

# The Quandary of Factual Ambiguity

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In an early scene in *Indiana Jones and the Last Crusade*, the third installment of the storied movie trilogy, the title character is seen speaking to a group of students in his classroom. Jones, an archaeology professor, notes that “Archaeology is the search for *fact*, not *truth*. If it’s *truth* you’re interested in, Dr. Tyree’s philosophy class is right down the hall.”<sup>1</sup>

When the movie was released in 1989, the debate about fact and truth was a steady hum that had, for centuries, served as a philosophical backdrop to academic discourse and, to some extent, a controversial one. The earliest philosophical contemplations of truth date back to ancient Greece. For instance, Aristotle noted that “To say of what is that it is not, or of what is not that it is, is false, while to say of what is that it is, and of what is not that it is not, is true.”<sup>2</sup> If you followed that definition, it essentially means that the individual has a responsibility to acknowledge when something is true or not. On the other hand, considerations of fact, as we think of it—a truth known by actual observation or experience—emerged more than 16 centuries after Aristotle, during the Renaissance.<sup>3</sup> In the 1700s, David Hume, the “first philosopher of the fact,” became perhaps the earliest to suggest that it is impossible to have “alternative facts.”<sup>4</sup> It is, of course, possible to have alternative truths. For example, the truths that the Founders of the United States held to be self-evident are not viewed similarly in all other nations.

Although a fuller exploration of truth and fact is always worthy, it is beyond the scope of this editorial. For our purposes, we posit that fact, simply put, is irrefutable—conclusive, definitive, and evidence-based. Truth may be more nuanced—informed by perception, subject to interpretation, or determined by individual experience. For certain, some tension between fact and truth has always existed; however, contrary to what Indiana Jones may have suggested, they have never been mutually exclusive—at least, not completely, nor necessarily. Back to Aristotle, there is a fundamental distinction between what is and what is not. At its most basic level, truth is what one tells, or does not tell, about known facts.

In the twenty-first century, two trends have been evolving concerning fact and truth. First, the definition of each has become less precise. Facts are referenced, whether explicitly or implicitly, as having alternatives. Truth is discussed in personal terms (ar-

guably making it less universal), with individuals asserting the right to speak “their” truth. Not all these trends are negative. Looked at in the most favorable light, “alternative facts” is an ill-advised label for what lawyers do all the time—emphasize the set of facts most favorable to their clients. When a person’s or group’s lived experience lies at the heart of an issue, individualized truth may even add clarity to the discussion. But saying that people are entitled to their own opinion, not their own facts, is not the devastating rejoinder it once was.<sup>5</sup>

Second, the line between fact and truth has blurred—or at least the terms are now used more interchangeably. Last month, for example, a fellow attendee at a meeting commented, “The truth is, our library is being forced to weed the on-site collection. That’s another name for censorship, and that’s a fact.” Whether it was a commonly held view at that library that the weeding project was “being forced,” at least one person’s truth is that it was. But for many, weeding is not fundamentally synonymous with censorship and, hence, considering the two as equivalent is not based on fact.<sup>6</sup>

As an academic librarian and a lawyer, we approach these questions with an appreciation for advocacy as well as a respect for process. Elements of both may be found in libraries, the law, and higher education, and where appropriate, they should be encouraged.

### Libraries

Changing norms around fact and truth have created more than a little havoc for librarians, long considered the ultimate finders of fact. Even practices as fundamental as classifying collections into fiction or nonfiction, with the latter containing materials based on proven theorems, historical happenings, or objective analysis, reflect that kind of certitude. The enterprise of academic and other libraries has always been to work toward identifying the definitive and authoritative for information seekers, to help them find sources that have integrity, and to equip them with the tools to do the same for themselves.<sup>7</sup>

But “authoritative” implies a high degree of confidence in the provenance of the information. How many of us can think back to conversations over the past few years when someone said to us, in essence, that our facts were less important than their truths? In an era when conclusions often come first and facts are sought to fit them, libraries and other places where facts may be found cannot be entirely immune. In a maelstrom of online misinformation and social media opinion that further blurs what we think we know, professionals who cling to reliable sources will either stand out or be overlooked.

