

UPHOLDING SACRED OBLIGATIONS

FINAL REPORT OF THE SPECIAL INTERLOCUTOR FOR MISSING AND DISAPPEARED CHILDREN AND UNMARKED BURIALS

SARA STRATTON
RECONCILIATION AND INDIGENOUS JUSTICE ANIMATOR
FEBRUARY-MARCH 2025

Welcome. In this session, we are going to learn more about the final report of the Special Interlocutor on Missing Children and Unmarked Burials associated with residential institutions. I will be speaking from the perspective of the United Church, which participated in that system. The church has since committed to a path of reconciliation and active anti-racism, but those words – reconciliation and anti-racism – are definitely easier to say than they are to live out, and that path has not been without obstacles and interruptions.

Almost 40 years after the first United Church apology, it remains acknowledged but not accepted by Indigenous peoples within the church, and as we approach the 10th anniversary of the TRC Calls to Action, we have witnessed a steadily diminishing political will to pursue the Calls, and a “reconciliation fatigue” among many non-Indigenous people – a fatigue that is a by-product of what I would call settler privilege.

In the midst of this came word, first from T’kemplups First Nation and then from others, of what survivors and families had been saying for years – that children were buried in unmarked graves on properties associated with residential institutions. In June 2022, Kimberly Murray was appointed Special Interlocutor on Missing Children and Unmarked Burials by the Minister of Justice and Attorney General of Canada. For the next 2 ½ years, she and her staff functioned independently and impartially in a non-partisan and transparent manner.

Her mandate was to identify needed measures and make recommendations for a new federal legal

framework to ensure the respectful and culturally appropriate treatment of unmarked graves and burial sites of children at former residential and associated institutions. She did this in close collaboration with First Nations, Inuit and Métis governments, representative organizations, communities, Survivors and families, the federal, provincial, and territorial governments and other relevant institutions such as church entities and record holders.

This work has now concluded. The Special Interlocutor released her final report, an Indigenous-led Framework for Reparations, in Gatineau on October 29, 2024.

Today we are going to take a look at the report and consider how we can respond to it.



I attended the final gathering. It was an honour –and humbling– to be present as a non-Indigenous representative of one of the churches.

This gathering was rooted in the voices and experiences of survivors. It was a place of reflection, trauma, community, humour, cultural expression, healing, and looking towards the future.

I want to take the time now to acknowledge that this presentation contains material that will be traumatic for Indigenous people. If that is you, please do what you need to do to take care of yourself. There are people here to support you.

I also want to acknowledge that there is a lot of technical and legal language in this presentation – and ask you to remember that behind it are real children, real families, and real communities who have suffered at the hands of the State and the churches.

Let’s just take a moment to acknowledge and remember them before we go any further.

