BLOG ARTICLE FOR NATIONAL DAY FOR TRUTH AND RECONCILIATION

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Indigenous Knowledge is still being forced into Canada's property system

On the National Day for Truth and Reconciliation, progress is often measured through visible signs: an Indigenous speaker on a stage, a Land Acknowledgement at an event or an orange shirt in a workplace. However, Indigenous people have always been here, and we will continue to be here. The more difficult measure of reconciliation is whether institutions have relinquished any of their power over Indigenous lands, knowledge and records. I approach this question from within a family shaped by Cree, Mennonite and Métis relations. I am a citizen of the Manitoba Métis Federation who now lives and works in Ontario at the University of Toronto—responsible both to the relations that ground me and to the institutions whose practices I am asking us to confront.

At the forefront of my mind, I want to state that reconciliation is not work that Indigenous people should be asked to perform for Canada. This is not an Indigenous system; it is meant to help settlers hold themselves accountable. The Elders, parents and grandparents already shared their truths with the Truth and Reconciliation Commission. More than a decade after the TRC issued its Calls to Action, libraries, archives, governments and professional associations must ask a more specific question: what progress have we made toward fulfilling Calls to Action 69 and 70—and toward ensuring that Indigenous peoples can exercise meaningful authority over their knowledge?

Focusing on intellectual property, the honest answer is: not nearly enough.

When knowledge becomes "public domain"

Canada's Copyright Act is designed around identifiable authors, original works fixed in material form, limited terms and rights that can be assigned. A song, story, name, design or teaching may be collectively held, carried across generations, governed by ceremony, or entrusted to particular people for particular purposes. Its authority may come from relationships among people, Land and ancestors—not from the moment an individual writes it down.

This does not mean that all Indigenous Knowledge is legally in the public domain. It means that Canadian copyright often leaves it unprotected: a spoken teaching may not satisfy fixation requirements; a collective or intergenerational work may not fit the law's model of authorship; and older published material may have fallen out of copyright. Living knowledge can be treated as available for use, while a researcher, publisher, photographer, or institution may obtain copyright in the recording, transcription, photograph, database, or edition created from it.

The Canadian Federation of Library Associations made this problem plain in its 2018 position statement on Indigenous Knowledge in Canada's Copyright Act. It called for the Act to recognize Indigenous peoples' ownership of traditional and living knowledge, to prevent contracts and licences from overriding those rights, and—in some circumstances—to permit communities to regain control even where a work has entered the public domain. Eight years later, the statement is more of an agenda than an accomplishment.

Ownership organizes circulation in libraries: who may reproduce a work, lend it, digitize it or place it online. Ownership also organizes archives: who signs a deed of gift, who sets access conditions, whose consent counts and who can authorize reuse. Libraries and archives are systems of care, but they are also systems of control.

A copy is never "just" a copy

My article *Engineering oral stories: A conceptual model of traditions as water* uses the library model once known as FRBR to separate a cultural narrative from its expressions, material forms and individual copies. Institutions tend to describe—and copyright law tends to recognize—the tangible carrier. When we collapse a living oral tradition into a recording or transcript, the carrier becomes legible as property while the relationships that authorize the story's circulation disappear.

Research intervenes in knowledge and generates new records: audio files, transcripts, photographs, spreadsheets, maps, metadata and publications. Each copy can acquire a new custodian, licence, access rule or copyright claim. The question is not only, "Who owns the story?" It is also, "Who governs every new form the research creates?" In Libraries, we have principles such as CARE and FAIR, but they do not address governance and may even contradict community needs, as they require Indigenous governance to come before colonial systems, which is explored by Carroll et al. 2020.

Kyle Napier describes this wider authority as *story sovereignty*: a shift from the external representation of Indigenous peoples toward Indigenous control over their own narratives. This makes clear why intellectual property cannot be reduced to possession of a physical or digital copy. An institution may legally own a recording, transcript or photograph while still lacking the relational authority to retell, recirculate or recontextualize the knowledge it carries. Story sovereignty asks whether Indigenous peoples can determine not only how their stories are represented, but also when they are shared, with whom and under what protocols.

This is why I recommend The Fundamentals of OCAP® training from the First Nations Information Governance Centre for anyone working with First Nations data. OCAP®—Ownership, Control, Access and Possession—is not a substitute for First Nations law, nor is it a universal framework for all First Nations, Inuit and Métis peoples. Nor does a certificate make a project reconciliatory. What the training can do is change the questions researchers ask before data collection begins. It makes data governance a research-design issue rather than an afterthought and requires institutions to

identify the Nation or community whose authority must shape agreements, storage, access, reuse and eventual disposition.

