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WHEN WORLD (VISIONS) COLLIDE: THE CASE OF MAKAYLA SAULT AND INDIGENIZING THE CURRICULUM AT CANADIAN UNIVERSITIES

Abstract:

The case of Makayla Sault is, first and foremost, a tragic story of the death of a young First Nations girl from cancer. Beyond that, however, it raises important questions about substituted judgement with respect to medical decisions made on behalf of children below the age of consent. In particular, this case raises issues of who has the authority to make decisions regarding underage children when parents and health care workers radically disagree. Finally, the case raises issues of Canada's First Nations people. The treatment of those peoples by settlers to this country has been, unfortunately, turbulent and, by any fair assessment, First Nations people have been treated – and continue to be treated – unjustly. This was officially recognized by the Truth and Reconciliation Commission (TRC) report. That report also issued a number of recommendations to rectify the treatment of First Nations People of Canada. I will suggest that whatever one feels about the Makayla Sault case, it cannot be fairly and completely understood outside the context of the history of the mistreatment of First Nations People, the TRC report, and its recommendations. This paper explores this case with a view to one of those recommendations regarding 'indigenizing the academy' and how, in particular, non-aboriginal academics can approach and teach indigenous subject material in their classes.

Keywords:

Philosophy, bioethics, substituted judgement, relational autonomy, communitarianism, First Nations People of Canada

1. Introduction[1]

Makayla Sault was an eleven year old Ojibwe girl from the New Credit First Nations community in the province of Ontario in Canada. After twelve weeks of chemotherapy to treat her leukemia, Makalya and her parents opted to forego this mainstream medical treatment and pursue traditional, indigenous medicine, and despite the fact that continuing this treatment had a 75% chance of success.[2] Makayla died just a few months after that decision was made. This decision raises moral and legal questions the decision made by Makayla's parents, and whether the state ought to have intervened and, for example, forced Makayla to continue her chemotherapy treatment.

In order to determine this ethical and legal question, however, Makayla's case must be understood within the context of the treatment of First Nations peoples in Canada. Unfortunately, Canada's First Nations peoples have been, and continue to be, treated very badly.[3] They have been subject to both intentional, conscious and systemic racism, and a colonial attitude that has viewed them as savages requiring abandonment of their traditional languages and beliefs and assimilation into 'civilized' European culture. The epitome of this attitude towards First Nations peoples was the government funded residential schools, which separated First Nations children from their parents and communities in order to "kill the Indian" in them. In addition to the cultural genocide perpetrated by residential schools, these schools were also the site of a great deal of physical, emotional, psychological, and sexual abuse. This will be discussed in some detail later in the paper. I mention it now both for the context it provides for discussion of

[1] I would like to begin by acknowledging that this paper was written in Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq People. This territory is covered by the "Treaties of /Peace and Friendship" which Mi'kmaq and Wolastoqiyik (Maliseet) people first signed with the British Crown. The treaties did not deal with surrender of lands and resources but in fact recognized Mi'kmaq and Wolastoqiyik (Maliseet) title and established the rules for what was to be an ongoing relationship between nations.

[2] It should be noted, however, that survival rates are not always well understood, nor are they always presented clearly. *Typically*, a survival rate "describes the percentage of people with a specific cancer type who will be alive a certain time after diagnosis. Survival rates can describe any given length of time. However, researchers usually give cancer statistics as a 5-year relative survival rate. The rate describes the percentage of people with cancer who will be alive 5 years after diagnosis. It does not count those who die from other disease" nor does the notion of survival rates include questions of the quality of life (Cancer.net 2016).

[3] As an example of this, consider the fact that though Indigenous youth constitute only 8% of youth in Canada, they represent almost 50% of incarcerated youth (Malone, 2018).

this case and also because it can be used as an example of how a non-aboriginal scholar like me can introduce aboriginal material into their classroom.

