Department of Justice Canada
Ministère de la Justice Canada

Exploring **INDIGENOUS JUSTICE SYSTEMS** in **CANADA** and **AROUND THE WORLD**

Report on the conference hosted by the **Department of Justice Canada**

May 14 & 15th, 2019
Museum of History,
100 Laurier Street,
Gatineau, Quebec

Canada

Cat. No. J2-493/2020E-PDF
ISBN 978-0-660-34468-3

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In May 2019, the Department of Justice Canada (JUS) hosted a conference on Indigenous justice systems to create a space for dialogue and relationship-building. This conference brought together over 150 experts from communities, governments, and academia from across Canada and from around the world, each with expertise in, and a passion for, Indigenous justice systems. These leaders joined together to learn about and discuss:

- Indigenous justice systems that are thriving in Canada and internationally;
- Challenges that communities are facing in implementing Indigenous justice systems; and
- Innovative solutions that are being piloted to implement and support Indigenous justice systems.

To support this dialogue, the conference centred upon seven panels highlighting specific areas impacting Indigenous justice systems:

Panel #1: Recognizing and Revitalizing Indigenous Laws
Panel #2: Enforcement of Indigenous Laws in Canada: Challenges and Opportunities
Panel #3: Indigenous Courts in Canada: Experience and Lessons Learned
Panel #4: Tribal Courts in the United States of America
Panel #5: International Experience with Indigenous Courts
Panel #6: Interaction between Indigenous and Non-Indigenous Legal Systems
Panel #7: Enforcing and Adjudicating Indigenous Laws: The Path Forward

To further encourage meaningful dialogue and relationship-building, the end of each day concluded with **Participant Dialogues** in which attendees broke into smaller groups for in-depth conversations. Groups then reported back a synopsis of their dialogue to the full conference.

The conference was facilitated by **Carlie Chase, President of Nawaska Consulting**, the former Director of Partnerships at Reconciliation Canada, and Executive Director of the Legacy of Hope Foundation. Carlie is a member of the Secwepemc Nation from British Columbia. Carlie was assisted by **Guy Freedman, President of First Peoples Group**, who is Métis from Flin Flon, Manitoba.

The conference was opened and closed by three Elders, **Barbara Dumont-Hill** of the Kitigan Zibi Anishinabeg First Nation, **Sally Webster**, Inuit, and **Lois McCallum**, Métis, who created an atmosphere of respect for the conference and helped participants set positive intentions for the conference, while understanding that there is hard work ahead.

> *"The justice system has been unjust. Certainly, for people like me, and I know there's many of you out there like me. But we need to create a better tomorrow for our children, our grandchildren."*
>
> *- Barbara Dumont-Hill*

As a reflection of Justice's commitment to supporting Indigenous justice systems, Nathalie Drouin, Deputy Minister of Justice and Deputy Attorney General of Canada, spoke to the participants about the shared commitment to advancing reconciliation in Canada and the several steps the Government of Canada has taken, including support for the United Nations Declaration on the Rights of Indigenous Peoples, issuing the Principles respecting the Government of Canada's Relationship with Indigenous Peoples, and the work to implement the Truth and Reconciliation Commission of Canada's Calls to Action.

> *"The path towards this promising future can only truly be achieved through self-determination. Our goal is to help ensure that the conditions for Indigenous peoples to lead the way are in place.*
>
> *We know that real progress involves taking a whole of government approach towards this shared goal. It must also involve the co-development of new policies and approaches with Indigenous peoples that recognize the distinct rights of First Nation, Inuit and Métis."*
>
> *- Nathalie Drouin, Deputy Minister of Justice and Deputy Attorney General of Canada*

These sentiments were echoed at the end of the second day by Arif Virani, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, and Minister of Democratic Institutions, who spoke about his experience as a Ugandan-Asian immigrant and his work as a constitutional litigator. These experiences taught him about the things that Canada does well, and what still needs work. He emphasized the need to hear from Indigenous communities about Indigenous law and to create a space to discuss how legal traditions can co-exist within Canada's constitutional framework.

The conference took place at the Canadian Museum of History on unceded Algonquin territory. The elders, organizers, facilitators, and participants recognize and are grateful for the continuing stewardship of the Algonquin peoples over the territory.

This document is a summary of what we heard.

While the makeup of the panelists, conference attendees and topics for dialogue were diverse, four common themes emerged over the two days.

1. The need to respect Indigenous approaches to justice
   - Conference experts reaffirmed that Indigenous approaches to justice are different from mainstream approaches. They are rooted in the Indigenous connection to the land, the animals, the water and the wisdom that comes from the natural world. This wisdom was referred to as traditional law, natural law, and spiritual law.
   - Knowledge and understanding of these laws (traditional, natural and spiritual) are passed on through Indigenous Creation Stories and songs.
   - It is through these stories and songs (rooted in the land, animals and water) that Indigenous values, morals, and ethics emerge. These include things like the seven grandfather teachings and how to live respectfully off the land.
   - Indigenous laws stem from all of the above and as such are holistic in nature; taking into account the individual, family, community, and nation.

2. The importance of redefining relationships
   - According to the TRC: *"Reconciliation is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country..."* [1] Conference experts echoed this message, stating that re-defining relationships and power imbalances was key.
   - With respect to justice systems, government to government relationships were the focus. This includes both Indigenous to non-Indigenous, as well as Indigenous to Indigenous.
   - For these relationships to work, the self-determination of Indigenous communities must be recognized, valued and upheld. This includes both political and cultural sovereignty.

3. Rethinking the past
   - The TRC's definition of reconciliation continues: "*…in order for [respectful relationships] to happen, there has to be an awareness of the past, an acknowledgement of the harm that has been inflicted, atonement for the causes, and action to change behaviour."* [2] This requires Indigenous and non-Indigenous Canadians alike to rethink their understanding of Canadian history.

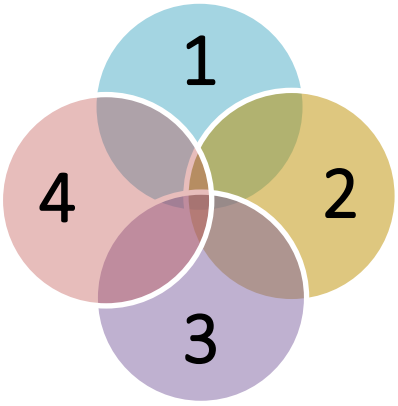
[1] From "*Honouring the Truth, Reconciling for the Future*": Summary of the Final Report of the Truth and Reconciliation Commission of Canada (2015), at 6.
[2] From "*Honouring the Truth, Reconciling for the Future*": Summary of the Final Report of the Truth and Reconciliation Commission of Canada (2015), at 6-7.