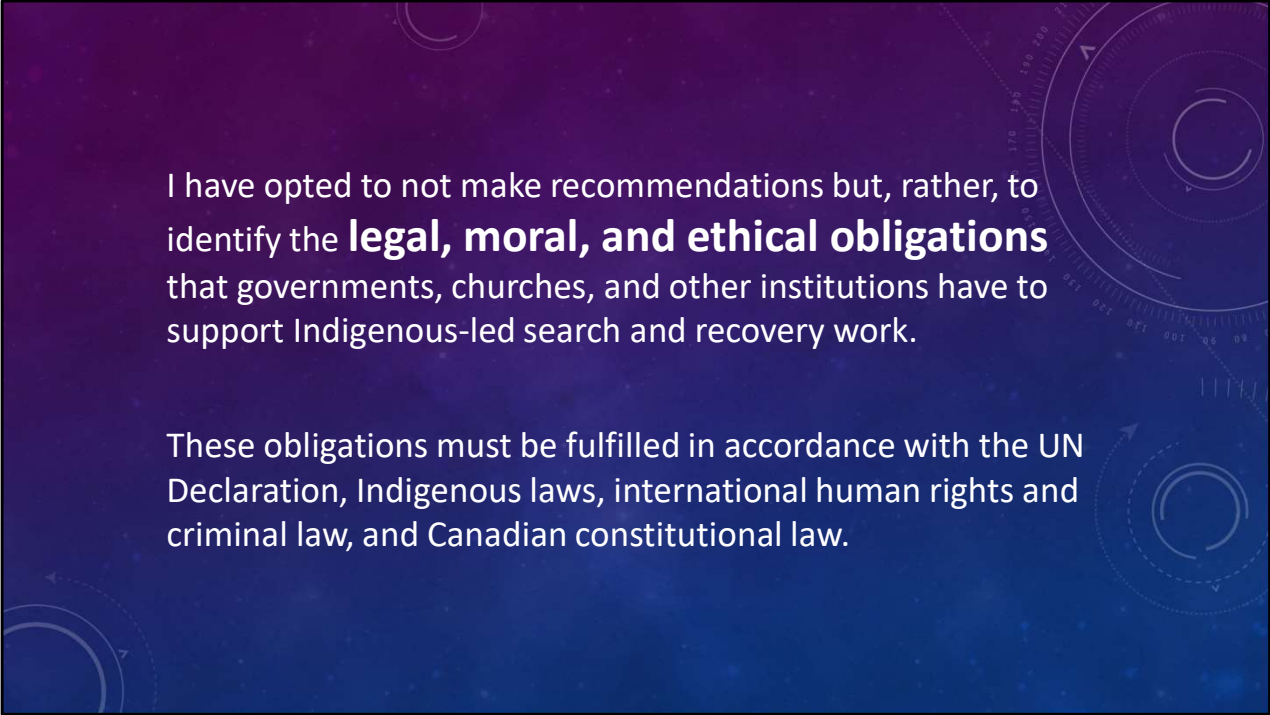


PART 1: OVERVIEW

This morning, I want to share an overview of the report's findings and the obligations that it names.

This won't be an exhaustive summary but rather will focus on a number of points specific to the churches, and the four main and inter-related conclusions, to which the United Church and all Canadians are obliged to respond.

The question for us is how to do so.



I have opted to not make recommendations but, rather, to identify the **legal, moral, and ethical obligations** that governments, churches, and other institutions have to support Indigenous-led search and recovery work.

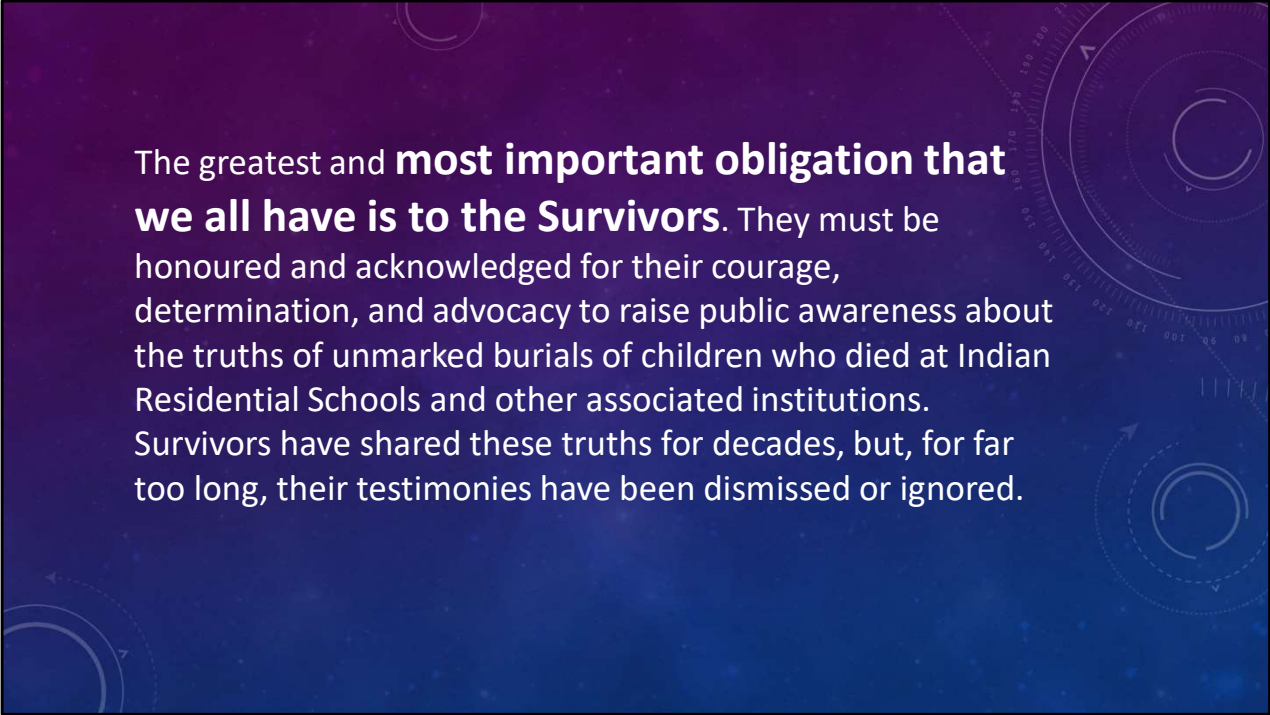
These obligations must be fulfilled in accordance with the UN Declaration, Indigenous laws, international human rights and criminal law, and Canadian constitutional law.

