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Canada's Residential Schools:
Reconciliation

The Final Report of the
Truth and Reconciliation
Commission of Canada

Volume 6

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CHAPTER 2

Indigenous law: Truth, reconciliation, and access to justice

All Canadians need to understand the difference between Indigenous law and Aboriginal law. Long before Europeans came to North America, Indigenous peoples, like all societies, had political systems and laws that governed behaviour within their own communities and their relationships with other nations. Indigenous law is diverse; each Indigenous nation across the country has its own laws and legal traditions. Aboriginal law is the body of law that exists within the Canadian legal system. The Supreme Court of Canada has recognized the pre-existence and ongoing validity of Indigenous law.[1] Legal scholar John Borrows explains that,

> The recognition of Indigenous legal traditions alongside other legal orders has historic precedent in this land. Prior to the arrival of Europeans and explorers from other continents, a vibrant legal pluralism sometimes developed amongst First Nations. Treaties, intermarriages, contracts of trade and commerce, and mutual recognition were legal arrangements that contributed to long periods of peace and helped to restrain recourse to war when conflict broke out. When Europeans came to North America, they found themselves in this complex socio-legal landscape....
>
> There were wider systems of diplomacy in use to maintain peace through councils and elaborate protocols. For example, First Nations and powerful individuals would participate in such activities as smoking the peace pipe, feasting, holding a Potlatch, exchanging ceremonial objects, and engaging in long orations, discussions and negotiations. Diplomatic traditions among Indigenous peoples were designed to prevent more direct confrontation....
>
> Treaties are a form of agreement that can be very productive as a method for securing peace....
>
> Peace was also pursued through intersocietal activities between First Nations to bridge division and discord. These less formalized paths to peace should not be underestimated; they contain lessons about how to effectively overcome problems today.[2]

If Canada is to transform its relationship with Aboriginal peoples, Canadians must understand and respect First Nations, Inuit, and Métis peoples own concepts of reconciliation. Many of these concepts are found in Indigenous law.

In undertaking this journey, it must be recognized that understanding and applying these concepts can be hard work. As with the common law and civil law systems, Indigenous law is learned through a lifetime of work. Applying Indigenous law also requires an acknowledgement that it exists in the real world and has relevance today. It is most helpful when applied to humankind's most troubling behaviours.

One of the most damaging consequences of residential schools has been that so many Survivors, their families, and whole communities have lost the connection to their own cultures, languages, and laws. The opportunity to learn, understand, and practise the laws of their ancestors as part of their heritage and birthright was taken away. Yet despite years of oppression, this knowledge did not disappear; many Elders and Knowledge Keepers have continued to carry and protect the laws of their peoples to the present day.

At the Truth and Reconciliation Commission's (TRC) Traditional Knowledge Keepers Forum, Blackfoot Elder Reg Crowshoe said,

> When I was younger, in my community my grandmother brought me to the societies … I believed [that] everything was equal—plants, animals, the air, the moon, the sun, everything was equal. That was the belief system that we had in our culture. Out of that belief system, we developed practices, practices where we sat in circles in a learning society … And once you join the society, you become part of that learning society and your responsibility [was] to be a part of [the] practices that allowed you to survive, which includes reconciliation and forgiveness …
>
> When we look at our oral cultures and we look at who we are and the environment, the geographic territory we've come from, we are given all kinds of challenges every day. How do we access our theories? How do we access our stories? How do we access our Elders? Where do we pay our fees and what are our protocols? So we are looking at finding those true meanings of reconciliation and forgiveness. We need to be aware or re-taught how to access those stories of our Elders, not only stories but songs, practices that give us those rights and privileges to access those stories … So when we are looking at [the] concept of reconciliation, there's a lot to learn …
>
> The Elders say that we live in a geographic location in Southern Alberta as Blackfoot. Our authorities come from our ties to that land, the songs that come from that land, that's where our authorities come. Other First Nations have their geographic location, their ties to that land. So when I go into some other territory, I honour and respect that territory and use their songs. I have songs for rocks that allow me the rights and privileges to use rocks for a sweat, for example, but when I go into another territory, I have to depend on that territory's songs that allows