Clearly, any fully adequate teaching (and research) of Aboriginal material requires an adequate number of First Nations academics. But there are currently an inadequate number of such academics in Canada. So even though hiring an adequate number of First Nations academics is an essential part of indigenizing the academy in Canada, that is a long(er) term goal. There simply aren't enough adequately trained First Nations people to fulfill the current need, and faculty hires are restrained at the moment as Canadian universities struggle with their budgets.[1] This raises issues for scholars like me. Not only am I not Aboriginal, I am also a philosopher, and since the days of Socrates and his aporetic methodology, a key component of the Western philosophical enterprise is scepticism and a critical attitude towards one's beliefs. I will assume but won't argue here my belief that it is *not* appropriate for non-aboriginal scholars like me to teach aboriginal beliefs with a sceptical and critical eye. A time for that might come in the future, but I don't believe it is here at present.

Having set the context, let me provide a brief outline of the paper. First, I will detail the case of Makayla Sault. This will involve a discussion about proxy decision making for children below the age of consent. I will then discuss two analogous cases of substitute decision making in an attempt to clarify the case of Makayla Sault and the way(s) in which it was controversial, but, unlike the analogous cases I discuss, does not clearly determine what should have been done – or so I shall argue. To make that argument about Makayla's case, I will discuss some of the unjust treatment from which First

[1] The claims made in this sentence are both controversial. While it is clearly the case that there are not at present enough First Nations people with Ph.Ds. (or equivalents) to meet the need, many First Nations peoples argue that Canadian universities concentrate exclusively on 'European-type' academic credentials. It is argued that universities need to recognize traditional aboriginal knowledge and thus Elders, who possess such knowledge, should be recognized as legitimate teachers of such knowledge. If this were done, then there would not be such a critical shortage of First Nations scholars. The second claim about the need for austerity budgets, and hence limited faculty hires, is a long-standing debate in Canada as it is elsewhere. I personally believe that such calls for austerity are mostly constructed crises on the part of university administrations and Boards of Governors intent on a corporate agenda and not on university education per se. But I won't argue that here. Suffice to say that given the current climate, it is very unlikely that a massive amount of First Nations scholars will be hired in the near future in Canada.

Nations people in Canada have suffered, concentrating on residential schools and the TRC report that seeks to redress some of these wrongs and to set a new path forward. Finally, I will discuss ways in which Makayla's case can be discussed in terms of some relevant concepts in Western philosophy. Namely the notion of relational autonomy – as distinct from individualized liberal autonomy – and communitarian positions which place greater value on the rights of communities than traditional liberal positions do.

2. The Makayla Sault Case

Makayla Sault was an 11 year old Ojibwe girl from the New Credit First Nation community in southern Ontario, Canada. She suffered from acute lymphoblastic leukemia (ALL) and underwent 11 months of chemotherapy, which was successful in putting her cancer into remission. Chemotherapy is a horribly invasive treatment and typically causes lots of side effects including but not limited to fatigue, anemia, nausea and vomiting, and easy bruising and bleeding. Understandably, Makayla hated the treatment. In a letter to her doctors, she wrote that "this chemo is killing my body and I cannot take it anymore" (Walker 2015). Though continued chemotherapy would have given Makayla a 75% chance of survival, her parents agreed with Makayla and withdrew her from 'standard' treatment. They opted instead to pursue traditional medicine.

In light of this decision and action, the McMaster Children's hospital, where she was being treated, referred her case to the Brant Children's Aid Society. But after a brief investigation, the Society decided that Makayla was not a child in need of protection. Indeed, they found that Makayla was part of a loving family whose parents were acting in what they thought were Makayla's best interests, especially in the context of Makayla's desire to stop chemotherapy and her status as a First Nations child. The

Society thus decided that they would not apprehend Makayla and forcibly return her to the hospital for standard cancer treatment.