- There are gaps in Canada's current education system on language, Indigenous ways of being, Indigenous justice systems, and the history of relationships between government and Indigenous people in Canada from an Indigenous lens.
- This rethinking must be done:
    1. Through Indigenous languages. It is through the ancient oral traditions and songs of Indigenous peoples that education through an Indigenous lens will occur.
    2. By Elders and Indigenous knowledge keepers.
    3. In universities and law schools.
    4. Between Indigenous communities. Beyond academia, Indigenous communities can share knowledge between each other, building capacity along the way.

4. The need for equitable resourcing

- Like all justice systems, Indigenous justice systems also require resources to be successful. This includes human resources as well as financial resources.
- Inequitable resources remain the main issue for Indigenous communities. Indigenous communities wishing to prioritize justice issues have no choice but to redirect funds from their scant existing resources.

These four themes are interconnected, each reliant upon the other for success. The relevant themes are identified throughout the report using numbered circles:



1. Respect
2. Redefine
3. Rethink
4. Resource

SETTING THE STAGE: THE MORALITY OF ABORIGINAL LAW - REVISITED

Mark Walters, FR Scott Professor of Public and Constitutional Law, McGill University Faculty of Law

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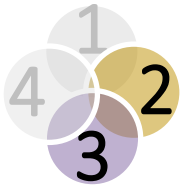
Twenty-five years ago, Professor Walters wrote "The Morality of Aboriginal Law" as a tribute to a famous book of philosophy – "The Morality of Law" by Lon L. Fuller in which Fuller establishes "forms" of law such as generality, prospectiveness, intelligibility and consistency. The intention was to question whether Indigenous conceptions of law had the same relationship between these forms of law and inner morality. Since then, Professor Walters has engaged with, and learned from, Indigenous laws leading him to consider the concept of moral risk and revisit his earlier work and his naivety at the time.

> *"I'm not going to offer an argument defending my engagement with Indigenous Law from a moral perspective. On the contrary, my objective is to raise moral questions and doubts and problems about my own attempts to learn and write about Indigenous legal traditions and I offer these reflections, again, consistent with the theme of today, in spirit of respectful dialogue and deliberation...about how Indigenous legal traditions may play a meaningful part in Canadian public life."*

There is a moral imperative for each legal culture to engage with others, of seeking to understand them and to see the world through each other's eyes. The risk of not trying to participate in the dialogue may be worse than the risk of participating and inevitably making some errors along the way.

The *Van der Peet*[3] decision of the Supreme Court of Canada represented an invitation to engage in a meaningful intercultural legal dialogue on the issue of which legal culture should provide the vantage point from which Aboriginal rights are to be defined. Years later, there exists little understanding in Canada about Indigenous Laws and government, or a willingness to cede control.

> *"I have circled back to it over the years and come to see that I couldn't understand even the most basic elements of Canadian constitutional law without understanding Indigenous Law."*



Indigenous Law was observed and documented by early settlers. For example, in the Mohawk community of Tyendinaga, Crown officials recognized that the ceremonies themselves meant much more than the actual Treaty that followed in terms of defining the relationship.

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[3] *R v Van der Peet*, [1996] 2 SCR 507.

"These ceremonies are proof that Indigenous Law was observed and respected by colonial law makers and were a central part of the treaty relationship which existed between the Crown and Indigenous communities."

Other examples include the condolence ceremonies performed to solve conflict and seek justice with acts of reconciliation. The wiping of tears, opening ears, and clearing voices so that people can engage in rational discussion again were successful in re-establishing relationships and restoring balance. This demonstrated an Indigenous conception of the Rule of Law.

These relationships are visible in the Covenant Chain and other Treaties in which language such as "father" and "children" equates to duties of care rather than a power dynamic. Many Creation stories, for example where refuge was taken on the back of a turtle to create Turtle Island, or where animals and spirits deliberated in councils to address a dividing Earth, describe relationships that ground ideas of legality. These stories describe a world with understandings about how people ought to behave; a world of norms, law, and a rule of law. Legal order was thus a matter of seeking harmony between a complex shifting of normative domains.

Only once we have knowledge of Indigenous Legal Traditions can we begin to reconceive the entire Crown-Indigenous treaty relationship in a manner that recognizes that different legal cultures come together to make a normative world. In doing so we take a moral risk.

PANEL #1: RECOGNIZING AND REVITALIZING INDIGENOUS LAWS

Moderated by Kerry Sloan, SSHRC Postdoctoral Fellow, University of Saskatchewan College of Law; Assistant Professor, McGill Faculty of Law (appointed)

Panelists:

- **Al Benoit,** Chief of Staff, Manitoba Métis Federation
- **Elizabeth Zarpa,** Barrister and Solicitor, the Law Society of Newfoundland and Labrador, LLM Candidate at Schulich School of Law, Dalhousie University
- **Simon Owen,** Senior Researcher, Indigenous Law Research Unit, University of Victoria Faculty of Law

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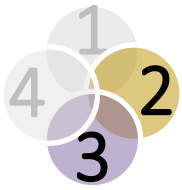


Mr. Benoit gave a brief history of the Métis ethnogenesis in Canada in the 1800s and their relationships with the Hudson's Bay Company and their First Nations neighbours, including both civil disobedience and peace treaties. Through protecting their resources and rights and pushing back on the application of non-Métis laws, the Métis came to be Canada's negotiating partner instead of wards of the Crown, culminating in the 1870 Métis Bill of Rights which stated that all customs and privileges of the territory would continue, including hunting laws.

Following the 1996 *Grumbo*[4] case concerning Métis hunting rights under the Natural Resources Transfer Act, the Métis and Province of Manitoba entered into a Memorandum of Understanding to negotiate a co-management agreement to codify the existing legal practices. While the negotiations stalled, the Commission for the Métis Law of the Hunt was created and completed over 60 consultations with communities across the land. The most important conclusion was that the

[4] *R v Grumbo*, [1996] 10 WWR 170; 146 Sask R 286; [1996] 3 CNLR 122.

environment and wildlife – not just rights – needed protection, and as land was required in order to exercise land-based rights. The Commission had four primary directives:

1) Identification of Métis Harvesters.
2) Creation of a Conservation Trust Fund that hunters pay into by, for example, paying fees for large game.
3) Codification of Laws, which lead to the first edition of Métis Laws of the Hunt.
4) Management – research, tags, and ways of recording information.

Métis Harvester cards were issued in 2004, followed by a series of prosecutions by the Province. The Manitoba Métis Federation (MMF) stepped in to pay for court costs as these individuals were fighting for a collective right.

Promising Practice: Enforcing Métis Hunting Rights

After implementing Métis hunting rights, the MMF considered enforcing the law by incorporating by reference Métis laws into Provincial laws, but ultimately used the Métis lens to address all hunting issues.
For example, when three harvesters in the north were found in possession of a cow moose with two calves, which had been taken illegally on private land without permission, the MMF set up a tribunal using Métis laws. The killing of two generations of moose in that way was a violation of Métis laws. The tribunal:

1. Considered all impacted parties (the victims): the animal, the owner of the land, the owner of the crops damaged, and the Métis community itself; and
2. Identified the consequences: apologies, reparations, suspension of hunting rights of big game for one year, and that the first animal harvested after one year be given to Elders.

