as long as the world shall last.

> Should it happen anytime after this that you find the strength of your life reduced, you Indian Tribes must take hold of the Vessel and pull, it shall be in your power to pull towards you this my Canoe, and when you have brought it over to this Land on which you stand, I will open my hand as it were, and you will find yourselves supplied with plenty.

With the delivery of these belts, the Aboriginal protocol of gift-giving as a means of retaining alliances was reinstated.

As long as British colonies in North America required military support from Aboriginal allies, their promises of justice and prosperity were observed. In the decade before Confederation, however, the presents were abolished and colonial officials embarked upon an aggressive campaign of “civilization.” With the introduction of the Enfranchisement, that is the statutory conversion of an “Indian” into a British subject, it became clear that there was only one way of belonging in Canada. The colonial pressures of deculturation and dispossession only increased after Confederation. Today, we have come so far from Sir William Johnson's promises of prosperity that our communities can be identified on the basis of poverty and illness.

**JUDGING CANADIAN COLONIALISM**

European-authored texts from the early encounter period demonstrate that the newcomers were exposed to Aboriginal norms of tolerance and respect for diversity. Regrettably, these values and principles were not reflected in colonial practice. Rather, Aboriginal peoples have suffered the loss of lands,
cultures, and languages as a result of introduced intolerance and disrespect. Now that Canadian constitutional culture has begun to embrace and celebrate pluralism, there may be a willingness to acknowledge the wrong of colonialism.

It is not enough, however, for Canadians to conclude that, by today's standards alone, the historic treatment of Aboriginal peoples was unjust. This is to suggest that colonial acts of dispossession and interference were not wrong by standards of the time. It must be recognized that there were two standards operating during the process of colonization; one indigenous to this land and the other imported by newcomers. Even if the vast majority of newcomers thought that their actions in the name of "civilization" and "progress" were justified, their judgment cannot be conclusive.

In the context of intercultural injustice, where the wrong is committed by one group against another, the lack of shared norms has implications for judgment. It would be entirely self-serving if the assessment of colonialism were grounded entirely in the colonialis perspective. Here, I am indebted to my colleague Jennifer Nedelsky's conception of "alternative communities of judgment." She has identified the crucial political question for Canada as being "what has to be shared in order to form a community of judgment." She cautions that if the community of judging subjects "are highly insular, so that the 'judges' encounter only others very much like themselves, then the range of standpoints that they are capable of considering will be very limited. And the validity of the judgments will be correspondingly limited." Another important question is whether descendants of colonial actors are capable of hearing the Aboriginal voices that were silenced by their ancestors.

The Aboriginal peoples, whose traditions offered an alternative vision of coexistence, must have a say in the Community of Judgment. Aboriginal norms of tolerance, generosity and reciprocity, which prevailed in the intercultural diplomacy of the French regime, were embedded in the foundational agreements with the British. They created a common ground upon which an inclusive judgment of Canadian colonialism can be founded. British objectives for colonial security and expansion were purchased with reciprocal promises of protection and prosperity.

In accepting the Covenant Chain, Aboriginal leaders intended to secure the good life, mino bimadisiwin, for their communities. The belts and their accompanying speeches were passed down and each generation assumed responsibility for reminding the British and their successors of their obligations. A particularly poignant retelling was prompted by colonial efforts to force the surrender of Manitoulin Island in 1862. In a petition signed by 32 chiefs, Queen Victoria was reminded of the promises made by Sir William Johnson:

Here is the place that will be yours. When you look around you under the vaulted heaven looking for the support of your children, when your gaze turns towards the rising sun you shall see that sun rising red similar to the color of the coat that I wear, when it rises higher that same sun shall be very bright with light, there is the image of the life of your children. After that sun has been up a little longer you'll see in different places the flowers bloom. There is the image of the life of your children.

This rendering of the 1764 Belts shows that Johnson was a master of Aboriginal metaphor. He promised sustenance and comfort to his allies by planting a tree in their country to provide shade and shelter; by sweeping beneath the tree to smooth the ground for their mats; by building a fire for their warmth and supplying a poker and firewood; and by promising a vessel that would never be empty.

By 1862, the presents promised by Johnson had been discontinued by a parsimonious Colonial Office and most Aboriginal lands in Canada West had been surrendered in return for small reserves and smaller treaty payments. These breaches of the alliance were not tolerated in silence. For their part, the Odawa Chiefs continued to rely upon the Covenant Chain and the Twenty-Four Nations Belt:

We are still of the same number us whom we call Indian, that is to say twelve bands. It is still our number we who are living miserably here and that tree which you have spoken of does not shade us any more. It is not we who deprived it of its leaves this tree, our mind would not be so stupid as to do such a thing, it is those to whom you have given charge over our persons, those are the persons whom we blame for having deprived the tree of its leaves.

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37. Ibid., p. 257.

38. Ibid., p. 268.

39. Transcription from manuscript petition dated June 27, 1862, in RG 10, volume 292, reel C-12, p. 669.
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In spite of these protests, the surrender of Manitoulin Island was not long forestalled. Many subsequent surrenders were likewise facilitated by poverty, despair and anxiety for a future lacking traditional forms of sustenance.

Leaving aside the legality of many land surrender treaties, the social and economic disparity that exists between Aboriginal peoples and Canadians generally is a glaring indictment of the failure of the Canadian colonial project to honour its foundational commitments. Clearly the wrong of Canada. The capacity of present-day citizens to judge colonial actors by historic intercultural standards, however, does not necessarily lead to a sense of personal responsibility or individual blame. Nor must it. The legacy of colonialism can be addressed as a matter of collective, civic responsibility. Here again, Canadians can learn from traditions indigenous to this land.