Part of the Society's decision was influenced by a very similar case that also involved a young First Nations girl from a nearby First Nations community. In that case, a young pre-teen girl known only as JJ and her family also decided to forego chemotherapy in favour of traditional indigenous medicine. Unlike Makayla's case, JJ's went to court. There, as Grant reported (2015), Judge Gethin Edward ruled that overruling the parent's decision to pursue traditional indigenous medicine over chemotherapy would violate their Aboriginal rights as described in Section 35 of the Canadian Constitution. That section reads as follows:

> 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
>
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
>
> (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
>
> (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons (Government of Canada n.d.).

Heralded as a watershed decision by the First Nations people of Canada, Judge Edward's decision, which was not appealed, raised at least two related questions: (1) Are Aboriginal Rights 'absolute' or can they be overruled by something else, like another, presumably more 'basic' right? (2) How are we to understand the use of the word 'existing rights' in 35.1? As a matter of fact, five months after his initial decision, Judge Edward returned to court to clarify just these issues, particularly the second one. Section 35 of the Canadian Constitution falls in Part II, and thus outside of the Charter of Rights and Freedoms listed in Part I. Charter Rights and Freedoms are generally

believed to have priority over other constitutional rights when they come into conflict. In this case, however, one question before the court was whether JJ's Charter Right under Part I: Section 7 of the Canadian Constitution was upheld, or whether that right was trumped by her aboriginal rights as expressed in Section 35 of the Charter. The right in Part 1: Section 7 guarantees that "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" (Government of Canada). Is JJ's right to life and security of person, then, violated by eschewing chemotherapy for traditional aboriginal medicine? Note here that even granting the relevance of Section 35 of the Canadian Constitution regarding JJ's aboriginal rights, the Charter Right in Section 7 would typically be taken to have precedence over those aboriginal rights.

Two things need to be added here, however. First, The Charter of Rights and Freedoms also contains Section 25, which speaks to the fact that "Aboriginal rights and freedoms [are] not affected by the Charter." Specifically:

> **25.** The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
>
> (*a*) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
>
> (*b*) any rights or freedoms that now exist by way of land claims agreements or may be so acquired (Government of Canada n.d.).

25 (a) speaks to our first question regarding what "existing" rights means in Section 35; namely, rights recognized in the 1763 Royal Proclamation. This includes rights to treatment by traditional, aboriginal medical practices. But do such rights have precedence over life and liberty rights? No, as Judge Edwards made clear in his return to court. The best interests of the child, he maintained, must be given precedence. However, he added that *in this instance* respecting JJ's aboriginal rights was in her best interests. The lawyer for JJ and her family added: "There was some concern that somehow the traditional Ontario law test of how judges should look at things had placed

the aboriginal right to traditional medicine as an absolute, rather than as factor to be seriously considered. That was never anybody's intention" (Thompson 2015).

Having their decision approved by the court, Makayla's parents chose to take Makayla to the Hippocrates Health Institute in Florida, USA. Brian Clement, the Director of the Hippocrates Institute, had recruited quite heavily in Canada, including two visits to Six Nations, where JJ was from, and near Makayla's First Nation community. In recruiting, however, Clement made some controversial claims including that his institute could teach patients with cancer to heal themselves." As Clements' said: 'We've had more people reverse cancer than any institute in the history of health care. So when McGill fails or Toronto hospital fails, they come to us. Stage 4 (cancer), and they reverse it' (Walker & Luke 2015). That was enough to convince JJ's mother: 'By him saying, "Oh yes, no problem we can help her," that's the day I stopped the chemo' (Walker & Luke 2015).

In addition to helping their patients 'heal themselves', the Hippocrates Institute also treated both JJ and Makayla with laser therapy, vitamins administered intravenously and a strict raw food diet that they were advised to maintain for two years.[1] Unfortunately, the claims made by Clements and the Hippocrates Institute are not supported by reliable evidence as being effective in cancer treatment. Moreover, Clements and his wife referred to themselves as doctors when the only degrees they had were from diploma mills – and even those are disputed. The Hippocrates Institute is in fact licensed in Florida only for massage therapy, and Clements has been found guilty of practicing medicine without a license, though the Institute remains open.