These words are from the introduction to the report.

The Special Interlocutor makes clear that she does not make recommendations.

Instead, she outlines what she considers the legal, moral, and ethical obligations of government, churches, and other institutions.


Its framework is grounded in human rights instruments, Indigenous law, international human rights and criminal law, and Canadian constitutional law.



The greatest and **most important obligation that we all have is to the Survivors.** They must be honoured and acknowledged for their courage, determination, and advocacy to raise public awareness about the truths of unmarked burials of children who died at Indian Residential Schools and other associated institutions. Survivors have shared these truths for decades, but, for far too long, their testimonies have been dismissed or ignored.

This is another key part of the report and the context is which it was created: the obligation to survivors.

They are the ones who have brought this issue forward and kept it alive. The obligation to honour them stands above all others, and runs through the report.



Their testimonies, about each institution and across institutions, reveal the **systemic patterns of genocide** and the crimes against humanity perpetrated by Canada against Indigenous children and families.

A key principle of the report is the finding that the residential schools system was unquestionably genocide.

CAUTION – COULD BE TRIGGERING

This means that the system and its participants

- Destroyed group identity, family structures, and connection to ancestral territories
- Mistreated, neglected, and abused Indigenous children
- Failed at a systemic level to provide adequate healthcare and ethical medical practices
- Forced transfer of children
- Dehumanized and devalued children during their lives and after their deaths
- Committed spiritual violence (denial of ceremonial practices, including funeral practices)
- Silenced and omitted the history of genocide in Canada
- Failed systemically to provide accountability and justice



As you can see, this is a substantial report. It is based on a wealth of research, including evidence from the TRC, new archival, organizational, and legal research, and new oral history and testimony from 7 national events.

It names other obligations in addition to those I will be highlighting. These include:

- continued gatherings for survivors
- resilience-based healing and healthcare
- re-matriation of burial land
- repatriation of children

FIVE FOCAL POINTS

- Church Obligations
- Enforced Disappearances
- Settler Amnesty/Culture of Impunity
- Commission of Inquiry
- Settler Denialism

In this presentation, I have chosen five focal points.

One is the group of specific and concrete obligations directed to the churches – this is important for United Church people here to understand and take on as part of our commitment to reconciliation and anti-racism.

The other 4 are the interconnected findings and obligations which the Special Interlocutor herself chose to highlight at the national gathering. They are important for a number of reasons:

- They redefine the nature and impact of residential and other colonial institutions
- They name how Canada as a state continues to deny its role
- They name a possible way forward
- They address Canadian society's denialism, and issue a challenge to those of us who seem to be allies in Indigenous justice.



CHURCH OBLIGATIONS

The first item I want to deal with are the obligations of the churches, and how the United Church of Canada is responding.