> them to use their rocks for healing, I have to respect that, and for hundreds of years we respected each other and we visited each other. I encourage all the First Nations to go back to their theories, go back to their stories, go back to their Elders, go back to your protocols, and find the solutions because we need them today.[3]

There are many sources of Indigenous law that hold great insight for reconciliation. The further understanding and development of Indigenous law promise to reveal treasured resources for decision making, regulation, and dispute resolution. Legal scholar Val Napoleon explains,

> Indigenous law is a crucial resource for Indigenous peoples. It is integrally connected with how we imagine and manage ourselves both collectively and individually. In other words, law and all it entails is a fundamental aspect of being collectively and individually self-determining as peoples. Indigenous law is about building citizenship, responsibility and governance, challenging internal and external oppressions, safety and protection, lands and resources, and external political relations with other Indigenous peoples and the state.[4]

First Nations, Inuit, and Métis communities across the country are making concerted efforts to recover and revitalize their laws and legal traditions. They must be supported in these efforts.

Canadian law and Aboriginal peoples: Uncovering truth

Law is essential to finding truth. It is a necessary part of realizing reconciliation. This is because law liberates the flow of information that might otherwise be blocked. Without this transparency, truth can fall victim to manipulation, suppression, and concealment. Without healthy legal processes, facts can be hidden from public view when people are charged with wrongdoing. Law provides public spaces for testing truth. It does so through oath-bound testimonies and disclosures concerning contested events. Law is also a tool for pursuing reconciliation. Whenever disputes arise, law facilitates dialogue through the hearing, consideration, incorporation, rejection, or adoption of different points of view. Law encourages listening and deliberation. It is designed to accomplish these goals while judging issues by broader standards aimed at societal peace.

Until recently, Canadian law was used by Canada to suppress truth and deter reconciliation. Parliament's creation of assimilative laws and regulations facilitated the oppression of Aboriginal cultures and enabled the Indian residential school system. In addition, Canada's laws and associated legal principles fostered an atmosphere of secrecy and concealment. When children were abused in residential schools, the law, and the ways that it was enforced (or not), became a shield behind which churches,

governments, and individuals could hide to avoid the consequences of horrific truths. Decisions not to charge or prosecute abusers allowed people to escape the harmful consequences of their actions. In addition, the right of Aboriginal communities and leaders to function in accordance with their own customs, traditions, laws, and cultures was taken away by law. Those who continued to act in accordance with those cultures could be, and were, prosecuted. Aboriginal people came to see law as a tool of government oppression.

To this point, the country's civil laws continued to overlook the truth that the extinguishment of peoples' languages and cultures is a personal and social injury of the deepest kind. It is difficult to understand why the forced assimilation of children through removal from their families and communities—to be placed with people of another race for the purpose of destroying the race and culture from which the children come—is not a civil wrong even though it can be deemed an act of genocide under Article 2(e) of the *United Nations Convention on Genocide*.

Failure to recognize such truths hinders reconciliation. Many Aboriginal people have a deep and abiding distrust of Canada's political and legal systems because of the damage these systems have caused. They often see Canada's legal system as being an arm of a Canadian governing structure that has been diametrically opposed to their interests. Despite court judgments, not only has Canadian law generally not protected Aboriginal land rights, resources, and governmental authority, but it has also allowed, and continues to allow, the removal of Aboriginal children through a child-welfare system that cuts them off from their culture. As a result, law has been, and continues to be, a significant obstacle to reconciliation. This is the case despite the recognition that courts have begun to show that justice has historically been denied and that such denial should not continue. Given these circumstances, it should come as no surprise that formal Canadian law and Canada's legal institutions are still viewed with suspicion within many Aboriginal communities.

