

**The Right to Truth in Theory and Practice: A Critical Reflection on a Practicum
Placement at the National Centre for Truth and Reconciliation**

By

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Abstract

Truth must come before reconciliation. A right to truth has been proposed but has not yet been recognized as binding international law. This paper explores the theoretical unpinning of a right to truth for victims of human rights abuses and how the National Centre for Truth and Reconciliation preserves the truth in the history and legacy of residential schools in Canada. This paper also considers how denialism, hate, and misinformation challenge the preservation of truth.

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Introduction

Over the course of history there have been limited options for dealing with human rights abuses committed on a societal scale. In the past 50 years, transitional justice mechanisms, including truth commissions have been a productive response to such human rights abuses. According to Hayner (2011), between 1974 and 2009, there have been forty truth commissions, including more than one truth commissions taking place in Uganda, Uruguay, Chile, Ecuador, and South Korea in this time. The first of these, Uganda's 1974 inquiry undertook the task of investigating and determining the whereabouts of enforced disappearances since the 1971 military coup d'état. This inquiry launched a revolutionary new mechanism for determining the truth of widespread past human rights abuses, and ultimately reconnecting families and communities. Over the next quarter century and into the Twenty-First century, states began using this type of inquiry to determine both the truth and reasonable steps forward. In this way, the practice of seeking justice through truth in a widespread commission with powers to gather evidence, predated the theoretical field of transitional justice.

The right to truth itself is not specifically enumerated among United Nation's foundational documents, however, truth has always been foundational to justice. In humanity's long struggle towards creating systems that reliably deliver justice, we have consistently contended with questions of how truth should be sought, evaluated, and preserved. Justice that cannot continuously prove that it is based in the truth, cannot be understood to be justice at all. The task of determining the truth is integral to both modern and historic practices of upholding and protecting human rights. It is equally important to forging a multicultural future amidst vast societies of people who have both committed and endured gross violations of human rights stretching back into our collective deep history. The importance of speaking the truth and

protecting spaces to allow others to speak their truth is a responsibility and right across time and culture. The ancient Hebrew texts of Exodus and Deuteronomy command followers to “not bear false witness.” This commandment is imperative because every early system of justice relied on the sworn testimony of witnesses.

Ancient Greek philosophers provided a framework for much of western intellectual thought, which in turn spawned modern human rights institutions in westernized states and international law. Plato asserted the correspondence theory of truth: “[T]hat ... which says things as they are is true, and that which says them as they are not is false” (Plato, *Cratylus* 385b). In other words, truth must correspond to the occurrences in the physical world (David 2002). Scholars have rebutted the correspondence theory of truth by questioning how political power determines both whose truth is believed and which truth is embraced. Through time, philosophers became wary of singular accounts of the truth that do not recognize the biases and influences that individuals bring to their understanding of the truth. Famously, Nietzsche rejects the notion of universal constants contending human experience is fundamentally dictated by arbitrary forces, and that truth is constructed for practical purposes (Anderson 2017). Nietzsche allows that however incongruous, western intellectual thought is still guided by a metaphysical belief “lit by the thousand-year-old faith, the Christian faith, which was also Plato's faith, that God is Truth; that Truth is 'Divine'” (Nietzsche 2006 p. 201) There is therefore solid ground created to rest the contention that a metaphysical ideal — in our case, the ideal of social justice and universal human rights — is brought about through truth-telling and shared truth-creation.

Determining the truth is no easy task. Historically the “truth” created by the powerful has often supplanted what is actually true. This is the basis for racist lies, such as one culture being inherently better or more advanced than other. We now understand that this myth held up by the

powerful to be true lasted so long because it reinforced the idea of supremacy of a certain race. The process by which we arrive at truth is therefore important to determine its accuracy. In other words, the ideal of truth remains a worthwhile pursuit as long as we continue to democratize who is able to speak their truth, rather than live in a world where the powerful can twist the truth to serve their own ends. These conceptions of truth have consequently influenced systems of justice at various levels. This paper will argue from a theoretical perspective that asserts truth-seeking mechanisms that emerge from the bottom-up in which Survivors of gross violations of human rights are allowed to speak and uphold their truth are necessary attributes of a right to truth for that right to consistently contribute toward justice.