CHURCH OBLIGATIONS

- Fully implement TRC Calls to Action 71–76.
- Expand Call to Action 73 to include cemeteries and burial sites associated with the other institutions.
- Support Indigenous families and communities' right to truth under international law and provide long-term, sufficient, and flexible funding for Indigenous-led investigations into the missing and disappeared children and unmarked burials.

The General Secretary and the current and past Moderators have been in conversation with 8 communities. We have provided financial support for 3 community projects, and are in active conversation with another 2 communities. We have also been humbled to be present at the release of some community research. The General Council Archives has to date provided digital packages to 24 communities. This represents more than 75,000 pages of documentation and thousands of images.

CHURCH OBLIGATIONS

- Create a plan to search records and archives for all relevant information and create a public, transparent, and accessible inventory of these records;
- Work to transfer these records to Indigenous Peoples, in compliance with First Nations, Inuit, and Métis Indigenous data sovereignty principles; and
- Provide education and training for archivists and staff on international human rights laws and principles.

The Special Interlocutor calls for Indigenous peoples to have sovereignty over the information about them that is held by Canada, the churches, and other institutions. This includes searching for all records, transferring the records, and following certain human-rights based archival principles.

The United Church's national and regional archives are proactively searching and digitizing all such records that were not previously identified and digitized by the Truth and Reconciliation Commission, and are directly providing communities with them in digital form.

The Archives' reconciliation framework follows the path outlined here, including training on human rights laws and principles, and our archivists have been trained in the First Nations principles of ownership, control, access, and possession (OCAP).

We have begun discussions with communities on how to repatriate documents.

CHURCH OBLIGATIONS

- List all holdings related to residential schools and other institutions in a National Records Registry (to be created).
- Alteration or destruction of such records should be made a criminal offence.
- Put a moratorium on destruction of any records that may contain information relating to the death of a child.
- Return all records that contain information about residential schools and associated institutions to Canada and transfer these records to Indigenous Peoples

These obligations all relate to the documentary record and seek to ensure that all archival material (including any that is out of the country) is properly documented and stored, that it is not destroyed or altered, and that it is shared with Indigenous communities.

While we know that in the past documents have been destroyed intentionally or in events like fires, the United Church's archival policy is to preserve, register, and share all documentation, including new materials as they are uncovered.

An outstanding question on record destruction affecting all Parties to the settlement agreement is the destruction, ordered by the Supreme Court and scheduled for 2027, of all ADR/IAP records unless the claimant specifically asks that they be preserved.

CHURCH OBLIGATIONS

Apologize for the multiple harms committed against the missing and disappeared Indigenous children, their families, and communities.

These apologies must:

- Establish a full and accurate public record of the historical injustices and ongoing harms of genocide, colonization, and mass human rights violations; and
- Commit to further substantive material and symbolic reparations and actions in accordance with international human rights law.

The final church obligation to share today is the call for renewed, more accurate and detailed apologies, including symbolic and material reparations. The apology is in active discussion at the United Church, and work on reparations is a key element of the current workplan of the General Council Office.



FOUR MAJOR FINDINGS AND OBLIGATIONS

Next I would like to focus on four major findings of the report, which have implications far beyond the churches, but which the churches are obliged to address.

ENFORCED DISAPPEARANCES

- Canada and the churches anticipated that children would die in residential and other institutions, did little to prevent it, shifted children between institutions without their parents' knowledge, and dehumanized the children after death.
- Canada is obliged to publicly acknowledge this, and to provide full reparations, including compensation, to families of the missing and disappeared children, including their living descendants.

The report finds that many children who did not return home are not simply “missing,” and must be considered to have been intentionally disappeared. Enforced disappearance is a specific form of human rights violation.

We know from the findings of both the TRC and the Special Interlocutor that it was anticipated that children would die, that little was done to prevent it, that children were shuttled between institutions, and that they were dehumanized after death.

These are all practices of enforced disappearance.

The harm extends beyond the person to their family and community, and is ongoing.

Disappearance is considered a crime against humanity if it is part of a “widespread or systemic attack” on any civilian population.

The Special Interlocutor found that these characteristics apply to what happened in residential institutions.