While Métis Law has always been there, under the radar, revitalization has helped Métis communities with governance. Part of giving space is simply letting Indigenous groups do their own thing without setting up insurmountable barriers; Métis groups should not have to prove that their Nation fits into the federal government's conception of government.

"If we want to talk about reconciliation and self-government, we already have it, so get out of our way."

The concepts of recognition and revitalization are intimately connected. Recognition is part of revitalization, but sometimes not having that recognition is also part of revitalization in the sense that it provides you something to struggle for, someone to push back on. While Métis people could implement their laws, it is difficult - great ideas are hard to do, so working with other Indigenous groups is necessary. MMF is drafting agreements on how to manage moose and fish and are hoping for co-management. Indigenous peoples could start making treaties amongst themselves.

Ms. Zarpa's research looks at the Labrador Inuit Land Claims Agreement, specifically the Chapter 17 self-government provisions, to understand how the published and publicly accessible stories in relation to Inuit legal principles can be used in a 21st century context, and how they can be implemented in the legislative process in the Nunatsiavut government.

It is important for Inuit and Indigenous peoples to be at the table to determine how to incorporate Inuit and Indigenous Laws into national research. Funding is essential to opening up space for future projects driven by law; affirmative action measures could be undertaken to get more Indigenous professors within institutions as they carry different knowledge and ways of doing things.

"In my years of experiences, throughout post-secondary experiences…there hasn't been a lot about what Inuit Laws mean. There hasn't been a lot about Nunatsiavut, and our own particular governance structure, the relevance and the history of what my people have already created in their modern treaties."

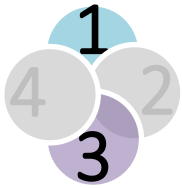
There is no university above the 55th parallel, which creates another barrier when finishing high school as it requires travelling far away to obtain a post-secondary education. Post-secondary institutions need to recognize the Inuit worldview and accredit these learning structures. Hunting, camping, fishing skills in the spring, beading, and being on the land are all types of learning that contain a different kind of law.

Implementing the Truth and Reconciliation Commission's Calls to Action and the Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice at every level of government, including regional government, is key. Creating social equity will open opportunities for more conversations about Indigenous law. Legislation on the United Nations Declaration on the Rights of Indigenous Peoples would potentially allow the participation of Indigenous peoples in privileged spaces to contribute to discussions around Indigenous issues.

What constitutes Indigenous law must first be defined by community. Only then can we see what recognition from state governments would look like. We see some aspects of this process in the Inuit Labrador modern treaty, which represents a mixture of Inuit and western law. However, the challenge is to take or distill the principles coming out of stories and take the necessary steps to ensure these can be recognized as Inuit laws, to breathe life into these historical principles.

Diversity is necessary to represent the different populations but has to be determined by communities themselves. The diversity of government structures must be agreed upon by communities up north with the ability to negotiate as a population. Pan-Indigenous approaches discriminate indirectly. "Indigenous" often excludes Inuit. Each community has diverse populations, customs and languages.

Mr. Owen echoed the theme of moral risk, noting that there is a moral risk of overgeneralizing or romanticizing Indigenous Law, and that so doing can result in more violence. He noted that his settler mind was trained in a certain way of aspiring towards justice from long before he even went to law school, with that training leading him to believe that his version of justice was the version of justice. However, once he started practicing law, he began to recognize that doing his job properly through the worldview he was taught to uphold could not serve his clients in a way that was advancing a notion of justice. He was not aspiring to *mino bidmadziwin* (Anishinaabemowin: "the way of the good life"). Indigenous language, laws and cultures have been diminished and undermined, but they have not been erased. There is a continued risk for more benevolent diminishment of Indigenous law and thus keeping Indigenous law at the forefront is key.



The tendency of institutional structures with power is to keep the status quo system and simply "allow" Indigenous ways of being and doing to be "added on" as enhancement. However, for law to be "lawful" and to be regarded as an authoritative source of reaching towards justice, space must be made to rebuild

these systems in their own ways and not simply as "add ons". Well-resourced institutions have a role in recognition in terms of facilitating recognition through Canada as a whole.

PANEL #2: ENFORCEMENT OF INDIGENOUS LAWS IN CANADA: CHALLENGES AND OPPORTUNITIES

Moderated by Christine Kilfoil, Senior Counsel, RCMP Legal Services Unit, Justice Canada
Panelists:

- **Nicole Rempel,** Chief, K'òmoks First Nation
- **Naomi Metallic,** Assistant Professor, Chancellor's Chair in Aboriginal Law and Policy, Schulich School of Law, Dalhousie University
- **Jerry Daniels,** Grand Chief, Southern Chiefs Organization (Manitoba)
- **Robert Louie,** Chairman, First Nation Lands Advisory Board

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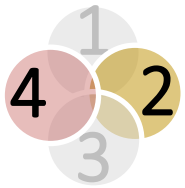
Professor Metallic spoke about the Tripartite Forum, an initiative that brings together Mi'kmaq, Nova Scotia and federal officials. The Forum's justice committee is currently engaged in a project about challenges within Nova Scotia and also nationally around enforcement of bylaws relating to public safety.



The research revealed challenges in enforcing by-laws under the *Indian Act*, capacity issues in terms of a lack of funding by Indigenous Services Canada as well as a lack of clarity as to who is to enforce and prosecute by-laws. Neither federal nor provincial governments regularly prosecute band by-laws, leaving Bands to adjudicate issues themselves or find ways to work with provincial courts that are not always immersed in the culture. Police do not currently enforce civil by-laws, and the RCMP routinely questions by-laws and often refuses to enforce them. As communities cannot afford to hire enforcement officers, they must resort to other strategies (for instance, denial of services) to ensure community members respect their by-laws.

However, since the Minister no longer has the power to disallow by-laws after this power was repealed in 2014, there may be opportunity for a broad interpretive approach to these issues. The extent of the by-law power under the *Indian Act* should be examined and measures should be taken to consider how it might better be recognized and enforced. For example, the current moratorium on appointing section 107 Justices of the Peace in First Nation communities could be revisited. There is also a need to move towards more robust forms of courts in these communities. There is a need for both education and collaboration in this area, as well as a questioning of whether the Western concept of by-laws is the best tool available.

Chief Rempel discussed the 2016 Land Code for the K'omoks First Nation, which passed with 92% approval. The Code was tested in court: a tenant had acquired a home through a will and subsequently leased the home to non-Indigenous individuals. Eventually, an eviction notice was issued on behalf of the landlord but the tenants refused to leave the home. They were deemed to be trespassing. However, the RCMP took the position that the land code was not a "real law."

The decision highlights the problems that continue to persist around enforcement in Indigenous communities. The decision speaks to a clear need for education of the Attorney General's office, the court system and the law enforcement community to ensure they are aware of the existence of by-laws, the matters they concern, and recognize them as valid.

Funding is the biggest stumbling block in enforcement. Given funding issues, it will be important to investigate innovative ideas, such as cost-sharing arrangements, for enforcement.