Yet that is changing. Court decisions since the repatriation of Canada's Constitution in 1982 have given hope to Aboriginal people that the recognition and affirmation of their existing Treaty and Aboriginal rights in Section 35 of the *Constitution Act, 1982* may be an important vehicle for change. However, the view of many Aboriginal people is that the utilization of Canada's courts is fraught with danger. Aboriginal leaders and communities turn to the courts literally because there is no other legal mechanism. When they do so, it is with the knowledge that the courts are still reluctant to recognize their own traditional means of dispute resolution and law.

Reconciliation will be difficult to achieve until Indigenous peoples' own traditions for uncovering truth and enhancing reconciliation are embraced as an essential part of the ongoing process of truth determination, dispute resolution, and reconciliation. No dialogue about reconciliation can be undertaken without mutual respect as shown

through protocols and ceremony. Just as the mace, for example, is essential to a session of Parliament, the presence of the pipe for some tribes would be necessary to a formal process of reconciliation.

The road to reconciliation also includes a large, liberal, and generous application of the concepts underlying Section 35(1) of Canada's Constitution so that Aboriginal rights are implemented in a way that facilitates Aboriginal peoples' collective and individual aspirations. The reconciliation vision that lies behind Section 35 should not be seen as a means to subjugate Aboriginal peoples to an absolutely sovereign Crown but as a means to establish the kind of relationship that should have flourished since Confederation, as was envisioned in the Royal Proclamation of 1763 and the post-Confederation Treaties. That relationship did not flourish because of Canada's failure to live up to that vision and its promises. So long as the vision of reconciliation in Section 35(1) is not being implemented with sufficient strength and vigour, Canadian law will continue to be regarded as deeply adverse to realizing truth and reconciliation for many First Nations, Inuit, and Métis people. To improve Aboriginal peoples' access to justice, changes must occur on at least two fronts: at a national level and within each Aboriginal community.

The *United Nations Declaration on the Rights of Indigenous Peoples* and access to justice

The *United Nations Declaration on the Rights of Indigenous Peoples* and the UN "Outcome Document" provide a framework and a mechanism to support and improve access to justice for Indigenous peoples in Canada. Under Article 40 of the *Declaration*,

> Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.[5]

In 2013, the UN Expert Mechanism on the Rights of Indigenous Peoples issued the study "Access to Justice in the Promotion and Protection of the Rights of Indigenous Peoples." It made several key findings that are relevant to Canada. The international study noted that states and Indigenous peoples themselves have a critical role to play in implementing Indigenous peoples' access to justice. Substantive changes are required within the criminal legal system and in relation to political self-determination, community well-being, and Indigenous peoples' rights to their lands, territories,

and natural resources.[6] The study made several key findings and recommendations, including the following:

> The right to self-determination is a central right for indigenous peoples from which all other rights flow. In relation to access to justice, self-determination affirms their right to maintain and strengthen indigenous legal institutions, and to apply their own customs and laws.
>
> The cultural rights of indigenous peoples include recognition and practice of their justice systems … as well as recognition of their traditional customs, values and languages by courts and legal procedures.
>
> Consistent with indigenous peoples' right to self-determination and self-government, States should recognize and provide support for indigenous peoples' own justice systems and should consult with indigenous peoples on the best means for dialogue and cooperation between indigenous and State systems.
>
> States should recognize indigenous peoples' rights to their lands, territories and resources in laws and should harmonize laws in accordance with indigenous peoples' customs on possession and use of lands. Where indigenous peoples have won land rights and other cases in courts, States must implement these decisions. The private sector and government must not collude to deprive indigenous peoples of access to justice.
>
> Indigenous peoples should strengthen advocacy for the recognition of their justice systems.
>
> Indigenous peoples' justice systems should ensure that indigenous women and children are free from all forms of discrimination and should ensure accessibility to indigenous persons with disabilities.
>
> Indigenous peoples should explore the organization and running of their own truth-seeking processes.[7]

These conclusions are consistent with this Commission's own views. We also concur with the 2014 report issued by S. James Anaya, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, about the state of Canada's relationship with Indigenous peoples. He concluded that the