Her report finds that the government is obliged to publicly acknowledge this, and to provide full reparations, including compensation, to families of the missing and

disappeared children, including their living descendants.

SETTLER AMNESTY/CULTURE OF IMPUNITY

- Refusal to prosecute + No punishment = Continued harm with no consequences
- Canada is obliged to
 - ratify the American Convention on Human Rights and accept the jurisdiction of the InterAmerican Court on Human Rights;
 - accept the international convention on enforced disappearance and codify it in Canadian law;
 - refer enforced disappearances to the International Criminal Court

The Special Interlocutor also found that Canada has a culture of impunity and settler amnesty. Settler amnesty is the ongoing and unconditional refusal to prosecute those most responsible for causing harm; impunity is freedom from facing any punishment or other consequences. A culture of impunity permits individuals and institutions to cause harm knowing they will not be held accountable.

In the words of historian Sean Carleton, Canada has achieved this by “bubble-wrapping” itself – by abstaining from key elements of international law, and revising Canadian law related to human rights and enforced disappearances.

In terms of addressing settler amnesty and the culture of impunity, Canada’s obligations are to

- Ratify the American Convention on Human Rights and accept the jurisdiction of the InterAmerican Court on Human Rights
- Accept the international convention on enforced disappearance, and codify it in Canadian law
- Refer enforced disappearances to the International Criminal Court

ADDITIONAL INFO IF REQUIRED

The SI characterizes this amnesty as:

- self-granted (by the government)
- blanket – covering everyone
- unconditional – did not have to participate in any accountability forum
- de facto – not announced but assumed through active disinterest in holding people to account.

COMMISSION OF INQUIRY

- In cases of enforced disappearance, international human rights law requires investigation and reparation through a commission of inquiry.
- This cannot be conducted by the state itself.
- In this case, it should be Indigenous-led, and would have powers under international law that the TRC and the Special Interlocutor did not have.

The Special Interlocutor also highlighted that in cases of enforced disappearance, international law requires investigation and reparation through an independent Commission of Inquiry, and determined that it is the government's obligation to establish an independent, Indigenous-led national Commission of Investigation into Missing and Disappeared Indigenous Children and Unmarked Burials.