Mr. Louie's community (Westbank First Nation) has been self-governing since 2006. Dating back to the first *Indian Act,* Indigenous peoples have been enforced as opposed to being the enforcers. Mr. Louie's community is now trying to turn this around, and a Framework Agreement is in place. First Nations have the capacity to make their own laws yet the reality is that under the *Indian Act*, Indigenous peoples did not have the right to enforce anything, received no recognition, and their customs and culture were ignored and taken away.

First Nations have no intention of managing the old colonial system. Rather, they are looking for a process that they can lead that is flexible and has the support of each individual First Nations community in the country. Each First Nation has to decide what they do with these powers: what they protect and what they develop. They need to look at and respect their traditions and their governance.

Mr. Louie identified three branches of enforcement: a) internal systems (Elders' committees), b) First Nations as government and c) police enforcement. The police do not know how to enforce Indigenous laws and by-laws, and thus we need to educate the police force. It is essential that it is clear as to how things operate in self-governing communities. There is an important role for provincial Attorneys General in guiding the rest of the provincial bureaucracy. First Nations communities should be designing laws themselves, with the knowledge that courts, and provincial and federal bodies, will catch on over time.

The key is to change colonial attitude within government institutions, police and courts. The move towards new self-government models will require a great deal of understanding and awareness, and there will be a need for new law-making formats, models, by-laws and codes. For good governance practices and enforcement methods to be put in place, clarity will be required so that law enforcers know what they need to do when a charge or issue arises. It will take time for these understandings to be achieved, and changing current recruiting practices to ensure more representation of Indigenous peoples in the system would help with this transformation.

Grand Chief Daniels spoke to the systemic barriers to Justice, and the need to move towards a focus on restorative justice. In order to do so, more justice workers and judges need to be trained in restorative justice. We will also have to overcome the obstacle of determining which regional bodies will work together to ensure that this movement can gain momentum. Our goal needs to be decreasing the overrepresentation of Indigenous peoples in the criminal justice system, and this requires making the justice system more restorative.

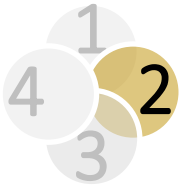
To progress further, Canada needs to provide funding and transfer their jurisdiction. The bureaucracy needs to move out of the way and let Indigenous people change the system; to stop holding on so tightly to things they do not understand, like how to implement things like restorative justice that are an Indigenous-driven approach.

Promising Practice: Administration of Justice in Manitoba

The Aboriginal Justice Inquiry in Manitoba (1988-91) examined "the relationship between the Aboriginal peoples of Manitoba and the justice system" and found systemic discrimination against Indigenous peoples.

Following the Inquiry, the Southern Chiefs of Manitoba took on administration of justice for their communities, but quickly realized that they were administering colonial policies. Instead, they focused their work on the restorative justice model. They have trained justice workers, lawyers and judges. Due to this success, they now have a Director of Justice and Justice workers in the community and are working with judges at provincial and federal level. Since then, there has been an increase in the number of diversions from the justice system, and a dramatic reduction in recidivism.

Finally, recruiting practices need to change. There needs to be an understanding of Indigenous values and beliefs through the education side of people in the current justice system – systems have learned behaviour and have conditioned people to not be so understanding of the Indigenous situation. To truly change the system, Indigenous peoples need to control a portion of it. There also needs to be a focus on mental health within public safety personnel, given the trauma that police and first responders experience.



PANEL #3: INDIGENOUS COURTS IN CANADA: EXPERIENCE AND LESSONS LEARNED

Moderated by Maegan Hough, Legal Counsel, Aboriginal Law Centre, Justice Canada

Panelists:

- **Joyce King,** Justice of the Peace, Director, Akwesasne Justice Department
- **Gord Reed,** Chief Peacemaker, Teslin Tlingit Peacemaker Court
- **The Honourable Leonard S. Mandamin,** Federal Court of Canada, Tsuu T'ina Court and Siksika Court

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Justice Mandamin discussed the Tsuu T'ina concept of a Peacemaking Court, noting that the key to its success was that the community not only proposed a court but that those running the court were all Indigenous, with an Indigenous prosecutor, court clerks, counsel and judge and the court was located on First Nation land. The Tsuu T'ina wanted people who would implement the model, not debate it.

The Tsuu T'ina court had initially been proposed to address the issue of community members driving without insurance on band roads. However, the scope of the court was broadened. The success of peacemaking has included a decrease in reoffending. Both Tsuu T'ina Peacemaking and the Siksika Askapiimohkiiks work in partnership with the Provincial Court. If the process results in an acceptable resolution, the prosecutor would decide to withdraw or reduce charges. If there is to be a Court order or judgment, the resolution agreement is included in the outcome. If the offender fails to comply with the resolution agreement, the Court proceeds with the usual criminal justice process.

Promising Practice: Tsuu T'ina Peacemaking and Siksika Askapiimohkiiks Courts

The Tsuu T'ina adapted a Pikanii traditional approach to solving justice issues. The Piikani had decided to utilize traditional Blackfoot procedures, but to replace their medicine bundle containing Blackfoot law with Canadian law. The Tsuu T'ina learned from Piikani who trained the Tsuu T'ina peacemakers in their approach. Accordingly, the Tsuu T'ina peacemaker would gather the accused, the victim, family members and Elders. All would sit in a circle and conduct four rounds: what happened, how did it affect people, what to do about it, and a resolution agreement.

The Siksika adapted their own traditional mediation approach, Askapiimohkiikcs, to suit their nation's needs. Askapiimohkiiks involved a trained Siksika mediator and an Elder sitting with the parties to mediate and resolve family and child protection issues. The resolution agreement then would go before the Provincial Court which would decide matters based on that agreement.

These Peacemaking and Traditional Mediation Courts are successful because:

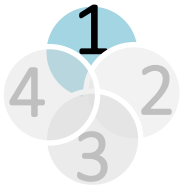
1. The idea was initiated by the First Nation.
2. The Courts are operated by Indigenous staff the respect the Indigenous practices.
3. The Courts operate within the Indigenous community.

Chief Peacemaker Gord Reed discussed the importance of language and how the Tlingit way promotes love and integrity to further all things. How we are raised creates a place of belonging. Community plays a big role in how people conduct themselves. The Tlingit have a declaration about self-care and the way to treat other people that works for reconciling disputes.

Teslin Tlingit have been self-governing since the early 1990's. There are 5 clans of the Inland Tlingit who run government, society and the justice system, which is a pillar of government. When people have a dispute, they consent to come together for mediation and clans can be held responsible for the actions of their clan members. When clans have conflict, the plan is for the whole community to come together in a circle. Once matters are dealt with, for instance through restitution, gifts, or public ceremonies, the matter is no longer discussed. It is like throwing a pebble in the water and once the last ripple is gone, it does not exist anymore and is not spoken of again.