OCAP® is not, by itself, legally binding. Its force comes when First Nations express it through their own laws, protocols, contracts, research agreements and governance practices. That is precisely why it is valuable: it introduces an accountable third party into a relationship that institutions have too often imagined as being only between an individual researcher and their data.

Relational data does not guarantee relational practice

Concrete ways to change Library practices help to identify how technical innovation does not solve this political problem. In Grounding the Semantic Web: Indigenous Sovereignty, Land-based ontologies, and the politics of Linked Data, I examine how the term "Two-Spirit" travels from Library of Congress Subject Headings into Wikidata and the Homosaurus through resource description.

The Resource Description Framework (RDF) structures information as statements that connect one thing to another: for example, "this book has this subject" or "this person created this record." Libraries use these statements to describe materials and connect information across collections and systems. Together, these connections form a network, or knowledge graph. RDF represents relationships in this technical sense, but connection is not the same as relational accountability. A graph can link an Indigenous identity across thousands of systems while still nesting that identity beneath Western categories that treat whiteness and settler understandings of gender and sexuality as universal. A technically open, decentralized structure can still reproduce what Aileen Moreton-Robinson calls the white possessive: the management and assumption that it is not just Indigenous Lands that can be owned, but community knowledge.

No vocabulary, metadata schema or knowledge graph can embed relationship as a living practice on its own. Relationality requires people who remain answerable to one another, protocols that can change, and the possibility that a community may negotiate, limit or refuse a link. Indigenous data sovereignty is not just a better description. It is jurisdiction over the terms by which knowledge is described, connected and circulated.

The coming destruction of residential-school records exposes the stakes

In 2016, Jamila Ghaddar controversially described Indigenous people as a "spectre in the archive": intensely documented by colonial institutions yet denied authority over the records through which the state remembers them. A decade later, that spectre remains.

The records now approaching a destruction deadline are not the entire TRC archive. They are records created through the Independent Assessment Process (IAP), a confidential compensation process established under the Indian Residential Schools Settlement Agreement. In *Canada*

(Attorney General) v. Fontaine, the Supreme Court of Canada upheld an order requiring the eventual destruction of these confidential claimant records following a 15-year retention period. During that period, individual claimants may request a copy of their records for themselves, consent to their preservation at the National Centre for Truth and Reconciliation, or do both. Records for which no such action is taken are scheduled to be destroyed on September 19, 2027.

There are serious reasons not to preserve IAP records without consent. They contain extraordinarily intimate accounts of physical and sexual abuse, and many claimants participated with strong assurances of confidentiality. Automatic preservation can turn testimony given for compensation into a state-owned historical resource. But automatic destruction can also eliminate records that survivors or their families may later need for recognition, family history, litigation or community memory. NCTR's survivor-engagement report found confusion about the process and concern that family members or executors cannot elect preservation after a claimant dies.

This is the bureaucratic nightmare at the centre of my forthcoming *Archivaria* article for Spring 2027, The Archive as Astrolabe: Navigating Colonial Records in Canada from an Indigenous Perspective. Privacy law, access law, settlement agreements, court orders and institutional mandates all impose real obligations. Yet a system designed around institutional risk can make people reconstruct the violence done to them across archives, courts, churches, health systems and government departments.

Justice and healing are not always the same. A legal process may deliver compensation without restoring relationships. Destruction may protect privacy without creating healing. Preservation may support public accountability while violating an individual survivor's wishes. The answer is not to decide, once and for all, that records must be kept or destroyed. It is to build supported, understandable and ongoing ways for survivors and Indigenous communities to exercise authority over records, including the authority to preserve, return, restrict or destroy them.

Look for the people already doing the work

The lack of national legal movement should not obscure what is happening locally. Across Ontario and beyond, librarians, archivists, technicians, Elders and community partners are revising descriptions, negotiating culturally responsive access, supporting Indigenous language work, returning digital copies, building community-controlled repositories, implementing Indigenous Knowledge labels and helping families navigate fragmented records. Much of this is quiet relational labour. It is often unsupported, underfunded and absent from institutional accounts of reconciliation.

Indigenous presence is not evidence that reconciliation has succeeded. The better measure is whether the systems around us have surrendered any of their assumed authority: whether a community can say no; whether a protocol can override a default access setting; whether a survivor can decide the future of their testimony; whether a librarian doing patient, accountable work is given the time and resources to continue.

Selected sources and further reading

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