In this critical reflection, I will argue for the necessity of truth in the mission of transitional justice. According to the International Center for Transitional Justice (n.d.), transitional justice “refers to how societies respond to the legacies of massive and serious human rights violations” that special attention is paid to the victims or Survivors of atrocity, authoritarian rule, or another collective trauma, and that victims or Survivors have a voice in the transformation. Following from the example set by the Truth and Reconciliation Final Report, I will refer to former children who attended residential schools in Canada as Survivors rather than victims. In this paper, I will contextualize to the right to truth in the transitional justice field and situate Canada’s Truth and Reconciliation Commission within this context. I will argue that solidarity rights are a logical derivation of existing human rights frameworks and that specific individuals gain the right to truth as a consequence of specific shared circumstances. I will then demonstrate how the National Centre for Truth and Reconciliation embodies these principles through their actions, as I reflect on my practicum experience. I will also look to the future and explore potential challenges and complexities to a right to truth that I have encountered. I will

present this in the form of a case study. Finally, I will consider the inefficacy of legislatively mandated truth-preserving mechanisms in arguing how the right to truth is best preserved by practitioners and Survivors.

Searching for a Framework for Truth

The right to truth is not typically found enumerated among other human rights. One of the reasons for this is that the right to truth is much newer than other rights. Another reason for this is because the right to truth is not a universal right as we typically conceptualize them. The Universal Declaration of Human Rights (UDHR) is correct in omitting a right to truth because such a right only arises in particular circumstances. The UDHR contains first and second generations rights, respectively ratified in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The three generations of rights can be conceptualized as a pyramid. At the base, civil and political rights, such as the right to vote in fair elections or the right to be free of discrimination based upon protected categories. Karel Vasak (1977) recognizes the first generation of rights to be “negative rights,” which require governments not to take infringing action. These rights can also be conceptualized as freedoms. Freedom of speech requires the government to not take infringing action against speech. Atop the first generation of rights, sits the second generation of rights; rights that protect social, economic, and cultural, such as determining the course of one’s own life, joining a trade union, or pursuing an education. Vasek (1977) describes these rights as “positive rights” (29) because they require governments to take action to deliver services. These second generation rights, to a certain degree, rely upon fundamental civil and political rights being upheld. Second generation rights form the peak of the pyramid and are reliant on a sturdy base. One cannot determine the course of one’s life while

facing racial discrimination that bans one from particular activities. Third generation rights, however, are invoked as a response to a sustained deprivation of human rights. The third generation of rights, Vasek (1977) describes as “solidarity rights” (29), also known as collective rights, are not rights held by all humans by the sheer fact of their humanity, but rather these rights stem a group of people with a shared, sustained deprivation of human rights.

It remains unclear in international jurisprudence whether the right to truth is maintained only through soft law or if existing provisions in binding treaties protect the right. In 2006, the United Nations Commission on Human Rights’ “Study on the Right to Truth” (2006) found that the right to truth was an “inalienable and autonomous right” (para 55). However, the mere status as a right does not mean that one can claim a legal obligation for the right to be enforced. There are certain circumstances in which one can assert such a right. The “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts Protocol 1” (1977) asserts a binding legal right of “families to know the fate of their relatives” in the context of missing persons and the remains of the deceased” (art. 3). This right can only be asserted within the context of armed conflict and only in certain circumstances. Another potential source of a right to truth could be found in international customary law, however as this remains non-codified, it is inaccessible as a legal source for the average person.

The right to truth is also established by the United Nations Office of the High Commissioners of Human Rights (OHCHR). In 2006, the General Assembly adopted the “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” (Basic Principles) following a report by the OHCHR. These principles offer

a framework for reparations following gross violations of human rights which include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. The Basic Principles (2006) provide that adequate compensation be administered to ensure the “[v]erification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim’s relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations” (8). These Basic Principles (2006) also assert that “victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations” (9). These principles reveal that the right to truth is not universal, but rather it is a right that emerges from an episode of a gross violation of human rights.