The difference may be effective advocacy. It is no longer novel to observe that few ivory towers still stand, if that metaphor suggesting separation from facts and practicalities ever fairly described the academy. Whether through the exigencies of funding, the demand for immediately applicable research outcomes, or the collision of campus life with a global pandemic, the outside world has asserted itself irrevocably within higher education. But effective interaction with these cultural imperatives is always a work in progress. The law has one foot in the academy and the other outside, providing a built-in comfort with the coexistence of fact, process, and advocacy that could serve as a guide to help libraries and academia navigate an uncertain landscape of factual ambiguity.



## The Law

If librarians find facts, lawyers wield them for impact. No one would mistake a lawyer advocating for a client for an evenhanded curator of information. Yet, in the aggregate, the law still places a premium on provable fact. What is referred to as the “rule of law” is in fact a series of processes which, if administered with integrity, at least give facts a fair hearing and truth the opportunity to emerge. That most politically charged of all venues, the confirmation hearing for a Supreme Court justice, almost never goes by without at least one baseball analogy: a judge’s job is to call balls and strikes. Few are prepared to argue against this premise, a sign that factual ambiguity has not completely taken over. Like baseball umpires, judges are still expected to make sure the contest among competing ideas can unfold within a set of agreed rules.

The establishment of agreed fact is one of the legal profession’s primary functions. Lawmakers hold hearings with experts to learn the facts on which legislation is to be based. In trials, rules of evidence enable a finder of fact (the judge or jury, depending on the circumstances) to weigh the reliability of testimony and documents. Parties in litigation sometimes agree on a stipulated set of facts to avoid wasting time on uncontested matters. In an adversarial system, of course, lawyers choose to emphasize the evidence most favorable to their clients, but rules of professional responsibility prohibit them from misleading a court. When those in charge of the judicial system run it with integrity, the public largely accepts its outcomes. And as shown by the intense interest in the appointment, election, and confirmation of judges, the public believes it has a stake in the process.

In his classic textbook on evidence, John Wigmore, a former dean of the Northwestern University School of Law, called cross-examination (the hostile questioning of witnesses at trial) “the greatest legal engine ever invented for the discovery of truth.”<sup>8</sup> Each party to a dispute, litigated or not, comes with a story to tell. The best lawyers know how to engage listeners with nontechnical language and offer them a few facts to remember. They make this effort gripping and memorable by telling stories, inviting strangers to care about how the client reached the difficult juncture that resulted in a lawsuit, and envisioning what justice might look like. Sometimes aspects of both stories on the opposing sides of a case are true at the same time, and listeners are asked to decide whose interest is more deserving or more consequential as an example for others to follow. Wigmore’s engine for the discovery of truth is there to interrupt the flow of the other side’s story, and each party gets a chance to expose untruths and inconsistencies by asking uncomfortable questions. The outcome of this process is some form of agreed fact. It points toward a conclusion about who is right, who deserves to be compensated, or who should pay.

The facts in cases are so important that lawyers have a saying, “Good facts make good law.” Among the recent tributes to Justice Ruth Bader Ginsburg was that in her earlier career as a trial lawyer she was particularly adept at identifying the right case to bring forward at the right time to address a form of gender inequality. In her breakthrough case, her client was a man who was not allowed to take a tax deduction for caring for his mother (age 93) inside the home, when a woman in the same circumstances could have. Arguing before the all-male U.S. Court of Appeals for the Tenth Circuit in 1972, these were good facts for making a case that the law should change.<sup>9</sup>



Administering a fact-finding or research effort with integrity, vetting opposing viewpoints to reach defensible conclusions, choosing a few good facts to bring before the public, and weaving them into an interesting story can serve libraries and the academy as well as they do the law. Some of these activities are relegated to the public relations or civic engagement units in universities, but libraries are also natural facilitators for these efforts. Academic libraries are both tied to and separate from the academic departments they serve, bringing a detached perspective to information. Libraries' and librarians' reputation as honest brokers, custodians of reliable data, and providers of service lend them unique credibility when they act for the public good.