Communities can establish a Peacemaker Court by keeping in mind that we are "*Together today for our children tomorrow*." Communities need education and training, and to move towards the overall goal of their own appellate court by joining with other Tlingit communities in Yukon and Northern BC. Revitalising language must be part of the process. There is a need to restore harmony in community, to learn how to conduct ourselves, and to support others on this journey; things that are taught through language.

Impacts are being seen in Teslin. The Administration of Justice Agreement was signed in 2011 and the Chief Peacemaker was appointed in 2014. The Peacemaker court uses a two-stage process. Stage 1, the present stage, is mediation. Stage 2 will be the adjudication of laws. There is lots of anticipation about enforcing Teslin Tlingit laws and dealing with issues in-house with support.



Ms King addressed how Akwesasne stays true to Mohawk values in light of the reality that it lies at the corner of multiple jurisdictions (Ontario, Quebec, and New York State). The starting point is the recognition of the need for Akwesasne's own people to be Justices. Despite this need, Ms. King is one of the last Justices of the Peace appointed by virtue of s. 107 of the *Indian Act*.

Many of the concepts the Mohawk Council of Akwesasne uses in its justice system are not that different from ones we might see in the Canadian criminal justice system. There are, for instance, parallels between prison and the Akwesasne conception of banishment.

The Akwesasne justice system has a series of different branches. They have a court but they also have legislative development, enforcement and adjudication. Akwesasne has a law enacting procedural regulation and a legal review committee. Laws are voted on and, once passed, the law is posted in a registry. Akwesasne also has compliance officers and conservation officers to enforce their laws. Band funds are being used to cover all of these costs.

Akwesasne's success is shown in part in the reality that their community wants to do more and further develop and expand its existing system. The community is looking for innovation in traffic regulation, mediation of disputes, and Akwesasne laws. The community is saying "why aren't you doing more?". They want them to increase faster.

"If you're looking to design your own court system, do it. Get your direction from your own community."

- Joyce King

PANEL #4: TRIBAL COURTS IN THE UNITED STATES OF AMERICA

Moderated by: James C. Hopkins, Professor, James E. Rogers College of Law, University of Arizona

Panelists:

- **Honourable Carrie Garrow,** Chief Justice, St Regis Mohawk Tribal Court
- **Honourable Malcolm Begay,** Navajo Nation Judicial Branch
- **Rebecca Tsosie,** Professor and Faculty Co-chair, Indigenous Peoples Law and Policy Program, University of Arizona

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Professor Hopkins opened the panel by identifying two processes and choices. The first, is to look at reform in Canada through the 1885 *Major Crimes Act* in the United States (USA), which puts certain crimes under federal jurisdiction if committed by a Native American on tribal lands as a way to assert jurisdiction in order to protect Indigenous laws. The second is that Indigenous communities take control of themselves. At ground level in Indigenous communities, that is where law making is actually happening.

Justice Begay spoke about Navajo people in the USA whose Creation stories and songs influence morals, laws and how conflicts are resolved. Natanis are traditional leaders – and very wise in what they do, often engaging in community problem solving. They would have held the role of a judge.

Following an 1868 Treaty that established a land base for the Navajo (53,108 square kilometers spanning over 3 states with 400,000 tribal enrollments), Federal laws were imposed and enforced through the Code of Federal Regulation courts. Sometimes there were traditional Natani judges and sometimes non-Indigenous judges. There are now about 13 courts and one appellate court, staffed by 9 judges across 3 jurisdictions and states. The choice of law is always an issue.

Tribal courts will always be short staffed and overwhelmed with cases. The Peacemaking program uses traditional concepts of solving disputes with Natanis. All parties arrive without lawyers or judges and use patience and emotions. The parties are all allowed to voice their opinions in court. There are alternative ways to deal with lack of resources; we must be creative, improvise, and adapt to the times.

Chief Justice Garrow spoke about Healing to Wellness Courts, which were developed in the 1980s in response to the "war on drugs", which saw individuals cycled through the criminal justice system while struggling with addictions. Innovative judges created a drug court using a non-adversarial approach. They did not want the idea that healing and wellness are a journey to be lost.

Within the court process, there are supervisions, a check-in once a day, weekly counselling sessions, 3 drug tests a week and community service to ensure the client remains sober and focused on good things. There is also an assessment of needs, an evaluation of where they are at in their addiction and support in getting education or employment. There is also a Family Healing to Wellness Court.

Promising Practice: Culture-Based Approaches

The St. Regis Mohawk Tribal Drug Court is based on 10 key components to respect spiritual and mental healing and culture. The Court has an agreement with local town courts who refer patients to it.
The court works through incentives and positive sanctions. For example: one patient had to write an essay on why they used drugs, and then had to read it in court and get feedback. Other incentives include a graduation ceremony, meal and gifts. Cultural components include the medicine wheel and incorporating Elders in a team approach to dealing with addiction.

Elders are used in a lot of different ways in the Healing to Wellness Courts, including as part of larger teams. Judges may assign participants the task of finding an Elder to teach them. Depending on culture, there is a whole process to do this in an appropriate way. One example was not a court, but a program for dealing with addictions. In another there was an Elders panel and one case was diverted, and Peacemakers worked on an alternative resolution (restorative approach).

Professor Tsosie spoke of Indigenous Justice in the USA having 4 frames. We can see, name, and choose the preferred frameworks we want to see in the future.

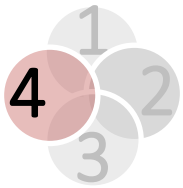
1) Traditional law and justice systems: Traditional law is inseparable from morality. All other legal systems are political and based on power and money. Reconciliation cannot happen until we recognize traditional law. It is in the language: the word for law in one Indigenous language is the word for wellness. So when you live that law you live the law of life. It is balanced. It is not really about justice. The source of what we call Indigenous sovereignty is in our relations to all things.

2) Justice between nations: Treaty partners took accountability for their actions while on other territories. The political relationship must be equalized. The USA abolished treaties in the late 1800s using the fiction that Indigenous peoples as wards of the state rendered them unable to give consent to treaties. In reality, the USA did not want to put money into treaties and today will not engage with Indigenous peoples as nations. They view their dealings as domestic relationships.

3) Domestic dependent nation: Self-determination was not viewed as a part of the dialogue until the United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations. Self-determination means Indigenous peoples' rights to define their own political, social and economic selves – to collaborate to form new institutions including justice systems.

4) Political sovereignty of Indigenous nations: Cultural Sovereignty says that the core of inherent sovereignty has always been embedded in traditional law. There is no way to take that away. It is a gift, it is the basis of reconciliation and is the basis of communities to protect and sustain the people, the communities and the future generations.

While there is a system of Tribal Courts in the USA, funding can be spotty. Congress has passed a statute to support tribal courts but the subsequent allocations are political decisions based on the policies of the executive branch. Consequently, tribes fund their own courts so they do not have to wait.