Third generation rights often outright identify as a right something that is presupposed in the previous generations of rights. Expanding on the image of the pyramid, third generation rights can be understood as an additional piece that is used to bring a group’s pyramid of rights to parity with those who have not undergone a sustained deprivation of rights. For example, the United Nations Declaration of Rights of Indigenous Peoples (UNDRIP) protects against the forced assimilation of Indigenous peoples into other cultures (UN General Assembly 2007 art 8). While the right to self-determination alludes to this point, the language that completely bars the prospect of forced assimilation is only needed in response to sustained deprivation of this right over hundreds of years. It is in this vein that some scholars assert that the rights of Indigenous peoples should be understood as separate from human rights. Peter Kulchyski (2013) writes in *Aboriginal Rights are Not Human Rights* “Aboriginal rights stem from the struggles of

Indigenous peoples. In a way they could be seen as a specific form of customary rights, rights that developed over time, through repeated practice of an activity, rather than abstract rights that reflect a notion of how all people are ‘the same’” (21). For Kulchyski, it is precisely the difference in experience between Indigenous and non-Indigenous people that is a basis for Indigenous rights. This difference must be recognized, instead of universalized away. From this context of “solidarity” rights, or third generation rights, emerges a framework for legally enforceable rights to exist among certain groups of people in response to a sustained violation of human rights.

The right to truth in a Canadian context may also be supported by existing law in Canada, specifically Indigenous law. Canada’s legal system since confederation in 1867 has been widely assumed to be bijural, meaning Quebec is governed by civil law, and the rest of the provinces, territories, and federal jurisdictions are governed by common law. Quebec was allowed to retain Code Napoléon (Napoleonic Code), a civil code of law, owing to their unique French cultural heritage. However, it is incorrect to understand Canada as a bijural country. Instead, Indigenous law must also be recognized in certain circumstances. This makes Canada a multi-jural country, meaning that there are multiple coexisting legal systems. John Borrows (2005) writes, “Indigenous law is also part of Canada’s constitutional structure. Indigenous legal traditions shape and are embedded within our national legal structure” (161). In the Supreme Court of Canada case *Mitchel v MNR* (2001), the Supreme Court of Canada found that Indigenous laws continue to exist in Canada “unless 1. they were incompatible with the Crown’s assertion of sovereignty, 2. they were surrendered voluntarily via the treaty process, or 3. the government extinguished them” (927). Where Indigenous laws may remain, they may be applied as a possible legal source of a right to truth.

Truth commissions are a transitional justice mechanism that has the power to collect evidence to understand a sustained series of human rights violations that threatens to destabilize the social order. Evidence is collected in the form of testimony and artifacts to determine the context of the incident and the legacy. Some truth commissions offer amnesty in return for honest testimony. One such example can be found in South Africa's Truth Commission. In the case of apartheid-era South Africa, the foundation of organized society, the constitution, had become infiltrated with a damaging and volatile lie: a hierarchy of race exists, and humans are fundamentally unequal between races. The result was decades of atrocity based on race. South Africa's solution was to call perpetrators and Survivors alike to give testimony in what became a public spectacle. Amnesty was granted to perpetrators who were willing to offer the truth as a basis to rebuild society. Desmond (Tutu 1999) commissioner of the truth commission, said "There is another kind of justice — a restorative justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships" (51). Correcting these inequities must involve understanding the truth of what has happened.

In the Canadian context, the first steps towards transitional justice came with the creation of the Royal Commission on Aboriginal Peoples (RCAP). RCAP occurred in 1991 following significant political events such as the Oka Crisis and the Meech Lake Accord, as well as a significant uptick in the number of lawsuits brought against the government alleging severe misconduct in residential schools. RCAP (1996) had the broad mandate of investigating "the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole" and proposing solutions "rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today" (12). One of the fundamental problems with this approach is

that it reiterated the primacy of the Crown, along with domestic and international policy and was, therefore, representative of a top-down, colonial approach to settling conflict. Twenty years after RCAP published its report, Paul Chartrand, one of the commissioners, commented on the legacy of the Royal Commission, saying “There is a very powerful lesson there, which is that today still, I don't think it's changed much” (Troian 2016). Chartrand expressed a “great relief” (Troian 2016) when the Truth and Reconciliation Commission of Canada (TRC) released its report and a newly elected government in 2016, along with several Indigenous cabinet members promised to implement the TRC’s Calls to Action.