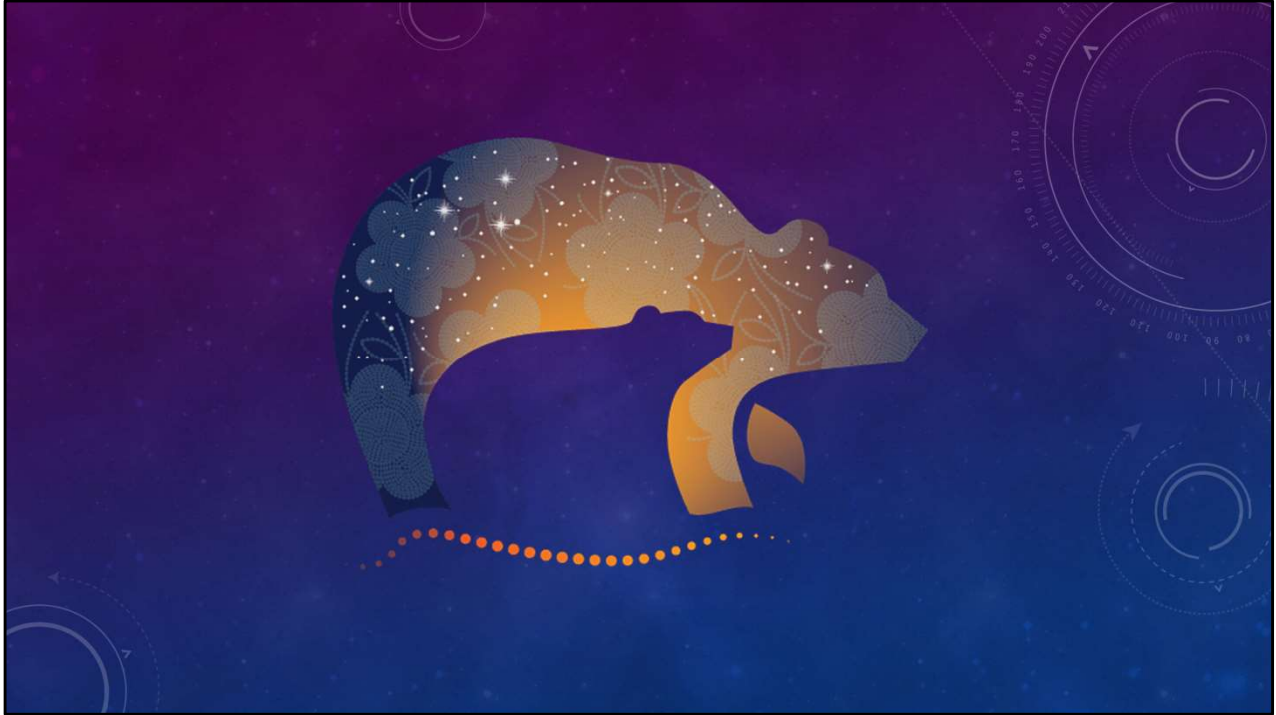
SETTLER DENIALISM –

Obligations:

- Include denialism in Bill C-63 (Online Harms Act)
- Amend the Criminal Code to include promotion of hatred against Indigenous Peoples through denialism
- Track dissemination of false information, including online
- Support communities affected by hate and harm
- Establish and enforce penalties for sharing false information

The Special Interlocutor focusses significantly on settler denialism, or the practice of questioning the research and evidence around residential and other institutions, missing children, and unmarked burial sites.

This works alongside settler amnesty and the culture of impunity to allow Canadians to resist the truth and responsibility. We're going to talk more about that this afternoon, but it's important to note here that the Special Interlocutor has proposed a number of legislative and legal steps that Canada can take to address denialism, including naming it as hate speech and targeting online media. She has a very detailed plan, including tracking, monitoring, and enforcing penalties, as well as support for communities affected by this hate.



That's really the outline of the report, and is where we will end things this morning before going into small groups.

As I reflect on my experience at the SI Gathering, I think back to the opening session, where an Elder said, "Every one of you in this room has the story of a child that didn't come home." I suspect that the Elder didn't have church or government representatives in mind when he said this, but I couldn't help but think at the time that it applied to me as well those he intended, although in a very different way.

And after hearing about and reading the report, I recognize that, as a representative of the non-Indigenous United Church of Canada, I absolutely do hold stories of children who didn't come home. And that we do indeed have sacred obligations to these children.

The Special Interlocutor's report builds significantly on what the TRC brought forward into non-Indigenous peoples' consciousness. It offers a clear and concrete path towards justice. I believe it will be an uphill battle with the government and settler Canada, but I believe it is a hill we need to climb as a church and a society – much as the late Honourable Murray Sinclair indicated almost 10

years ago when he said, ““We have described for you a mountain. We have shown you the path to the top. We call upon you to do the climbing.”

Thank you.



PART 2: REPARATIONS

The Special Interlocutor has framed her report as an exercise in reparations, and more specifically, reparations as defined from an Indigenous perspective. In this session, we want to share a few thoughts on reparation, and then invite you into reflection with us.

Before going any further, though, I want to offer a few thoughts on the idea of reparation. The American ethicist Margaret Urban Walker defines what can be a very complex idea in very simple terms: “amends owed for wrongs and wrongful harms.”

We also have historical examples. Reparations were paid to formerly enslaved people by Quakers in the late 1700s; during the American Civil War, some slaveholders were paid a perverse form of reparation when they freed the enslaved. In our own or our parents’ lifetimes Germany paid reparations for the Holocaust, and so did Canada and the US for WW2 internment of people of Japanese descent.

With the exception of reparations to slaveholders, I’m not passing judgement on the quality of these reparations. That judgement belongs to those who received them. And so it is appropriate, I think, that we as the United Church of Canada, which has committed wrongs and wrongful harms against Indigenous peoples, pay attention to what the Special Interlocutor is putting forward as an Indigenous-led framework for reparations.

So now over to John and Tony for their thoughts. We'll spend some time in small groups later on.