PANEL #5: INTERNATIONAL EXPERIENCE WITH INDIGENOUS COURTS

Moderated by Emilia Péch, Legal Counsel, Legal Practice Policy Division, Justice Canada

Panelists:

- **Dr. Mark Harris,** Associate Professor, Institute of Gender, Race, Sexuality and Social Justice, University of British Columbia
- **Brad Morse,** Dean, Faculty of Law, Thompson Rivers University; Professor of Law, Te Piringa - Faculty of Law, University of Waikato, New Zealand
- **René Provost,** Professor, McGill University Faculty of Law and Centre for Human Rights and Legal Pluralism

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Professor Harris's remarks focussed on the relevance of the citizen courts in Australia, which are most closely related to the "Gladue" sentencing courts in Canada. The court takes the time to flesh out the full story of the defendant through engagement with Elders and the defendant. This is not just lawyers speaking to each other, it is a conversation. There are 5-6 cases per day as opposed to 50-60 in magistrate courts where defendants have no voice. The shaming factor from close relations is effective in the proceedings and is only possible on reservations or in a community.

Promising Practice: Australia Citizen Courts - Part of the Mainstream

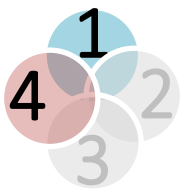
Citizen courts are essentially sentencing courts within the mainstream legislative court system. They do not apply customary or Indigenous Law.

The courts came about as a result of Aboriginal Justice Agreements in 2000 in response to over-incarceration (28% of the Indigenous population is in prison; Indigenous women are the highest represented demographic in prison).

Defendants must plead guilty. The proceedings are as informal as possible with the involvement of Elders or respected persons from the community. During proceedings, the magistrate can refer to Elders to speak from the gallery to give background. There are also Elder advisors.

Professor Harris acknowledged that the Australian model of citizen courts is of limited scope; that Australia should look to Canada. Australia is late to the party regarding recognition.

Professor Morse spoke to the act of two people coming together to learn from one another. Europeans came to New Zealand in the late 1700s as whalers, sealers, traders and missionaries. Maori were welcoming to some of the technology, especially some of the tall sailing ships.



The Maori realized they did not have a flag to be recognized as a nation during trading so they created a Declaration of Independence and were acknowledged as a nation-state. Then, the Treaty of Waitangi was negotiated. There were two written versions, one in English and one in the Maori

language that differed in the description of land and rights. The English version was implemented thus the Maori lost land and rights.

The dynamic in New Zealand is different because of demographics – the Maori are 15% of the population and represent 20% of Parliament. They are part of the national government as opposed to always being acted upon by the government. Resources are a challenge, but Maori have taken on that challenge.

Promising Practice: Education by Doing

The Maori hongi is a cultural practice where two individuals exchange breath and spirit in order to welcome/be welcomed. This hongi is a part of many ceremonial traditions that occur even prior to the court proceedings on Marae (communal, sacred Maori place). Fluent Maori youth rarely get in trouble

Promising Practice: Maori Mentorship

While many communities do not have financial resources, they do have human resources and cultural resources. Elders and community members have committed to supporting youth who have gotten into conflict with the law. The purpose is to get this person who has fallen off the good path to get back on (or on for the first time). They do this by creating community connections:

1. Elders take on mentorship roles; teaching the youth about protocols and the Maori customary ways of relating. They volunteer to be with, monitor, assist and inspire the youth.

2. Community members come to court to support young persons. Sometimes, there are whole busloads of people showing up to a court.

This is the community's ability to respond and is supported by the government.

Professor Provost's remarks centred on the experience of rebel and minority groups in Colombia. This shifted the frame away from the British colonial morality that informs Canada and the United States to Spanish-style colonization. In Colombia, Indigenous peoples make up 3% of the population, belonging to 87 recognized communities located on 710 reservations, speaking 64 languages, and covering a third of the land mass. Limited government authority is one of the root problems in Columbia.

Colombia's constitution was amended in 1991 to recognize that the decisions of Indigenous jurisdictions are valid. The state never was seen to have a monopoly over the administration of justice; jurisdiction is shared. Indigenous peoples are entitled to apply and enforce decisions of their own courts as long as these are not contrary to national laws. The Constitutional Court has pushed the pluralistic envelope to find that the constitution and bill of rights must necessarily be adapted when applied to Indigenous jurisdictions. With the exception of the right to life, protection from torture, and slavery. Reimagined through cultural traditions, most of the constitution and bill of rights legal requirements can be met in culturally-specific ways. For example, a defendant can be fully represented by family being present.

Promising Practice: Indigenous Jurisdiction Recognized in Colombia

Colombia was the first state in the Americas to recognize Indigenous jurisdiction, using a model described as "pluri-national constitutionalism". At the centre of this is an Indigenous concept of "convivencia" which loosely translates to "living together". This concept is used in various ways in Colombia society and outlines how Indigenous jurisdiction is recognized.

Article 246 of the Constitution of Colombia reads: "The authorities of the Indigenous Peoples may exercise their jurisdictional functions, within their territorial space, in accordance with their own norms and procedures, as long as these are not contrary to the Constitution or the laws of the Republic."

The problem with the concept of sovereignty is that it is in essence monopolistic. In challenging state sovereignty, it may not be helpful to rely on a competing idea of monopolistic Indigenous sovereignty. Instead, Indigenous people should become an accepted player within a reimagined form of federalism.

For generations, Anglo-American lawyers have been mis-educated by a picture of law as a thing controlled by the state to be wielded to regulate social relations. In reality, law cannot be monopolized by the state any more than any other institution. Justice happens in many guises through many processes, and always has, including in Indigenous communities. There is now a process of the "visibilization" of Indigenous justice systems that should be coordinated with, rather than resisted by, the Canadian justice system.

PANEL #6: INTERACTION BETWEEN INDIGENOUS AND NON-INDIGENOUS LEGAL SYSTEMS

Moderated by Scott Robertson, President of the Indigenous Bar Association

Panelists:

- **The Honourable Paul Crampton,** Chief Justice of the Federal Court of Canada
- **Attorney P.J. Herne**, (formerly) Chief Judge for the St. Regis Mohawk Tribal Court, (currently) Prosecutor for Akwesasne Court and Legal Policy Analyst for MCA Nation Building

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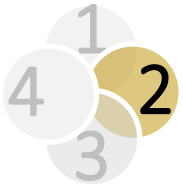
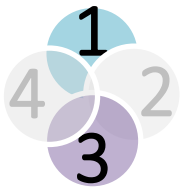
Mr. Robertson opened the panel with an anecdote about how his mother had glanced at the conference agenda and commented "how are you possibly going to discuss Indigenous laws or views with no woman on the panel?" Recognizing the difficulties in putting a conference together, Mr. Robinson expressed his gratitude to the female Elders who are here and the other women's voices at the conference to make up for this all-male panel. Mr. Robinson also commented on the importance of language and word choice; specifically, that we are not "exploring" justice systems in the sense of discovering them. Instead, it is time to act, to decide from both a Canadian and Indigenous justice perspective how we merge or co-exist.