Following South Africa’s Truth Commission and a litany of truth commissions that took place in the 1990s and early 2000s, Canada invoked a similar transitional justice mechanism to address the systematized displacement of Indigenous children into state-run and typically religiously affiliated institutions for assimilation into western culture. Residential schools were built upon a lie as well. This lie claimed that Indigenous culture was inferior and that through proper indoctrination, Indigenous children could become the same as their western European-derived counterparts. The process of reconciliation, or the creation of a society that offers equality to Indigenous peoples, must be constructed on a firm and complete understanding of the truth. However, instead of a top-down, colonial approach, like the one used by the RCAP, Canada’s TRC was built from the bottom-up by Survivors that demanded both monetary reparations for harms of residential schools, but also symbolic and community-building measures based upon the truth.

Canada’s TRC was established as part of the Indian Residential Schools Settlement Agreement (IRSSA). The IRSSA (2006) acknowledges “Canada and certain religious organizations operated Indian Residential Schools for the education of aboriginal children and

certain harms and abuses were committed against those children" (6). The settlement was intended to serve as a "fair, comprehensive and lasting resolution of the legacy" of residential schools, including "the promotion of healing, education, truth and reconciliation and commemoration" (6). The "Schedule N" of the IRSSA (2006) called for the creation of the Truth and Reconciliation Commission of Canada, intended to "provide a holistic, culturally appropriate and safe setting for former students... [and] communities [to]... come forward" and to create "as complete an historical record as possible of the IRS system and legacy" (1a). The schedule also established a timeline for the truth commission which allotted five years for the commission to conclude and for a research centre to be established. Ultimately, the centre was established in partnership with the University of Manitoba and opened to the public in 2015.

Embodying Truth: Lessons from the NCTR

My practicum experience at the NCTR demonstrated to me how practitioners take the theoretical framework of promoting justice through truth and instantiate that into daily practice. During my experience, I came to understand how the right to truth is best protected by individuals acting within the structure of a small, but dedicated Centre. Practitioners at the NCTR embody and support the right to truth for residential school Survivors in a way that is inaccessible to top-down organizations or legislative bodies. I learned that these practitioners employ skills that they have been taught through specialized training and by developing and maintaining relationships with the community and within the organization itself.

My practicum experience included a professional development seminar on the topic of trauma-informed research and practice, led by my practicum supervisor, Shelby Thomas. The seminar was attended by the NCTR's summer students. Thomas previously served in the role of associate commission counsel for the National Inquiry into Missing and Murdered Indigenous

Women and Girls and commission counsel for the Mass Casualty Commission following the April 18-19, 2020 mass casualty in Nova Scotia, Canada. The purpose of both of these commissions was to elucidate the truth of what has occurred without putting an undue burden on the Survivors and witnesses. Thomas led a discussion exploring the different possibilities for truth-gathering in public versus private forums, hearing testimony from Knowledge Keepers versus expert witnesses, and the role of aftercare in promoting trust within communities.

One of the difficulties in trauma-informed research and practice, Thomas explained, is that it requires connecting on a human-to-human level while maintaining professional boundaries. One insight Thomas provided was that when a Survivor or witness is sharing their story, it is not intended for the professional or researcher to carry that story. In fact, doing so may also take away from the individual the burden and the responsibility to act in accordance with what they have survived or witnessed. Stealing their burden, however magnanimous the intent may be, denies the individual the dignity and sovereignty over their history, and by extension, their future. Carrying the weight of the individual's experience also exacerbates burnout in the professional or research, limiting their ability to effectively execute their role.

The difficulty of connecting on a human level in this line of work is offset by the opportunity to create lasting professional relationships. From the beginning of my practicum experience, Thomas emphasized the value of creating opportunities to connect with the NCTR staff and with my fellow summer students. On June 23, 2022, I had the opportunity to participate in a summer solstice ceremony and feast with the Centre. Prior to the feast, one of the Elders at the NCTR led a pipe ceremony and then a water ceremony. The event offered a rare opportunity for staff and community members to meet during a prolonged period of remote work. Some of the staff had never been to the NCTR's Chancellor Hall location on campus, working instead

remotely or in a temporary space at the Education Building since being hired. It also offered my first opportunity to meet in person with some of my fellow summer students. Near to the end of my 300 hours at the NCTR, the summer students organized a weekly roundtable to check in with each other and offer advice and support in working remotely.