> Government of Canada has a stated goal of reconciliation, which the Special Rapporteur heard repeated by numerous government representatives with whom he met. Yet even in this context, in recent years, indigenous leaders have expressed concern that progress towards this goal has been undermined by actions of the Government that limit or ignore the input of indigenous governments and representatives in various decisions that concern them.…

> [D]espite positive steps, daunting challenges remain. Canada faces a continuing crisis when it comes to the situation of indigenous peoples of the country. The well-being gap between aboriginal and non-aboriginal people in Canada has not narrowed over the last several years, treaty and aboriginal claims remain persistently unresolved, indigenous women and girls remain vulnerable to abuse, and overall there appear to be high levels of distrust among indigenous peoples towards government at both the federal and provincial levels.[8]

In Canada, law must cease to be a tool for the dispossession and dismantling of Aboriginal societies. It must dramatically change if it is going to have any legitimacy within First Nations, Inuit, and Métis communities. Until Canadian law becomes an instrument supporting Aboriginal peoples' empowerment, many Aboriginal people will continue to regard it as a morally and politically malignant force. A commitment to truth and reconciliation demands that Canada's legal system be transformed. It must ensure that Aboriginal peoples have greater ownership of, participation in, and access to its central driving forces.

Canada's Constitution must become truly a constitution for all of Canada.[9] Aboriginal peoples need to become the law's architects and interpreters where it applies to their collective rights and interests. Aboriginal peoples need to have more formal influence on national legal matters in order to advance and realize their diverse goals. At the same time, First Nations, Inuit, and Métis peoples need greater control of their own regulatory laws and dispute-resolution mechanisms.

Recovering and revitalizing Indigenous law

Aboriginal peoples must be recognized as possessing the responsibility, authority, and capability to address their disagreements by making laws within their communities. This undertaking is necessary to facilitate truth and reconciliation within Aboriginal societies.

Law is necessary to protect communities and individuals from the harmful actions of others. When such harm occurs within Aboriginal communities, Indigenous law is needed to censure and correct citizens when they depart from what the community defines as being acceptable. Any failure to recognize First Nations, Inuit, and Métis law would be a failure to affirm that Aboriginal peoples, like all other peoples, need the power of law to effectively deal with the challenges they face.

The Commission believes that the revitalization and application of Indigenous law will benefit First Nations, Inuit, and Métis communities, Aboriginal–Crown relations, and the nation as a whole. For this to happen, Aboriginal peoples must be able to recover, learn, and practise their own, distinct legal traditions. That is not to say that the development of self-government institutions and laws must occur at the band or

village level. In its report, the Royal Commission on Aboriginal Peoples spoke about the development of self-government by Aboriginal nations:

> We have concluded that the right of self-government cannot reasonably be exercised by small, separate communities, whether First Nations, Inuit or Métis. It should be exercised by groups of a certain size—groups with a claim to the term 'nation.'
>
> The problem is that the historical Aboriginal nations were undermined by disease, relocations and the full array of assimilationist government policies. They were fragmented into bands, reserves and small settlements. Only some operate as collectivities now. They will have to reconstruct themselves as nations.[10]

We endorse the approach recommended by the Royal Commission.

Indigenous law, like so many other aspects of Aboriginal peoples' lives, has been impacted by colonization. At the TRC's Knowledge Keepers Forum in 2014, Mi'kmaq Elder Stephen Augustine spoke about the Mi'kmaq concept for "making things right." He shared a story about an overturned canoe in the river. He said, "We'll make the canoe right and ... keep it in water so it does not bump on rocks or hit the shore.... [When we tip a canoe] we may lose some of our possessions.... Eventually we will regain our possessions [but] they will not be the same as the old ones."[11]

We can consider this concept in relation to the great and obvious loss caused by the residential schools. The Mi'kmaq idea for "making things right" implies that sometimes, in certain contexts, things can be made right—but the remedy might not allow us to recapture what was lost. Making things right might involve creating something new as we journey forward. Just as the Canadian legal system has evolved over time, Indigenous law is not frozen in time. Indigenous legal orders adapt with changing circumstances. The development and application of Indigenous law should be regarded as one element of a broader holistic strategy to deal with the residential schools' negative effects.