While the issue of the effectiveness of alternative medicine is relevant to the ethical and political case of Makayla (and JJ), this paper is not going to discuss that issue in any detail. Rather, I will, for the sake of argument, accept the views of 'mainstream' medical practitioners and researchers who maintain that there is no empirical evidence (other than ad hoc, anecdotal evidence) to support the view that the treatments engaged in by

[1] It should be noted that eventually JJ pursued both alternative and chemotherapy.

the Hippocrates Institute were effective as cancer treatments. This will allow me to focus more clearly on the question of indigenization and the way(s) in which Makayla's status as a First Nations child might make her particular situation different. There are in fact a number of cases where parents have foregone chemotherapy for their children, or stopped it mid-stream, in order to pursue alternative medicine (Gorski 2014). Often, those cases have been resolved by overturning the parent's decisions and returning the children to chemotherapy treatment. Those cases, however, do not involve First Nations children from Canada who have certain special constitutional rights. This paper is exploring more directly, then, the issue of the nature and limits of substitute decision making in this particular context.

Makayla died of a stroke in January, 2015. At that time her family released a statement saying "Makayla was on her way to wellness, bravely fighting toward holistic well-being after the harsh side-effects that 12 weeks of chemotherapy inflicted on her body….
Chemotherapy did irreversible damage to her heart and major organs. This was the cause of the stroke." However, a McMaster University Hospital oncologist who had previously testified at a hearing on JJ's case, said Makayla had suffered a relapse, and that her cancer, not the chemo killed her. He also testified that there are no known cases of survival of this type of leukemia without a full course of chemotherapy treatment (Walker, 2015).

3. Two Analogous Cases

In this section, two cases analogous to Makayla's will be discussed with a view to clarifying what is controversial about Makayla's case, what isn't, and how, and to what extent, her status as a First Nations child is relevant. The first case involves a Canadian couple, David and Collet Stephan, and their toddler, Ezekiel, who died in 2012 when he was just 18 months old from meningitis. In February, 2012, Ezekiel became ill. His parents believed that he had flu or croup and treated him with 'naturalistic' remedies, which included smoothies and treatments of olive oil extract, hot peppers, garlic, onions and horseradish. This sort of treatment was consistent with the Stephan's beliefs

regarding medical treatment. They were sceptical of Western mainstream medicine, and David Stephan owns and runs Truehope Nutritional Support, which was co-founded by his father. They sell various products including EMPowerplus, which is marketed as a "daily multi-vitamin replacement" capsule. Truehope maintains that the product helps with mental disorders such as bipolar disorder, ADD/ADHD and stress. It should be noted, though, that Health Canada issued warnings about EMPowerplus in 2003 and 2007 saying there is no evidence it is safe (Mattern, 2018). The Stephans were also opposed to vaccinations and hence Ezekiel never received any.

Ezekiel's condition showed some signs both of improvement and deterioration over the next month, but by March, he was so stiff that his back arched. His parents then called their nurse and birth attendant who told the Stephans that Ezekiel may have meningitis and that they should take him to see a doctor. Instead, the Stephans took Ezekiel to see a naturopath for an echinacea mixture. During the drive to the naturopath, Ezekiel's back was so stiff that he could not sit in his car seat and instead laid on a mattress across the back seat of the car. Back at home that evening, Ezekiel stopped breathing on a couple of occasions. His parents then decided to call an ambulance, and Ezekiel was taken to a small, local hospital in Cardston, Alberta before being transferred first to Lethbridge and then to Calgary by air.[1] There, doctors told the Stephans that Ezekiel was showing very little signs of brain activity. He was put on life support but died two days later on March 16, 2012 (Canadian Press, 2016).