My work during my placement at the NCTR included creating educational materials that could be shared to explain complex issues concisely in one well-researched page. In this way, I was engaging directly with the Centre's mandate of defending the right to truth for residential school Survivors. Much of the research that has been done on residential schools has been published in places like academic journals, parliamentary committee meeting minutes, and other places that are potentially inaccessible without specialized research training. My goal was to plainly explain the history and context of complex issues. As such, the bulk of my time was spent reading and researching. I read books such as *A Knock on the Door: The Essential History of Residential Schools from the Truth and Reconciliation Commission of Canada*, *Did You See Us: Reunion, Remembrance, and Reclamation at an Urban Residential School*, and *21 Things You May Not Know About the Indian Act*. The purpose of this research was to see how authors translate research into language that is accessible to a public audience. I was also tasked with collecting references in the TRC final report to a dozen residential schools, with an emphasis on personal accounts of the residential school experience. This background research was conducted for a novelist who was to be hired by the Centre to translate these experiences into narratives that could be read by the public to better inform them of the experience of residential school Survivors. This illustrates how carefully constructed fiction that is based on historical reality can sometimes preserve the truth more faithfully than academic reports that are detached from sensorial and affective truth.

My work at the NCTR was situated within their mandate for research initiatives, under the supervisor of Thomas, the research manager, who was recently hired to support the new research director, Brenda Gunn. I was the first student in the Master of Human Rights program to complete my practicum at the Centre. The NCTR draws students from a variety of disciplines at the University of Manitoba for a limited number of summer research positions. However, there was uncertainty regarding the Centre's ability to take on a summer research student in an unpaid role. This, along with completing the necessary contractual paperwork, delayed the start of my practicum. Both the master's program and the Centre were pleased to establish a relationship. The NCTR is eager to welcome more MHR students in the future.

The heart of the NCTR is the archive. During my practicum, I was able to speak with one of the archivists at the Centre about some of the strengths and weaknesses of the archive. The archive is primarily digital. With sparing exceptions, including artifacts on display at the Centre, the NCTR does not house physical items. Instead, the physical artifacts have been digitized and are available digitally online. Ideally, the archive would be as transparent as possible and Survivors and their families, students, and researchers would be allowed to access the full archive without restriction. Given the universal access to the archive, privacy concerns limit the number of items that can be publicly viewed. Each item, when individually selected on the NCTR website, has a link to contact the Centre if there is a reason that a specific item should be removed from public display. The Centre is incredibly conscious of the concerns of Survivors and their families and works dutifully to ensure the integrity of the archive.

The Centre is dedicated to Indigenizing the archive by embodying the principles of self-determination through ownership and control of the documents that reveal their truth. The NCTR's website states that they incorporate "Indigenous perspectives on memory, archival

practice and ownership” (NCTR n.d.) with the intent of decolonizing and indigenizing the archive. “Decolonizing” refers to the process of removing the colonial aspect of the archive, while “Indigenizing” refers to building the capacity of the archive in a manner that is consistent with and values the “authority of Survivors, Elders, Indigenous Peoples and traditional knowledge keepers responsible for bearing, interpreting and determining access to traditional knowledge within the appropriate protocols of language, environment, and culture” (NCTR n.d.). The Centre is also committed to Indigenizing the archival profession by supporting the success of Indigenous interns and archival staff. The NCTR also seeks advice and guidance from the Survivors Council which consists of seven members who represent First Nations, Inuit, and Métis Survivors of residential schools. The Survivors Circle is essential in centralizing the Survivors’ voices and perspectives at the NCTR. The Survivors Circle is appointed by the Governing Circle who are responsible for ensuring Indigenous control of the Center’s materials, providing guidance on policies and ways the Center can better serve Survivors, and providing support to ensure the archive remains accessible. While the staff and structure of the NCTR work to decolonize and indigenize the center, there are still abundant reminders of the imperfect physical space they are operating in.

During my practicum orientation at the NCTR, I was given a tour of Chancellors’ Hall, the NCTR’s headquarters. One of the drawbacks of the building, I was told, as I walked up the narrowing and creaking staircases was that the building itself was oddly reminiscent of certain residential schools. The Centre, in a word, is compressed. On the second floor, several desks are packed together in what used to be bedrooms. Downstairs, a conference table takes up just too much of the back porch to be comfortable for all occupants. The repurposed residence is also a museum, cultural centre, research centre, and the home the Truth and Reconciliation’s digital

archives. My practicum started in the spring, just after a nasty flood season had brought several inches of the Red River's putrid water into the basement of the Centre, displacing the archivists. The spring had also been a season of hiring at the Centre. My practicum supervisor, among dozens of other staff members, had been brought onto the team just prior to my arrival. Most of the new hires had offices in the university's Education Building, as the Centre had outstripped its capacity. In short, underfunding led to a situation in which the NCTR could not effectively fulfill its mandate.