Chief Justice Crampton spoke about the work of the Federal Court in integrating Indigenous perspectives and processes including in the work of Court committees beginning in earnest in 2007 with a meeting of judges from across the country and culminating in the Practice Guidelines for Aboriginal Law Proceedings.

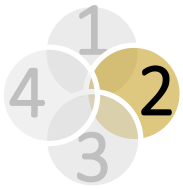


There remains a need for greater dialogue on bigger-picture issues, such as delays, costs, the suitability of adversarial process in itself, the amendment process, lack of pretrial disclosure, insufficient notice of witness, ineffective use of Elders, etc. The Court has gained valuable insights when using customary law but there are challenges when presiding judges endeavor to apply a law that they are not trained in. The Federal Court continues to look at how to better deal with the role of history and the role of Elders through meetings with Elders. At a 2010 gathering, Elders stated: "*we believe in coming together so that we can create a system of justice better than any in the world*".



Beyond making space for Indigenous Law and continuing to address oral history, other priorities identify what role courts can play in national reconciliation – training judges in Indigenous law, identifying how Indigenous experts can assist court in specific proceedings, etc.

Mr. Robinson supplemented Justice Crampton's remarks by noting that he has witnessed a dramatic change in the terms of procedures in courts. In the past, counsel for Indigenous parties were denied requests to bring eagle staffs and wampum belts into courtrooms and had Elders viciously cross-examined by the Department of Justice. There has been an awakening to the issues and a willingness to sit down and find ways to respect each other.



Mr. Herne's remarks began with the need to end colonialism. Unfortunately, colonialism ends either in arms or with the stroke of a pen; we are all here to make it end with the stroke of a pen.

In the USA, there is a lot of competition for jurisdiction with many tribal nations exerting jurisdiction through their own courts. There are over 560 tribal nations, 50 state governments and 1 federal government, so there became a lot of inter-tribal competition of jurisdiction and federal-state competition of jurisdiction. The question became "Which court, which law?" Most judges would like cases taken off their docket. The issue becomes "Does it really need to be on that docket?"

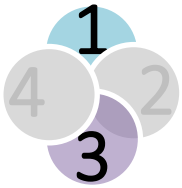
The US Constitution rarely mentions tribal jurisdiction. But tribal courts exist because of respect for each sovereign: American and Tribal. Because of legislative inaction on this competition, the courts stepped forward to offer solutions. They set up judicial forums of federal, state and tribal nation judges.

Discussion became very practical and pragmatic. The forums continued to grow and the judges from each state started to push the process. Court rules extended from the forums recognizing tribal court rulings.

The following is a wish list from Mr. Hearne's experience working from the forum:

1) Advocate for tribal justice systems; efficiency is available at the community level.
2) Create State-Tribal Court Forums in Canada to proactively address issues.
3) Full recognition for tribal nation justice systems and support of them. Federal Indian Law is starting to appear in more bar exams; it should be in Canada as well.
4) Indigenous laws needs to be part of the police training process.
5) Be insistent on your laws and your people. Especially when there is discretionary authority. For example, when is the last time that someone was appointed to be a judge and a community was consulted on whether they wanted that judge to serve in their community?
6) Our people should make the decision on charges and dropping of charges.
7) We should all have our own Law Societies.
8) Every State Attorney General's office with a reserve should have a tribal liaison officer.

9) Tribal Court orders of protection in domestic violence situations are given full faith and credit by other courts.



Mr. Robertson noted the several ways the Canadian justice system is adjusting to Indigenous processes, including round courtrooms, smudges, swearing oaths on eagle feather, involvement of Elders in mediation and dispute resolution, mediation happening in Cree, and parties being sent back to make use of customary approaches. Substantive adaptations have been made, as well including adopting purposeful approaches to band election codes, deference to Indigenous decision makers and acceptance of evidence of traditional approaches.

The panelists were asked to consider the concept of "the honour of First Nations" by an audience member. In response, **Mr. Robertson** spoke about the value of revitalizing Indigenous legal orders for Indigenous peoples and the rest of Canada alike. This would build respect for tribal nations and their processes, and it would make for a more efficient system. For example, instead of the courts trying to find an Indigenous expert, the people in that nation who are the experts, can make their own decisions.

PANEL #7: ENFORCING AND ADJUDICATING INDIGENOUS LAWS: A PATH FORWARD

Moderated by Will David, Senior Political Advisor, Inuit Tapiriit Kanatami

Panelists:

- **Hadley Friedland,** Assistant Professor, University of Alberta Faculty of Law
- **Karla Jessen Williamson,** Assistant Professor at the University of Saskatchewan
- **Connie Lazore,** Chief, Akwesasne Mohawk Council

Chief Lazore noted that while Akwesasne has their own police force, court and compliance program, they are still not able to fully adjudicate or enforce their laws. Their main obstacle is Canada: Akwesasne has been running their court since 1965 but their jurisdiction and authorities are not recognized. This creates problems both within Akwesasne and when dealing with the provinces. Reconciliation takes two equal parties; the paternalistic attitude has to come off. To this end, Akwesasne is currently working with provinces to establish reciprocity processes for court decisions.

Akwesasne throws culture and tradition into adjudication. The Healing to Wellness concept needs to be allowed in every aspect; Akwesasne knows its people. Education on Akwesasne laws is important. Many community members do not know their own laws.

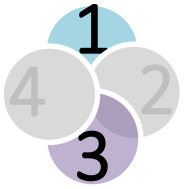
Enforceability and funding are connected. Currently the Akwesasne Mohawk Council funds its court and enforcement officers from their own revenue. They have sought funding from Canada but the only funds provided were for training, not for actual enforcement. Financial support for Indigenous justice systems should be a part of core funding.

Regarding urban members, in Mohawk cultures, you will be embraced but you have to be adopted through ceremony and follow the normal practices of the Haudenosaunee. People will help, but it is your responsibility to learn that culture in order to come within it to participate in the ceremonies.

Professor Williamson was the first Inuk to be tenured at the University level. Inuit Grandmothers saw communities through assimilation and parents pushed for education. Individuals need to be able to come back home, fight assimilation and be taught how to unravel colonization.

A path forward looks like reorientation. There is an incredible love for land here and around the world. The love for land is expressed as Nununatuk – homesick for the land. Inuit are part of the land like any other bird or animal. From birth to death. Dead bodies go home to the land. Being on the land, having it speak to them, has profound effects on students.

> *"And I do believe that my experiences in the college of education can actually be transferred into the colleges of law where the college students are being taken out on the land to try to see how the curriculum has actually missed the land but for them to experience it from their point of view"*



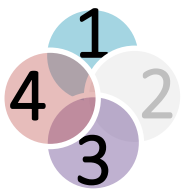
First Nations have holistic ways of knowing like the medicine wheel. Euro-Canadians respect the people who own the land, rather than the land itself. Paying attention to the land has a profound effect on the paternalistic systems that exist. When we love the land, we lessen paternalism and colonization because we ground ourselves to where we are. Inuit laws are very old. For example, a 2500-year-old ulu means that justice was there that long ago! Canadian Laws are just over 100 years old!