### Higher Education

As factual ambiguity persists, what constitutes "agreed fact" has become more elusive in higher education. In 2019, a polar vortex swept Canada and the Midwestern United States, and in all affected areas, colleges and universities closed. There was wide consensus that the extreme subzero temperatures and wind chills were potentially life-threatening. Similarly, colleges and universities commonly require that all incoming students provide proof of immunization against childhood diseases to protect others in their learning communities.

By contrast, perspectives regarding the threat level of the coronavirus vary considerably. As a result, educational institutions made wide-ranging decisions about on-campus versus remote-learning for the fall 2020 semester and for spring 2021. What accounts for this difference? Davidson College's College Crisis Initiative, an analysis of responses to the pandemic by more than 2,900 U.S. institutions of higher learning, shows that decisions about offering face-to-face versus online delivery of courses have been driven largely by politics, rather than by public health considerations.<sup>10</sup> Similarly, a new survey by the Pew Research Center finds that perspectives are sharply divided, also along political lines, over whether colleges made the right decisions to reopen their campuses. Other questions regarding the value of online instruction also brought disparate responses.<sup>11</sup>

If one does "follow the science,"<sup>12</sup> it is evident that schools can take measures to help combat the current pandemic threat. Providing information via dashboards that enable viewers to see critical public health indicators at a glance is one such mechanism to "encourage colleges and universities to be as transparent as possible with their COVID strategies."<sup>13</sup> Currently, however, there is not consensus that dashboards are necessary, so many institutions do not have one. Among those that do, there is wide variation in what information is gathered, how facts are presented, and whether data from surrounding communities should be included.

The scientific method is a tried and true means of arriving at facts—testing hypotheses about what is, to prove or disprove them. When public officials say they intend to "follow the science" around complex topics where a body of knowledge is constantly growing, it is shorthand for basing policy on the current state of what is known, or at the very least on what is believed until proven otherwise.

Acknowledging that a body of scientific knowledge is still evolving does not negate proven hypotheses that have come before. Some of what was believed about how COVID-19 spreads, or impacts the human body, has changed with more observation.



Such revisions are to be expected because the virus was entirely unobserved until little more than a year ago. Despite the brief time frame, there is a growing body of fact on which to base public policy and personal choice, but the decisions that policy makers and individuals make when grappling with the pandemic seem grounded just as much in political belief as in fact.

Other scientific fields have longer records of observation and near-total acceptance. Facts that have emerged from decades of testing hypotheses about cancer, for example, are relied upon without reference to political belief, even when cancer therapies have uncertain outcomes. People agree to undergo medical treatments for cancer because they accept that their doctors' recommendations are based on the latest scientific evidence. To cite an even more workaday example, decades of observation about the aerodynamic lift generated when air flows across airplane wings have caused government regulatory agencies to approve certain aircraft to carry passengers. Passengers who board the planes do not question whether "science knows" before every commercial flight. Opinions are largely absent from that thought process, despite that an airplane occasionally, tragically, does not fly as expected.

What these areas of scientific study have in common is their immediate relevance to everyday decisions. The facts generated in each seem important to all of us, and yet non-fact-based information about one of the issues, the pandemic, is not only pervasive but vigorously defended by many. What is the difference between COVID-19 on the one hand, and cancer research and aerodynamics on the other? It may be that the facts of the former imply a policy response viewed as disruptive to our social organization. Whether or not such an outcome is likely, widespread belief in it prompts the dissemination of unproven theories that create an impression of factual ambiguity.