Fortunately, in the previous summer, a new promised contribution meant that the Centre could hire more staff, take on additional initiatives, and have a purpose-built physical space to facilitate more educational and community-based activities. In September 2021, the campaigning Liberal Party of Canada pledged \$60 million in additional funding if they were to win the fall election. This funding included \$5 million per year for five years in operational funding, with the remainder going towards planning and consulting with the community before building the new centre. Stephanie Scott, the Centre's executive director, told the *Winnipeg Free Press* "You're going to see a world-class archive... You're going to see a kitchen where our grannies and grandpas and kookums can come cook and teach the language and share food. You're going to see ceremonial spaces where we can come together... and learn from each other" (Pursaga 2021). Beyond being a space where culture is preserved, the Centre will also have substantial resources to fund more research projects. In an interview with *The Manitoban*, Brenda Gunn, academic director of the NCTR, said the former "structure requires me to identify funding opportunities to support the research, whereas an increase to our baseline funding may allow us to dedicate specific funds to engage in research and not be dependent on that project-by-project approach" (Campbell 2021). Funding opportunities, usually through the Social Sciences and

Humanities Research Council (SSHRC), require time and effort to complete an application, plus SSHRC's calls for applications are typically tied to specific research attributes or outcomes which makes it impossible for the NCTR to take autonomous action on research questions that are most meaningful to Survivors and the Indigenous community.

Challenges to Truth: Denialism, Misinformation, and Hate

In the 2015 final report, the TRC identified truth as foundational to reconciliation between Indigenous and non-Indigenous people in Canada. Identifying the harm, understanding precisely why it occurred, and striving toward a better way of living for us all is what reconciliation is fundamentally about. In the summary of the Truth and Reconciliation Commission of Canada's final report (2015), the commissioners note “Without truth, justice, and healing, there can be no genuine reconciliation... Without truth, justice is not served, healing cannot happen, and there can be no genuine reconciliation between Aboriginal and non-Aboriginal peoples in Canada” (12). The commissioners go on to address the fact that “[t]oo many Canadians know little or nothing about the deep historical roots of these conflicts” (8). In this knowledge gap, there is the danger of denialism, misinformation, and hate to erode the successes of reconciliation thus far. In this section, I will explore how each of these reconciliation sins undermines progress by eroding truth.

In 2021, Murray Sinclair, one of the commissioners of the Truth and Reconciliation Commission of Canada warned that Canada's failure to fully understand the complexity of residential schools will likely present the largest obstacles to achieving reconciliation in Canada. In an interview with Aboriginal Peoples Television Network, Sinclair went on to say, “They're going to say this never happened. That the schools were all about education and the Indians should be thankful that they got an education” (Forester 2021). Sinclair was responding to a 2020

video of Erin O’Toole, Conservative Party of Canada leader, speaking to university students about how to win arguments against Liberals on the topic of residential schools. In the video, O’Toole said,

“When Egerton Ryerson was called in by Hector Langevin and people it was meant to try and provide education. [Residential schools] became a horrible program that really harmed people and we have to learn from that — and I wear orange. But we’re not helping anyone by misrepresenting the past,”

before later walking back these statement in a press release. Scholars are noting an uptick in misinformation regarding residential schools and corresponding plateau in enthusiasm in reconciliation. O’Toole’s comments come on the heels of Canadian senator Lynn Beyak’s minimization of the harms of residential school, Conrad Black’s denunciation of the TRC’s Final Report, and other provincial politicians’ comments.