REPARATIONS: SMALL GROUP QUESTIONS

- What form can reparations take?
- What role might the church play?
- What personal reparations do you think you can take?

The background is a dark blue gradient with faint, light blue technical diagrams and numbers. On the right side, there are several circular diagrams with concentric circles and arrows, some with numbers like 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260, 270, 280, 290, 300. There are also some dashed lines and arrows pointing in various directions.

PART 3: CONFRONTING DENIALISM

THE SETTLER RUSH TO INNOCENCE

Placing Ourselves in Colonialism



One of the issues we constantly face in the work of reconciliation is what Eve Tuck and Wayne Yang have described as the “settler rush to innocence.”

This refers to the tendency of settlers (like me, and many of you) in a colonial context to deny our complicity in the systemic injustices against Indigenous peoples, seeing ourselves instead as innocent and uninvolved in the historical and ongoing dispossession of land and cultural erasure.

There are significant emotions involved: shame, guilt, anger, and defensiveness, for example. It’s also a way to avoid confronting our own privilege and guilt.

We demonstrate it in many ways: we say that the past has nothing to do with us; we ask why people can’t “get over it”.

But there are ways, if we choose, that we can learn about how the past very much continues to be relevant to where we position ourselves as descendants of those who “settled” these lands.

We have a program (Placing Ourselves in Colonialism) for settlers and newcomers to explore our family histories and stories. Where do we connect with the forces of

colonization? What are our responsibilities to the places where we have “settled” and the people whose lives that has impacted? Where does this lead us in our discipleship?

When I did this in terms of my own family history, I had the opportunity to reflect on how my family history of poor English fishery workers coming to Newfoundland beginning in the 18th century was a powerful driver not just in the colonization of North America, but in the global slave trade as well.

As far as I can make out, I wasn’t told any untruths in my family history. But in creating a family history, or family lore, there is stuff that gets glossed over. The same with a provincial or national history.

When I was in grade school in the 1970s, Newfoundland didn’t want us to know that there were people indigenous to the island than the Beothuk. So they didn’t teach it. And they barely acknowledged Indigenous peoples in Labrador. For more than 150 years, Canada did not want the story of residential institutions told. So they didn’t teach it, and they manipulated the law to avoid taking full responsibility.

Now there are those who acknowledge the presence of these institutions, but wish to deny their intent and their impact. They wish to deny the past, which continues to shape the present and the future. But the past cannot be ignored, or cannot be “gotten over.” It has to be understood, and confronted, if we want to move forward

This exercise made me look at the past more honestly and critically. I think it can be a valuable tool in preparing us to confront denialism.

SETTLER DENIALISM – 5 MYTHS

- Harms of residential schools have been overstated and positives overlooked.
- Experiences at residential schools, including deaths, have been exaggerated.
- We do not know the truths about deaths at residential schools.
- There is a conspiracy to exaggerate deaths for political and financial gain.
- What happened was not genocide.

The Special Interlocutor focusses significantly on settler denialism, which undermines the calls for reconciliation and justice. She highlights these 5 common myths that are broadly shared by a relatively small number of highly influential figures in media, education, business, politics, and faith communities. Their outreach has the power to influence the population as a whole – and is often posed quite innocently, for example, as a question for clarification or a matter of curiosity. Sean Carleton characterizes it as a learned behaviour, when people feel implicated by the horrific evidence in front of them and so seek comfort in denying reality.

The Special Interlocutor has proposed a number of legislative and legal steps that Canada can take to address denialism, including addressing it as hate speech and particularly targeting online media. She has a very detailed plan, including tracking, monitoring, and enforcing penalties. She also calls for support for communities affected by this hate.

As an anti-racist faith-based organization, the church has a contribution to make in these areas as well – through ongoing education, advocacy, and faith reflection.

We'd like you to spend some time in small groups reflecting on how you can confront denialism.

DENIALISM: SMALL GROUP QUESTIONS

- How have you encountered settler denialism?
- How do you think the past informs the present?
- Why do you think denialism exists? How can you confront it?
- How can the church counter settler denialism?