RIGHTING COLLECTIVE WRONGS

As Chief Minivavana pointed out to Alexander Henry, there are two Aboriginal responses to wrongdoing: either vengeance or reparation. Vengeance, however, should not be equated with an uncontrolled cycle of violence. One of the first Jesuit missionaries in North America, Pierre Biard, commented on indigenous notions of harm and responsibility:

The great offences, as when some one had killed another, or stolen away his wife, etc., are to be avenged by the offended person with his own hand; or if he is dead, it is the duty of the nearest relatives; when this happens, no one shows any excitement over it, but all dwell contentedly upon this word habenquedouic, "he did not begin it, he has paid him back, quits and good friends." But if the guilty one, repenting his fault, wishes to make peace, he is usually received with satisfaction, offering presents and other suitable atonement.

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The act of vengeance was not seen as constituting a fresh wrong. Rather, social relations were restored by acts of retribution. As Biard noted, however, vengeance could generally be avoided by the acknowledgement of fault and the delivery of presents. Later Jesuit accounts indicate that while vengeance is personal, directed at the wrongdoer by or on behalf of the wronged, reparation is collective. Accompanied by great ceremony and solemnity, the rhetorical and performative aspects of Aboriginal reparation constituted a highly developed technology for healing social relations.

Perhaps one of the most detailed examples of this technology can be found in Bressani's account of the compensatory protocol which the Huron Nation engaged in following the killing of Jacques Douart, a French servant of the resident Jesuit missionaries. Bressani describes first the preliminary ceremony conducted by four chiefs sent to the Jesuits as delegates of the General Council:

They presented themselves at the door; but as there is no speaking on these occasions without gifts, they made first one at the entrance: which was to the end that the door might be opened to them. They made a second, that they might be permitted to enter; and, as many doors as they had to pass, so many gifts we might have required of them. When they had entered, they began to speak, offering us a present which they call "the drying of tears," in order that we might no longer regard them with clouded eyes. The second they call a medicinal potion for restoring our voice to us, which we had lost, and for causing it to sound more softly in the future. The third to appease the mind agitated by thoughts of grief. The fourth to soothe the heart justly provoked [...] They added to these, nine other gifts, to erect a sepulchre to the deceased, every one with its own peculiar name; four were for the four columns which were to support the sepulchre, and four for the four stretchers which form the coffin of the dead; the ninth, to serve him as a pillow.

These preparatory ceremonies are conducted by the envoys in relative privacy. Once the condoling gifts have been accepted, and the sepulchre erected, a symbolic return of the deceased is conducted by the national leaders: "eight Captains of the eight Huron nations brought each a present for the eight principal bones of the human body; those of the feet, legs, arms, etc."

The formal reparation is delivered in a very public ceremony: "in the presence of a great multitude assembled from every direction, they made a sort of stage in a public square, where they suspended 50 gifts, which form

40. Ibid.
42. See text supra, at note 25.
43. Jesuit Relations, volume 3, p. 93-95. Biard arrived in Port Royal in 1611. The cited text is from his Relation of 1616.
44. Jesuit Relations, supra, note 14, volume 38, p. 281-283. Bressani explains that the presents are "mostly of those beads of marine shells" which the French called porcelaine. The British referred to the shell beads as wampum.
Having compensated the Jesuits for their loss, tribute was also paid to the deceased: gifts to clothe and arm him are accompanied by a present for each blow received, "in order to heal the wounds." Not only are the wounds of the deceased and the bereaved to be assuaged; even the earth, which has been disturbed by the killing, requires appeasement. The chasm which had opened up to receive the deceased must be closed, made solid, and covered with a great stone to prevent future disturbances. Once the victim, the survivors and the earth have been satisfied, gifts are made to restore all aspects of the relationship between the wronged and those making reparations on behalf of the wrongdoers. In all, over one hundred presents, constituting a substantial proportion of the wealth of the Huron Nation, were delivered.

The generosity of the compensation was also viewed as a matter of national responsibility for the killing of Jacques Douart was not motivated by the absence of particular wrongdoers. In fact, the men who had struck the fatal blows were well known to the Jesuits and Hurons alike. Nevertheless, the crime was viewed as a matter of national responsibility. As Bressani noted: "it is the public that gives satisfaction for the crimes of the individual, whether the culprit be known or not. In fine, the crime alone is punished, and not the criminal." The generosity of the compensation was also viewed as a matter of national honour: "No individual is obliged to make this contribution, but they vie with one another, according as they are more or less rich, in sharing these public burdens, in order to show their devotion to the common weal." The Jesuits begrudgingly admitted that collective compensation was more effective than individual punishment in restraining crime. Even LeJeune acknowledged that "their procedure is scarcely less efficacious than is the punishment of death elsewhere" and he relied upon this practice as evidence that "they are not without laws."

45. Ibid. Bressani notes (p. 283-285) that the number of presents varies with nationality and gender: "For a Huron slain by another Huron, they usually content themselves with 30 presents. For a woman, they ask 40. This is partly because they cannot defend themselves like the men, partly, too, because they people the countries, -- on which account, their lives should be more precious to the public, and their weakness should have greater support from justice. For an alien they ask more; because, otherwise, they say, murders would be continuous, trade would be ruined, and war would easily occur with foreign nations."

46. Ibid., at p. 277.

47. Ibid., at p. 281.

48. Jesuit Relations, supra, note 14, volume 22, at p. 291, Vimont, in his Relation of 1642, cautions: "Do not imagine, however, that this proceeding gives any liberty to violent persons to do an evil deed. So far from that, the trouble caused by a murderer to an entire community exercises a powerful restraint over them."


51. Ibid., volume IV, p. 213-107.


53. Ibid., at p. 422.