A year after Ezekiel's death, David and Collet Stephan were charged in the death of Ezekiel under Section 215 of the Criminal Code of Canada, which deals with 'failing to provide the necessities of life.' This section seeks to establish a uniform minimum of care. This is a societal standard, not a personal one. Hence, failure to seek medical attention for one in your care because of your idiosyncratic beliefs can be a failure to provide the necessities of life (Canadian Criminal Law n.d.)

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[1] Cardston is a small town with approximately 3500 inhabitants. Lethbridge is a small city of about 90,000 people while Calgary is a large city of over one million people and contains all the medical facilities one would expect of a city that size.

On April 26, 2017, the Stephans were found guilty. David received a four-month jail sentence while Collet received three months of house arrest. It should be noted, however, that the Supreme Court of Canada has overturned the conviction of the Stephans and ordered a new trial. The reason for this, according to Justice Michael Moldaver, speaking for the high court, was that the judge did not properly instruct jurors on what would be a marked departure from reasonable behavior ‘in a way that the jury could understand.’ Though David Stephan in particular has taken this as an exoneration, that isn’t quite right. It is rather a technical question of law, and a retrial may well come to the same conclusion as the original trial did.

A second analogous case comes from an article, “Bioethics for clinicians: Involving children in medical decisions,” written by a group of bioethicists (Harrison et al. 2012). The case is about an 11-year-old girl named Samantha who suffered with osteosarcoma in her left arm. While it is unclear whether the case is fictional or real, that really doesn’t matter here since the case certainly could have been real, and it brings out important features of substitute decision making for children who have devastating prognoses, and hence is a useful teaching tool.

Samantha’s osteosarcoma resulted in the amputation of her left arm. That surgery, combined with chemotherapy, put her cancer into remission for 18 months before it metastasized in her lungs. At that point, Samantha was given only a 20% chance of a successful recovery even with aggressive treatment. Given her experiences, Samantha distrusts her healthcare workers, and is angry with them and her parents for, in her view, putting her through her treatments. She also continues to be upset that she had to give away her cat while going through treatment because of concerns about infection. Samantha is adamant that she receives no further treatment. Of course, at 11 years old, Samantha does no have the legal right to make that decision. As a minor, it falls to her parents (typically), and they want to continue aggressive treatment despite its relatively low chance of success.

Concerns about autonomy have changed over the past 30 years with more emphasis placed on patients' choices as opposed to the preferences of physicians as we have moved away from the paternalistic model of the physician-patient relationship (Emanuel and Emanuel 2012). This movement has extended to involving children in health care decisions as well. Of course, children under the age of consent, especially 11-year old children like Samantha (and Makayla), will never have complete control over their health care decisions and be able to consent on their own. But they can be involved in their own health care decisions and be able to assent to those decisions. This can be especially true for children who have experienced rather devastating diagnoses and prognoses as they tend to mature more quickly than other children (Harrison et al., 2012). Experts in developmental psychology ought to be brought in, though, to assess the cognitive and emotional development of the child. Given an acceptable level of development, whatever that means exactly, the children should be worked with, along with their parents, by a variety of health care workers to ensure that the patient is made as capable as possible in dealing with her situation. That is to say, according to Harrison et al. (2012), a "family centered approach" ought to be employed. While there is no guarantee that all family members will agree on what ought to be done, or that the family and the health care team will agree, involving everyone in the decision-making process from the beginning is the process most likely to succeed. Though there is no formal policy or law about the role of Canadian children in their health care decisions, keeping their best interest at the forefront is key and it is becomingly increasingly the best practice to involve them in decision making as much as possible. "Best interests" can be notoriously difficult to determine in particularly difficult cases, but Harrison et al. argue that it should involve psychological, emotional, moral, and spiritual considerations and not just physical ones.

In this case, Samantha was involved in decisions about her health care, which involved a large health care component as well as her parents. Eventually, it was decided that palliative care would be best in this situation given both Samantha's desires and the low chance of a successful outcome with aggressive treatment. Samantha died peacefully shortly after entering palliative care.