The law plays divergent roles in these examples, and the differences reinforce how well, or badly, their facts are accepted. The need to avoid negligent medical practice helps encourage awareness by practitioners of the latest cancer research. Federal regulations govern agency oversight of the air transportation system. These frameworks arise from a consensus about the facts in each area, and they in turn create a sense that the evidence is reliable. Where the role of the law is uncertain, as in a pandemic response largely dependent on personal choice rather than enforcement, the law's ability to routinize behavior and clarify fact is absent. Individually held truth determines many of the choices made.

### A Role for Academic Libraries

A journal like *portal*, dedicated to libraries and the academy, might ask if these communities are responding adequately to a trend toward factual ambiguity. The hard sciences of academia are dedicated to generating, through the rigorous testing of hypotheses, facts that move their fields forward. The arts and the social sciences explore concepts as important as truth, social organization, governance, and our collective past. Arguably, the more such endeavors are isolated from the rest of society, the less appreciation the public will have for the integrity with which those efforts develop facts and conclusions. When those findings imply a degree of social disruption, lack of appreciation for the academic enterprise seems to manifest in the sowing of doubt and discord.

Libraries provide support to the totality of the academic venture, but they are equally important for the social and functional roles they play on campus and in communities. Libraries serve as a “third place” where students can find a safe, welcoming space in addition to the places where they live and work.<sup>15</sup>

At their best, libraries are venues for the exchange of ideas across disciplines, whether informally in public areas or through sponsored exhibits and speaker events, albeit online rather than in person now. Libraries can and should be where specialists practice communicating their acquired knowledge in terms nonspecialists can understand. Libraries have recognized the importance of bringing the larger community into the discussion of fact through outreach and civic engagement. This, too, can be a way the library supports its parent institution and its community, by establishing links with civic leaders and organizations where interest in the academic endeavor is high—even if that interest stems from skepticism.

Libraries and the academy have important roles to play in preventing fact and truth from being undermined in civic discourse. Making use of research and data, helping information consumers learn to tell the difference between fact and advocacy, and maintaining the integrity of processes that reveal truth and fact are all ways to ensure these terms retain meaning.

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## Notes

1. *Indiana Jones and the Last Crusade*, directed by Steven Spielberg (Hollywood, CA: Paramount Studios/Lucasfilm, 1989).
2. Aristotle, *Metaphysics* 1011b25, ed. Gregory R. Crane, trans. Hugh Tredennick, Perseus Digital Library (Cambridge, MA: Harvard University Press, 1989), <http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.01.0052%3Abook%3D4%3Asection%3D1011b>.
3. W. H. Walsh, “Truth and Fact in History Reconsidered,” *History and Theory* 16, 4 (1977): 53–71.
4. David Wootton, “A Brief History of Facts,” *History Today*, February 13, 2017, <https://www.historytoday.com/history-matters/brief-history-facts>.
5. The adage is attributed to Daniel Patrick Moynihan, U.S. senator from New York from 1977 to 2001. As a *Washington Post* commentary reported, “It’s unclear when exactly Moynihan first spoke those memorable words, but in 1982, The Washington Post wrote that Alan Greenspan said Moynihan had advised his colleagues that they might be entitled to their own ‘value judgments,’ but not to their own facts. Then in a 1989 article in the New York Times, he was quoted as saying, ‘Everybody is entitled to their own opinions, but not their own facts.’” Lindsey Bever, “This GOP Senator Just Attributed a Well-Known Liberal Quote to Ronald Reagan,” *Washington Post*, March 15, 2017, <https://www.washingtonpost.com/news/the-fix/wp/2017/03/15/this-gop-senator-just-attributed-a-well-known-liberal-quote-to-ronald-reagan/>.
6. It should be acknowledged, however, that weeding and book relocation as censorship have been and continue to be subjects of debate and concern, especially regarding materials on