Gender, power, and Indigenous law

The high levels of discrimination and violence against Aboriginal women and girls that exist in their own communities and in broader Canadian society have been well documented. Volumes of research and reports produced over the years, including that of the Royal Commission on Aboriginal Peoples, attest to the fact that the *Indian Act* has had very specific and devastating impacts on the lives of Aboriginal women and their children.[12] Despite the equality guarantees in the *Constitution Act, 1982* and the Charter of Rights and Freedoms, scholar Joyce Green observes that "this has not translated into equitable treatment or representation as *Aboriginal* women in either

Aboriginal or settler political institutions or policies."[13] Violence against Aboriginal women and girls has reached epidemic proportions. The Commission has called for a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls, including an investigation into missing and murdered Aboriginal women and girls, and the links to the intergenerational legacy of residential schools (see Call to Action 41).

Aboriginal women themselves have been at the forefront of advocating for, and in some cases achieving, legal and social change with regard to their rights in their own communities, in the Canadian courts, and on the international front in negotiating the *UN Declaration on the Rights of Indigenous Peoples*.[14] The *Declaration* includes specific articles affirming Indigenous women's collective and individual right to live free of gender discrimination and violence.[15] Article 44 of the *Declaration* states, "All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals."

The Commission rejects any use of Indigenous or other laws that fundamentally treat women or men in ways that communicate or create subordination. Any law that creates or reproduces gendered hierarchies that subordinate women or men must be contested and overturned. Fortunately, tools exist within Indigenous legal traditions, international law, and Canadian constitutional law to strongly address these challenges without undermining Indigenous legal systems.[16] In fact, Indigenous law is significantly strengthened as it empowers Indigenous women and men to interrogate and overturn damaging gender assumptions and activities.

Yet law is a living system of social order. When any legal tradition is applied, it must be remembered that it never produces a final work. The need for constant monitoring of these questions will always be relevant (as is the case with any set of legal traditions, including the common law or civil legal tradition). As Indigenous studies scholar Emma LaRocque writes,

> as women we must be circumspect in our recall of tradition. We must ask ourselves whether and to what extent tradition is liberating to us as women. We must ask ourselves wherein lies (lie) our source(s) of empowerment. We know enough about human history that we cannot assume that all Aboriginal traditions universally respected and honoured women. (And is 'respect' and 'honour' all that we can ask for?) … [W]e are challenged to change, create, and embrace 'traditions' consistent with contemporary and international human rights standards.[17]

Likewise, historian Kim Anderson cautions,

> As we fervently recover our spiritual traditions, we must also bear in mind that regulating the role of women is one of the hallmarks of fundamentalism. This regulation is accomplished through prescriptive teachings related to how

> women should behave, how they should dress and, of course, how well they symbolize and uphold the moral order.[18]

It is crucial to ask critical and constructive questions about tradition and power wherever they are deployed. As noted, this goes as much for Canadian laws more generally as it does for Indigenous peoples' own law. No one in any legal system is safe from the reach of oppressive traditions. Contemporary issues concerning gender and other inequalities must necessarily be part of these laws for them to be persuasively applicable in the present day.

As sociologist Emily Snyder has argued, working with Indigenous law must involve discussion about how gender, power relations, and ideas about Indigenous women's traditional role in society can inform the interpretation and application of Indigenous law in ways that combat colonialism, sexism, and oppression in Aboriginal communities.[19] In reflecting on present applications of Indigenous law, she identifies questions that should be asked, such as:

> Who is included in discussions about Indigenous law? Are women present? … Who is leading these discussions? … Are there specific contexts in which men are considered the authoritative speakers and decision-makers? Specific contexts in which women are? How are men and women involved in the legal process similarly and/or differently? … Is gender talked about? … If legal decisions are made, are men and women impacted differently by them? … How are legal principles (for example, respect and reciprocity) talked about? … What is missing? Does gendered conflict need to be acknowledged? If it were, how might it change the discussion? … Are the legal processes, interpretations, and decisions empowering for Indigenous women? … Is there space for women to challenge the process if need be?[20]

These questions must be centrally alive in the application of any law, including those that arise from Indigenous peoples' own legal traditions. The Commission is resolute in proclaiming that the application of Indigenous law must comply with all international and constitutional laws related to gender and other inequalities for it to have a productive role related to reconciliation in Canada. We believe Indigenous legal systems exist in this realm and are capable of facilitating reconciliation while ensuring that power is appropriately exercised and checked when applying Indigenous law.