Residential school denialism differs from residential school misinformation. Denialism has two main parts: an untruth and an objective. Justice and Carleton (2021) write that residential school denialism is the “the rejection or misrepresentation of basic facts about residential schooling to undermine truth and reconciliation efforts.” The misrepresentation of facts regarding residential schools should be promptly addressed but lack the pernicious intent to frame residential schools in a certain light. According to Justice and Carleton (2021) “the end game of denialism is to obscure truth about Canada’s residential school system in ways that ultimately protect the status quo as well as guilty parties.” Erin O’Toole’s comments in the quotation above seek to denounce reconciliation activities which were reignited during the Black Lives Matter resurgence in 2020 for the purpose of appealing to a conservative, status quo-oriented audience. O’Toole suggests that the purpose of residential schools was to provide an

education for Indigenous children. This is a claim that has been widely debunked. Moreover, O'Toole later admitted that this claim was false, saying "I said that the residential school system was intended to try and 'provide education.' It was not" (Boutilier 2020). While denialist comments have been commonplace in the Canadian political sphere, they are also commonly found online as well.

Misinformation is more common than denialism simply because it describes a wider umbrella of statements. The Oxford English Dictionary (n.d.) defines misinformation as simply "[w]rong or misleading information." Some instances of misinformation about residential schools is so misleading that people may have a completely inaccurate view of residential schools if this is the only media they access. One such example is a Facebook post made by a group called Indigenous Media Group. An image of this post has been reposted on social media dozens of times. After a period of dormancy, the post exploded in popularity following the discovery of unmarked graves of residential school students. The image features an archival photograph of what appears to be a residential school class outside of a brick building. Below the class photo, text reads "Every one of these children was shot due to overcrowding at a Kanien'keha:ka [Mohawk] residential school" (Baudoin-Laarman 2019). The image (Appendix 1) also includes a description along the right side, reading

"Kanien'keha:ka (Mohawk Institute) was a residential boarding school in Canada run by the Anglican Church where Mohawk children were forcibly removed from their parents and sent to live and be assimilated based on the ideas of ethnocentrism and eurocentrism. The school was founded in 1832 and was OPEN AND FUNCTIONING UNTIL 1970 during which time over half of the children admitted to the school were never seen or heard from again. The particular incident from this picture occurred in 1943. These

children had just been brought to the school- which was at that point was already overcrowded, so they were 'catalogued' then led outside to a ditch by the Canadian Army where they were lined up and shot then buried in the ditch while many were still alive as reported by another girl who attended the school at the time and said that she was able to hear children screaming as they were being buried. Before the school closed in 1970 fresh dirt was poured over the mass grave in an attempt to conceal it. It was eventually uncovered and in 2008 it led to the inquiry known as The International Human Rights Tribunal into Genocide in Canada as 27 MORE MASS GRAVES OF CHILDREN were uncovered throughout Canada” (Baudoin-Laarman 2019).

The caption engages with a number of true elements. For instance, the Mohawk Institute was an Anglican-run residential school where children were forcibly separated from their parents to be assimilated into Canadian colonial culture. However, the falsehoods support a narrative that is fundamentally different than the account given by Survivors.

According to the NCTR, while the Mohawk Institute was a real residential school that operated from 1828 to 1970, the school pictured in the photograph is actually the Kootany residential school located in what today is Cranbrook, British Columbia (Baudoin-Laarman 2019). The NCTR has the photograph in its digital archive. Archivists at the Centre have dated the photograph to 1925, owing to an inscription on the back of the original artifact (NCTR n.d.). There have been no reputable reports of children being shot at a residential school (Baudoin-Laarman 2019). The image of a firing squad shooting at innocent children is evocative and consistent with a more traditional view of genocide that sees death by physical violence as more atrocious than death by deprivation. These lies are dangerous because they create a strawman that takes on the guise of the reality of residential schools, but with any amount of research can

be refuted easily. As with the strawman argument, the concern would be that with the ease which one can refute these facts, one can also outright refute the historical reality of residential schools.

Enforcing the right to truth is an effective transitional justice mechanism because it can establish a starting point from which restitution and reparation activities can provide effective action. Restitution and reparation must be separated completely from ideas of revenge. Hatred, while extremely motivating for immediate action, only exacerbates the underlining societal problems. This is especially true when hatred is paired with acts of violence. In 2021, Canada saw a dramatic rise in hate-motivated violence carried out against persons and property (Moreau 2022). Violent hate crime rose by 29 per cent and non-violent crime rose by 26 per cent, as compared to the previous year (Moreau 2022). Hate crimes targeting Indigenous populations decreased by 1 per cent in 2021, after sharply rising by 169 per cent the previous year (Moreau 2022). One of the most dramatic increases in hate crime was a 260 per cent rise in total hate crimes targeting Catholics (Moreau 2022). For comparison, there was a 47 per cent increase in hate crimes targeting Jewish persons and property and a 71 per cent increase in hate crimes targeting Muslim persons and property (Moreau 2022). Statistics Canada does not analyze the reasoning behind any increase in crimes. However, the report notes that events, media coverage, and public discourse can all influence the prevalence of hate crimes. The report goes on to say, “In 2021, there were discoveries of unmarked graves on former residential school sites. Following these discoveries, there were reports of hate incidents targeting the Indigenous population as well as churches and other religious institutions” (Moreau 2022). The report by Statistics Canada acknowledges that the discovery of unmarked graves may have had an influence on the uptick in hate crimes.