4. Comparison of the three cases

There are clearly some similarities between the cases. In all three cases, the children died. Even though Samantha's parents were initially in support of aggressive treatment, all three sets of parents decided to forego standard Western treatment for an alternative approach: two for alternative or traditional medicine, and one for palliative care, which, though now more mainstream, is still quite new in Western medicine. Finally, in all three cases, the preferences of the children were followed.

There are differences as well. Samantha's case involved no 'outside' agencies like Children's Aid or the courts; the cases involving Makayla and Ezekiel did. Samantha's case involved a very bad prognosis and little chance of success whatever treatment option was chosen. In contrast, Makayla's prognosis with standard treatment was good, and Ezekiel's case could easily have been resolved had his parents chosen a different health care treatment earlier. In my opinion, Samantha's case, and those like hers, raises few public concerns or moral dispute. Palliative care and the withholding and withdrawing of treatment has now become standard practice in hospitals in the West where the prognosis is dire (Stewart 2007). However, the cases of Makayla and Ezekiel raised lots of public concern and debate, and radical disagreements about the morality and legality of what the parents decided to do. I think further, however, that there really was little or no justification for the decision made by David and Collet Stephan. Their decision was based on a stubbornly and idiosyncratically held dislike for Western medicine in favor of either discredited or unsubstantiated treatments, which were not the product of traditionally held cultural or ethnic beliefs. Moreover, standard treatment for Ezekiel would not have been particularly invasive or painful, which was not the case with respect to Makayla. Finally, Makayla was a First Nations child while Ezekiel was not. In the next section, I turn to a discussion of how relevant this feature ought to be.

5. Residential Schools and the Truth and Reconciliation Report (TRC)

As noted earlier, Canada has had a long and unfortunate history with respect to our First Nations, Inuit, and Metis people. This discussion will focus, however, on one particular component of this ill treatment: Indian residential schools. As the name suggests, these schools were developed for First Nations children only and they were residential or boarding schools. Indeed, they were often built in remote areas so it was difficult for parents to visit their children. They began almost concomitantly with the creation of Canada in 1867. The last one – of 130 constructed across the country – was closed in 1996. Financed by the federal government, they were run by churches: 60% by the Roman Catholic Church, 30% by Anglicans, and 10% by the United Church and its predecessors. According to the TRC report, the 'need' for residential schools was the underlying "belief that the colonizers were bringing civilization to savage people who could never civilize themselves. The 'civilizing mission' rested on a belief of racial and cultural superiority" (TRC report 2015). The explicit intent of the schools was to 'kill the Indian in the child' and assimilate them into the dominant English or French culture. More than 150,000 First Nations, Metis, and Inuit children were taken from their families and placed in these government funded, church-run schools. The children were forbidden from speaking their language(s) and their history and culture was either ignored or badly distorted. Psychological, physical and sexual abuse was widespread in the schools and many argue that some of the problems in current Indigenous communities – such as the prevalence of sexual abuse, alcoholism, drug addiction, violence, mental illness, and suicide is at least partly the result of residential schools (see, e.g., Reimer 2010).

Recognizing the injustices perpetrated by the government upon the indigenous peoples of Canada, the Canadian government established the Royal Commission on Aboriginal Peoples in the fall of 1996. One chapter of that Commission's final report was devoted to the issue of residential schools. The Commission Report led to a number of further actions by the government including a formal apology to First Nations, Metis, and Inuit peoples for the institution of the schools. Eventually, in 2005, the Canadian government

and the approximately 86,000 Indigenous victims of the residential school system came to an Indian Residential Schools Settlement Agreement (IRSSA) which included a $2 billion compensation package, the largest class action lawsuit in Canadian history. $60 million of that money was to be devoted to Truth and Reconciliation Commission (TRC). Launched on June 2, 2008, the TRC was tasked with documenting and preserving the experiences of survivors and for suggesting recommendations to ameliorate the harm done to them.