- controversial and sensitive subjects. See, for example, Emily J. M. Knox, *Book Banning in 21st-Century America* (Lanham, MD: Rowman & Littlefield, 2015) and Rebecca Vnuk, *The Weeding Handbook: A Shelf-by-Shelf Guide* (Chicago: ALA Editions, 2015).
7. These principles ground the Association of College and Research Libraries "Information Literacy Competency Standards for Higher Education" (2000) and "Framework for Information Literacy for Higher Education" (2016).
  8. John Henry Wigmore, *Evidence in Trials at Common Law*, ed. James H. Chadbourn, vol. 5, sec. 1367 (Boston: Little, Brown, 1974).
  9. *Moritz v. Commissioner of Internal Revenue*, 469 F.2d 466 (10th Cir. 1972). Justice Ginsburg's own description of the case in 2013 may be found at <https://law.stanford.edu/stanford-lawyer/articles/legal-matters/>.
  10. Paul Basken, "US Campus Reopening Plans 'Tied to Politics Not Public Health,'" *Times Higher Education*, October 13, 2020, <https://www.timeshighereducation.com/news/us-campus-reopening-plans-tied-politics-not-public-health>; Daniel A. Collier, Dan Fitzpatrick, Sam Snideman, and Christopher R. Marsicano, "'What'd We Miss?': An Initial Analysis of Politics, Demographics, and COVID-19 Rates in Colleges' Resumption of Instructional Operations for Fall 2020," *C2i Research and Policy Brief No. 1* (October 2020), <https://preprints.apsanet.org/engage/api-gateway/apsa/assets/orp/resource/item/5f7f5d9eefc0c2001974ecc3/original/what-d-we-miss-an-initial-analysis-of-politics-demographics-and-covid-19-rates-in-colleges-resumption-of-instructional-operations-for-fall-2020.pdf>. For Davidson College's full dashboard of college reopening plans, see "The College Crisis Initiative @ Davidson College," 2020, <https://collegecrisis.org/>.
  11. Doug Lederman, "Political Divide over Colleges' Fall Reopenings," *Inside Higher Ed*, October 28, 2020, <https://www.insidehighered.com/news/2020/10/30/live-updates-latest-news-coronavirus-and-higher-education>; Kim Parker, Amanda Barroso, and Richard Fry, "Americans Are Divided on Whether Colleges That Brought Back Students Made the Right Decision," Pew Research Center, October 26, 2020, <https://www.pewresearch.org/fact-tank/2020/10/26/americans-are-divided-on-whether-colleges-that-brought-students-back-to-campus-made-the-right-decision/>.
  12. A recent editorial by Mathew Mercuri, an epidemiologist at the University of Toronto, explored the common use of the phrase "follow the science" in public discourse from a scientist's perspective. He poses a provocative question: "As a practicing scientist, I would appear remiss to suggest that such a practice is not a good thing. I do not wish to downplay the value of science or promote an anti-science agenda. However, a decision by government to emphasize the importance of science in policy is not without concerns. For one, it raises pragmatic (and perhaps philosophical) questions about what gets included as 'science' and what it means to make a decision that is based on science. Perhaps an equally important question is 'why?' That is, by what basis should science be given special attention with respect to decisions on how we live and social policy?" Mathew Mercuri, "Just Follow the Science: A Government Response to a Pandemic," *Wiley Online Library*, October 11, 2020, <https://onlinelibrary.wiley.com/doi/10.1111/jep.13491>.
  13. Matt Zalaznick, "14 Colleges Get Top Marks for COVID Dashboards," *University Business*, September 23, 2020, <https://universitybusiness.com/rank-best-worst-college-university-covid-dashboards/>.
  14. Responding to California Natural Resources Secretary Wade Crowfoot's assertion that preventing wildfire would require following climate change science, President Donald Trump said, "I don't think science knows." Briefing on California's wildfires with California Governor Gavin Newsom and other state officials, Sacramento McClellan Airport, McClellan Park, California, September 14, 2020. Following this, the phrase has become widely used.
  15. The idea of a "third place," a welcoming place other than home or work where people can go to converse and build community and where "nobody plays host" has been attributed to sociologist Ray Oldenburg in his book *The Great Good Place* (New York: Marlowe, 1999), first published in New York by Da Capo, 1989.



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