Practising Indigenous law

As Commissioners, we recognize that every Indigenous nation across North America has its own culturally specific laws that are enacted, validated, and enforced through protocols and ceremonies that are uniquely their own. With limited time and resources, it was not possible for the Commission to highlight them all in this report.

We do believe however that it is essential to provide some representative examples that will give all Canadians, Aboriginal and non-Aboriginal alike, a better understanding of the breadth, scope, and richness of Indigenous law and its potential for justice, healing, and reconciliation.

We must emphasize that these examples are by no means exhaustive accounts; they provide the merest of glimpses into how these complex and diverse legal systems addressed conflict and restored peaceful relationships in the past and how such laws and practices are being restored and applied today. The expertise and authority to explain and use these laws and traditions rest with the Indigenous nations to whom they belong. This highlights the urgent need to ensure that First Nations, Inuit, and Métis peoples have the necessary support and resources to undertake this important work themselves.

We also wish to be clear that the decision to use Indigenous laws, protocols, and ceremonies to pursue reconciliation *must* rest with each Indigenous nation as self-determining peoples. Neither the Commission, nor the federal government, nor any other body has authority to initiate these proceedings.

Haudenosaunee peoples

The Haudenosaunee peoples (Iroquois Confederacy or Six Nations)[21] of the eastern woodlands have legal traditions for establishing and repairing relationships—a vital component of reconciliation. These laws also contain practices that could be adopted more generally to facilitate healing. A significant Haudenosaunee tradition, designed to alleviate grief and restore balance, is the Condolence ceremony.[22]

The Haudenosaunee peoples, joined together in a Confederacy under the Great Law of Peace, have used the Condolence ceremony for thousands of years in protocols for peacemaking and in Treaty diplomacy. Wampum belts record this history, depicting the process of "clearing obstructions from the path, polishing the covenant chain, building up the council fire and the procedures at the Wood's Edge. The metaphors of the fire, the path and the chain reveal … the Iroquoian view [that] the alliance was naturally in a state of constant deterioration and in need of attention."[23]

The Condolence ceremony allows people who have been through traumatic experiences together—those who are healthy, those who are in mourning, and those who have caused harm—to work together to address losses.[24] Through this ceremony, apologies and restitution are embodied in expressive performances as people are called upon to tell stories and acknowledge losses related to the harms they have suffered.[25] The ceremony occurs in a precise sequence, employing vivid imagery, and can be used in many circumstances where trust and understanding have been broken because of a party's harmful actions.[26]

Legal scholar Robert A. Williams Jr. has described historical accounts of the Condolence ceremony and its significance for Treaty making within the Iroquois Confederacy and with colonial officials.