Completed in 2015, the TRC report made 94 recommendations or 'calls to action'. I will
concentrate here on two areas of recommendations that are relevant to the Makayla Sault case: 'child welfare', and 'health'. With respect to child welfare, the following recommendations are particularly pertinent:

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:

i. Monitoring and assessing neglect investigations.

ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.

iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.

iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.

v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers (TRC report 2015).

Under 'health', the following recommendations are germane:

> 18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.
>
> 21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
>
> 22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients (TRC report).

These recommendations make clear, then, that we are to remember the harms perpetrated by residential schools; that we attempt to keep First Nations children within their communities; and that we recognize the value of traditional aboriginal healing practices. Arguably, none of these would have been adhered to had Makayla been taken from her parents and returned to chemotherapy. Moreover, one might argue, along with Andrew Koster from the Brant Family and Children's services, that "For us to take her away, to apprehend and place her in a home with strangers, if that's the case, if there aren't any relatives, when she's very, very ill, I can't see how that would be helpful" (*First Nations Drum*, 2015).

6. 'Translation'

As a non-aboriginal scholar and teacher, teaching mostly non-aboriginal students, I believe there is a central place for translating concepts used in Aboriginal thought into Western ideas. I attempt to do some of that in this section. It is important to note a couple of caveats here, however. First, the word 'translation' is probably not the best word for the idea I am attempting to express here. If one takes a translation to be a (more or less) equivalent idea, then the 'translation' I am speaking of here is *not* that. Rather, my sense of translation in this context is the idea of a concept in one world view or conceptual framework that can be (somewhat) understood by reference to a

concept in a different world vision or conceptual framework. I am going to suggest here that we can use the western ideas of relational autonomy and communitarianism to understand some of the concerns that First Nations people have about being able to make their own decisions in the context of their world vision and their history of oppression.

Second, just as it is most appropriate to have an African Canadian teach a course in African Canadian literature or a woman teach a course in feminism, so it is most appropriate to have First Nations people teach aboriginal content. I mentioned at the outset, though, that this simply isn't possible at present given the insufficient number of First Nations scholars in Canada. Moreover, it is important to distinguish between different types of courses that will contain different amounts of aboriginal content. Consider philosophical feminism as an example. While I include feminist content in all the courses I teach, I do not teach courses that deal *exclusively* with feminist concepts, such as a course called "Feminism'. Such courses ought to be taught by feminist women. Similarly, while I think it is appropriate – and given the TRC report's recommendations, mandatory -- for non-aboriginal academics to introduce aboriginal content into appropriate courses,[1] I believe it's inappropriate for non-aboriginals to teach courses that focus exclusively on aboriginal content. So, for example, only an aboriginal academic ought to teach a course on the nature and impact of residential schools on First Nations people.

Autonomy has been a central concept of western thought especially since the Enlightenment. Indeed, Immanuel Kant, who has been perhaps the central philosophical figure in explaining both the notion of autonomy and its importance, defined the Enlightenment in terms of autonomy. He wrote: 'Enlightenment is man's release from his self-incurred tutelage. Tutelage is man's inability to make use of his understanding without direction from another. Self-incurred is this tutelage when its cause lies not in lack of reason but in lack of resolution and courage to use it without direction from

[1] In saying 'appropriate courses', I am trying to differentiate between courses in, say, the humanities and social sciences and courses in, say, chemistry or physics. I do not know if the latter courses lend themselves to aboriginal and non-aboriginal content in the same way that the humanities, social sciences, and biology can be.

another. *Sapere aude!* "Have courage to use your own reason!"- that is the motto of enlightenment‘ (Kant 1784). Kant proceeded to make autonomy the central notion of his ethics. As he said: “Autonomy of the will is the property the will has of being a law unto itself (independently of every property belonging to the objects of volition)” (Kant 1785, 108).