We can no longer have a situation where Inuit lives are second to those of other Canadians. Indigenous Law should not be "given space"; it should be seeded. The emphasis on the written form, as a truth from singular tunnels, is paternalistic and Christian. Our drums are the ones that take into consideration the echo of the land, through rivers, through winds, right into our heart.

Greenland's reconciliation looks very different. Danes excused themselves from reconciliation for having done nothing wrong! So, it was left to individuals to figure out how to participate. What do we do with the "wild animal" of reconciliation? Hope that the ringing in their heads will start ringing in their hearts.

Professor Friedland spoke to a need for respect and recognition; the need for resources, for stable funding, for enforcement. This is the largest actual distinction between Indigenous and state laws. The effect is that Indigenous laws are all but unenforceable creating gaps of legitimacy in communities.

There is a deep education deficit for non-Indigenous Canadians who go into law and government. They are taught about the absence of Indigenous Law, which is a myth, that creates a fear of a legal vacuum and that power and control are being taken away.

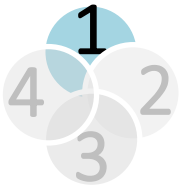


Canadians need to take the courageous step to say the "capacity issue" is with non-Indigenous Canadians' knowledge about Indigenous law. The Calls to Action address elementary and secondary curriculum but also the legal profession and law schools. It is slow going but it is happening. Judges are also working across Canada to educate themselves.

Specific to large urban populations, it is important to work trans-systemically to pull from diverse legal traditions to come up with solutions. One way of looking at jurisdiction is territorial (limited by space) and another is personal (where it goes with the person). There are legal tools for working this out in practice.

For the final session of each day participants divided into smaller groups to discuss the topics addressed by the panels. They then presented the highlights of their discussions to the full conference. Representative comments are presented here, organized by theme.

RESPECT INDIGENOUS APPROACHES TO JUSTICE



Indigenous people know who they are. They will move on in their own way and in their own timeframe. Some communities find the process of defining justice and justice systems a difficult journey. It is a journey of grief, sorrow, loss, of frustration, but also of courage, learning, and hope.

"It is easier to build strong children than it is to repair broken men."

- Ian MacKay, Red Earth Cree Nation

Participants pointed out that Indigenous justice systems were in place pre-contact. Healing, relationships, connectivity to land and natural laws all taught law. Restorative justice is not a new concept. Family and community had ways to address someone who was acting out and to bring the person back into balance. Participants clearly stated that recognition is not something that Canada has the power to give.

Clear differences emerged between Indigenous and mainstream systems: Indigenous systems look after the whole person, mind, body, spirit, as an investment. Participants forecast a time when there would be no jails. Offenders would be taken onto the land for counselling and therapy with Elders and to reconnect. Canada could save a lot of money by letting communities work with their own people. A shift in focus is needed away from punishment; Justice should be understood as a way of living and being.

Participants distinguished between incorporating Indigenous laws into the mainstream system versus developing and coordinating between the justice systems of distinct groups. It is not possible to sandwich Indigenous justice into other systems; there must be mutual respect. It is important to start with the vision of the Indigenous group; where we are now and where we are moving in the future. We must be open to their being multiple paths forward and tools to use. We cannot impose a one-size fits all approach.

REDEFINE RELATIONSHIPS

Community consultation is important for the legitimacy of laws, but it is hard to talk about laws when basic needs, such as food, shelter and water are not being addressed. When you have a power imbalance, is reconciliation possible?

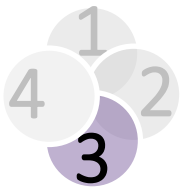
There must be a debate about what Indigenous Law would look like in Canada and how it would be enforced. Throughout this debate there must be belief and trust in Indigenous nations to govern.

Some participants raised questions about the interaction of legal systems. For example, when there are jurisdictional challenges does the Supreme Court of Canada rule over all the groups?

Participants noted that both civil and common law also already exist in Canada so why can we not do this with Indigenous laws as well? A blended system could be developed with communities having their own community justice systems. Community members want to move away from a delegated power model. There is a parallel path that respects the Two Row Wampum. We need to polish this chain and work on the relationships. Government to government includes not just Canada to Indigenous, but Indigenous to Indigenous as well.

Participants noted the need for patience. We cannot expect to know each other right away, but we can get to know and respect each other. There was recognition that Canada needs to be a legal pluralistic society. We have to work together. Our children will be here on this land and we want to share respect, honour and love. Some communities will have different goals that must be respected. We are meant to be on a journey of equals. It is about education and respect.

RETHINK



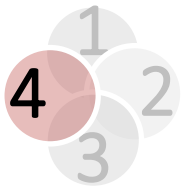
Many participants spoke about the need to learn from Elders. They also spoke of the need for everyone to learn Indigenous laws and to share. Indigenous peoples also need to recognize these traditional laws as laws that can be enforced. Law can be revitalized by educating ourselves about the land and the tie to our people; this is part of a commitment to the Creator to care for the land.

Learning Indigenous languages was raised by participants in order to learn from the traditional stories told by elders. These legends are actually ways of life that teach how to live and respect animals and the consequences of not living in a good way. Some communities have made language a priority with language committees and their own language laws. The fruits of this work are being seen in children who now speak Indigenous languages, sing their songs, and dance.

Some participants identified the need for all Canadians to be educated on Indigenous laws, especially those who work in and with communities who wish to apply and enforce Indigenous laws. Some of the non-Indigenous participants recognized that they must be open to rethinking their education and separating the fear of the unknown from the idea of making space for dialogue through the legitimacy of Indigenous vision.

Differences in thinking between Indigenous and European systems were pointed out: the European thinking is linear with silos whereas Indigenous thinking is holistic and deals with the mind, body, and spirit together. This difference has caused systemic problems. The silos need to be broken down and justice recognized as holistic, as being woven through everything.

RESOURCE



Indigenous peoples need funding to care for their people. They also have something to share; to work together. Many community members spoke of how they do a lot with very few resources – they, themselves, are resourceful! It is also about the people – not just the money. Participants identified sharing between communities as a deeply held principle and identified cross-pollination as a key to successful to enforcement.

Resourcing is an issue in a multi-jurisdictional setting. While cost-savings to other jurisdictions should be an incentive, Indigenous communities are still trying to negotiate more resources to implement enforcement. All these aspects are needed to make a justice system work.

"This Symposium shows our collective will to engage in open and honest exchanges between Indigenous leaders, experts and academics, provinces and territories and the Government of Canada, in order to discuss the work that remains in rebuilding Indigenous systems of justice.

This conversation represents only one part of the broader and ongoing discussions around nation rebuilding, but it is of course a key part of those discussions as the administration of justice is a core element of self-determination and governance."

- Arif Virani, Parliamentary Secretary to the Minister of justice and Attorney General of Canada and Minister of Democratic Institutions