Seeking revenge in the form of hate crime does not correctly target past perpetrators of injustice, along with being antithetical to numerous human rights ideals, including the right to due process, the freedom from discrimination based on immutable characteristics, and the prohibition of collective punishment. In 2021, following the discovery of unmarked graves at residential schools, 68 Christian churches were destroyed, damaged, or desecrated by arson, suspicious fires, and general vandalism (Dzsurdzsa 2021). According to Statistics Canada, hate incidents targeting churches would only be included in the above hate crime statistics if the police reported it as a hate-motivated crime (Moreau 2022). Few people expressed support for such acts of hatred, including the executive director of the British Columbia Civil Liberties Association in a public statement, which read, simply, “Burn it all down” (Little 2021). However, the majority of the responses to these hate incidents were total condemnation. Arthur Noskey, the Treaty 8 First Nations of Alberta grand chief, condemned the fires, calling these churches “potential evidence sites” (Leavitt 2021). Moreover, these acts of hate perpetuate violence against the Christian-Indigenous population, which is double victimized in the crossfire of hate. These seemingly vengeful acts not only work at cross purposes with reconciliation by destroying historic sites which may have been useful in understanding a complete history of residential schools, but they also put human lives in danger. While retribution is a valid part of the justice system and retribution often takes the form of deprivation of rights, including rights of the security of the person and property, it must do so within a legitimate legal framework. Extrajudicial violence or destruction of personal or cultural property only reinforces cycles of human rights abuses and places a false ideal of justice before truth.

Conclusion

Truth plays a fundamental role in adjudicating and maintaining justice, as well as responding to injustices of the past, and looking toward a better future. The right to truth is embedded within the framework of human rights, even if it remains difficult to assert a legally binding right to truth. Further study may be able to identify a customary international law basis for a right to truth. Indigenous laws remain valid in Canada and could also be a source for Indigenous peoples to assert a right to truth. Regardless, the right to truth is best preserved by practitioners who work directly with the community. These practitioners have extensive training and experience working with Survivors and use a trauma-informed practice. The NCTR is currently expanding to better deliver its mandate as the federal government begins to support the Centre with sufficient resources. There are challenges to the right to truth. These include denialism, misinformation, and hatred. Denialism and misinformation share similar attributes, but denialism has an underlying motive that misinformation does not. Hate is destructive to the truth and seeks revenge rather than justice for the harms of the past. The right to truth for people who have survived gross violations of human rights deserves further codification in international law, even though practitioners are already doing the work.

Appendix 1



Every one of these children was shot due to overcrowding at a Kanien'keha:ka residential school.



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Kanien'keha:ka (Mohawk Institute) was a residential boarding school in Canada run by the Anglican Church where Mohawk children were forcibly removed from their parents and sent to live and be assimilated based on the ideas of ethnocentrism and eurocentrism. The school was founded in 1832 and was OPEN AND FUNCTIONING UNTIL 1970 during which time over half of the children admitted to the school were never seen or heard from again. The particular incident from this picture occurred in 1943. These children had just been brought to the school- which was at that point was already overcrowded, so they were 'catalogued' then led outside to a ditch by the Canadian Army where they were lined up and shot then buried in the ditch while many were still alive as reported by another girl who attended the school at the time and said that she was able to hear children screaming as they were being buried. Before the school closed in 1970 fresh dirt was poured over the mass grave in an attempt to conceal it. It was eventually uncovered and in 2008 it led to the inquiry known as The International Human Rights Tribunal into Genocide in Canada as 27 MORE MASS GRAVES OF CHILDREN were uncovered throughout Canada.

From Baudoin-Laarman (2019).

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