> Following the greeting at the wood's edge, the Clear-Minded, together with the Mourners, perform the Condolence Council ritual … A speaker for the Mourners "wipes the eyes" of the weary travelers from the Clear-Minded side with buckskin cloth, so that they will be able to see normally again. He then "clears their ears" of all they have heard that might cause them to alter their messages of peace and condolence. Then, offering a beverage, he "clears the obstructions from their throats" coated with dust from the forest paths so that they will be able to speak normally once again….
>
> [T]he Mourners [then] lead the Clear-Minded "by the arm" to the village council house, where the condolence ceremony continues. At the village, the Clear-Minded initiate a sequenced exchange of gifts of wampum strings and belts … with the Mourners….
>
> A speaker for the Clear-Minded side offers the wampum gifts to the Mourners, telling the stories spoken by the wampum: stories of rekindling the fire "to bind us close"; of grave sorrow for the dead chief; of wiping away any bad blood between the two sides; of sharing the same bowl to eat together; of dispelling the clouds and restoring the sun that shines truth on all peoples. More songs follow this ritualized exchange of wampum to condole the loss of the deceased chief. After the Clear-Minded finish with their side of the ceremony, the Mourners reciprocate by presenting their own gifts of wampum, stories, condolences, and songs to the Clear-Minded.
>
> With completion of these condoling ceremonies, the new Iroquois chief, selected by the clan women of the Mourning village who own the chief's name and title, is installed. This ceremony is followed by a great dance and terminal feast. The society is restored …
>
> Throughout the treaty literature, Iroquois diplomats can be witnessed conducting virtually all of their treaty negotiations according to ritual structures adapted from the Condolence Council. The exigencies of forest diplomacy often required certain modifications to the traditional mourning ceremony … [For example,] Condolence Council rituals were performed by Iroquois diplomats to mourn the deaths of non-Iroquois allies.[27]

Denis Foley, curator at the Lewis Henry Morgan Institute in Utica, New York, has written about how the Condolence ceremony has been adapted to meet changing circumstances.

> In the late twentieth century, *Hatahts'ikrehtha'* ("he makes the clouds descend"), Cayuga Chief Jacob ("Jake") Thomas, became a condolence ritualist for the Confederate chiefs at the Six Nations Reserve, Ontario. The hereditary chiefs here were [supposedly] ousted from formal governing power in 1923 by Canadian authorities in a bloodless coup. An elective council [supposedly] replaced the chiefs. After this event the Alliance Condolence evolved into a version that stresses discontent at the white man's suppression of Iroquois rights. In this ceremony Thomas used the traditional purple wampum strings, which he symbolically passed over the fire to his white allies. Chief Thomas, however, changed the accompanying metaphors of wiping tears from the eyes, unplugging the ears, and removing blood from the mat to metaphors reflecting the theft of Iroquois lands and broken promises and treaties. Recriminations intended for the non-Iroquois participants were added through new metaphors: removing the fog that prevents one from seeing the truth, removing dirt from one's ears so the story of the Iroquois people can be heard, and washing the blood of the Iroquois people from the white man's hands so that they may know the clasp of true friendship.[28]

Mohawk scholar Taiaiake Alfred explains the ongoing relevance of the Condolence ceremony today for the Rotinoshonni[29] as they seek to honour and revitalize their traditional teachings and laws.

> Only by heeding the voices of our ancestors can we restore our nations and put peace, power, and righteousness back into the hearts and minds of our people. The Condolence ritual pacifies the mind and emboldens the hearts of mourners by transforming loss into strength. In Rotinoshonni culture, it is the essential means of recovering the wisdom seemingly lost with the passing of a respected leader. Condolence is the mourning of a family's loss by those who remain strong-minded. It is a gift promising comfort, recovery of balance, and revival of spirit to those who are suffering. By strengthening family ties, sharing knowledge, and celebrating the power of traditional teachings, the Condolence ritual heals. It fends off destruction of the soul and restores hearts and minds. It revives the spirit of the people and brings forward new leaders embodying ancient wisdom and new hope.[30]

The Condolence ceremony is a living tradition and can be adapted according to current leaders' ideas, protocol, and needs. The requirements for a Condolence ceremony are certainly met by the residential school experience. The living nature of this legal, diplomatic, and spiritual tradition means that it could be adapted to fit these circumstances. The Condolence ceremony has been used, for example, by Mohawk women to address intergenerational abuse, trauma, and grief.[31]

The physical nature of the ceremony could help the government, churches, and those who are harmed recognize that everything that happened at the residential schools had physical, spiritual, emotional, and metaphysical dimensions. A

Condolence ceremony would highlight the harmful consequences suffered by all Survivors, regardless of their individual experiences at residential school. At the same time, the ceremony would help to create recognition among the wider population of the spiritual, emotional, and metaphysical nature of what was lost through the residential schools.