Two centuries later, the psychologist, Lawrence Kohlberg, maintained that the highest level of moral development was essentially Kantian whereby one would make moral decisions exclusively on the basis of rational, abstract and universal principles that respect human’s special nature as autonomous individuals capable of making decisions free, for example, from social influences. In her seminal work, *In a different voice*, the psychologist, Carol Gilligan (1982) claimed that her empirical research suggested that boys and girls develop morality differently, though. Boys, and then men, tend to prefer abstract principles and universalizability, such as we find in Kantianism. Girls, and then women, however, display a preference for context and relationships. Gilligan termed these two approaches an ethics of justice and an ethics of care, respectively. And the autonomy appropriate to an ethics of care came to be conceptualized as relational autonomy. Such autonomy is not conceived as an ability to make decisions independently of everything; rather, it is the capacity to make decisions within a web of relationships and differential power. As the feminist bioethicist, Susan Sherwin (2012
pp. 23-24), puts it: “Relational selves are inherently social beings that are significantly shaped and modified within a web of interconnected (and sometimes conflicting) relationships. Individuals engage in the activities that are constitutive of identity and autonomy (e.g., defining, questioning, revising, and pursuing projects) within a configuration of relationships, both interpersonal and political, by including attention to political relationships of power and powerlessness, this interpretation of relational theory provides room to recognize how the forces of oppression can interfere with an individual’s ability to exercise autonomy by undermining her sense of herself as an autonomous agent and by depriving her of opportunities to exercise autonomy.” I believe this concept is similar to, and can help us understand, First Nations notions of autonomy not as freedom from influence (of, e.g., one’s community, history, and

oppression) but as occurring within the context of the web of relationships within one's community, and the history of oppression from which they have suffered.

I believe another avenue to explore is the western notion of communitarianism. The Canadian political philosopher Charles Taylor has been an influential figure in the exposition of this position, particularly in terms of the communitarian conception of the relation between the self and the good. Taylor maintains that the modern self suffers from a feeling of vertigo and malaise brought about by conceiving the good as something emanating entirely from *within oneself*. This has created a 'disengaged self' unable to articulate any truly substantive conception of the good relying instead on purely instrumental notions of the good. Such a position makes it impossible, according to Taylor, to articulate a true sense of self. In contrast with such instrumentalism, "identity is defined by the commitments and identifications which provide the frame or horizon within which I can try to determine from case to case what is good, or valuable, or what ought to be done, or what I endorse or oppose" (Taylor 1989 p. 27). Borrowing from Aristotle's view as described in the *Nicomachean Ethics*, Taylor maintains that these commitments and identifications emanate from one's community. People, then, are not islands unto themselves. Rather, they exist within community relationships and the values such communities have. Again, I see this position as 'translatable' into the world vision of First Nations people who see themselves as part not just of a community of people, but a community that also includes the land itself and the other creatures that inhabit it.

If what I have said above in this section is at all correct, then we can see a choice like the one made by Makayla and her parents as having support in *both* aboriginal and Western belief systems.

7. Concluding Remarks

In this paper, I have discussed the notion of indigenizing the academy within Canadian universities as recommended by the 2015 TRC report. I have discussed the case of Makayla Sault as an appropriate one to use to introduce ideas of First Nations beliefs and the necessity of taking those beliefs into account when morally analyzing the

decision made by Makayla and her parents to forego standard cancer treatment in favor of traditional, indigenous medical modalities. This is not to say that one *must* agree with that decision. Difficult ethical decisions are rarely absolutely clear cut, and there is room for reasonable people, both aboriginal and not, to disagree. I think that the decision made by Makayla's parents to take her to the Hippocrates Institute is particularly susceptible to criticism because the treatment she received there was not traditional. Having said that, however, I hope I have at least demonstrated that analyzing the decision made by Makayla and her parents needs to be made in the context of First Nations thought and the history of oppression from which that community has suffered. Moreover, I have also tried to show that those beliefs are not necessarily inconsistent with Western thought. Indeed, I believe they are translatable or at least understood as being consistent with notions of relational autonomy and of communitarianism.

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