Any use of the ceremony would have to adhere to what was required of the Haudenosaunee Confederacy under the Great Law of Peace.[32] However, if a decision was ever made by the Haudenosaunee peoples to apply these practices and principles, they would demonstrate more fully the nature of the harms flowing from residential school experiences. Such ceremonies would also point the way to future actions in regard to building better relationships. They would help to restore the well-being of all those who participate and would enable government and church officials to make apologies and provide restitution in accordance with the principles and protocols of Haudenosaunee law.

Cree peoples

The Cree peoples of the Prairies and the Hudson Bay watershed use the circle as a symbol of and vehicle for reconciliation. The circle reminds people of the broader motions of life, which must eventually be reconciled in relation to Mother Earth. The earth's shape is a circle, her seasons move through a circle, and all peoples' journeys through life are part of this circle. People are born as infants, before growing into small children, who then become adults, parents, and possibly even Elders, before they return to their mother, who gave them life. When actions must be taken to facilitate reconciliation, Cree people often gather in circles to conduct such business. These circles exist to remind participants of these sacred teachings and of the impact that their deliberations will have on a person's and community's progression through life. By using circles, the Cree reaffirm their unity under the Creator's laws and their understanding of the larger wheel of life.[33] Black Elk, a well-known and highly respected nineteenth-century spiritual leader from the Plains, expressed the importance of the circle.

> Everything the power of the world does is always done in a circle. The sky is round and I have heard that the earth is round like a ball and so are all the stars. The wind, in its greatest power, whirls. Birds make their nests in circles, for theirs is the same religion as ours. The sun comes forth and goes down again in a circle. The moon does the same and both are round. Even the seasons form a great circle in their changing and always come back again to where they were. The life of a man is a circle from childhood to childhood, and so it is in everything where power moves. Our teepees were round like the nests of birds, and these were

> always set in a circle, the nation's hoop, a nest of many nests, where the Great Spirit meant for us to hatch our children.[34]

Although other traditions and approaches to reconciliation are apparent within Cree society, circles are critically important in working towards reconciliation within Cree law. In fact, there are many types of circles that can be convened in a Cree context, including prayer circles, talking circles, and healing circles.[35] Such circles can be activated when someone is unbalanced and does something harmful. These circles provide a place where such people can discuss the causes and consequences of their actions with family members, Cree Elders, leaders, and medicine people in an attempt to restore proper balance in their lives and within their communities.[36]

These laws were discussed at a gathering of Cree Knowledge Keepers and Treaty 6 territory Elders on March 22 and 23, 2011. At this meeting, *nêhiyaw wiyasowêwina* (Cree law) was identified as residing within an intricate matrix of complex principles. The Elders identified eight principles within their laws that helped to balance their communities. These principles are *pimâtisiwin* (life), *pimâcihowin* (livelihood), *pâstâhowin* (breaking laws against humans), *ohcinêwin* (breaking laws against anything other than a human), *manâtisiwin* (respect), *miyo-ohpikinâwasowin* (good childrearing), *wahkôtowin* (kinship), and *tâpowakêyihtamowin* (faith, spirituality). All were recognized as being an essential part of Cree life.[37] These legal principles have obvious value for reconciliation since each concept is directed towards healthier relationships.

Legal scholar Val Napoleon has likewise discussed aspects of Cree law that can help to reveal truth and facilitate reconciliation. In her graphic novel *Mikomosis and the Wetiko*, she explains the importance of seeing Cree law as a mechanism for ensuring that people are accountable to one another.[38] She does this by demonstrating how Cree law must be principled and collaborative. She says that "Cree Law, like any other law[,] is about contestation, collective problem solving and collaborative management of large groups."[39] This partly occurs through the recognition that there are four groups of decision makers in the Cree legal order: medicine people, Elders, family members, and the larger group. She says that each group is important because 'unquestioned truths' might be privileged without broader practical engagements. In this respect, she particularly cautions against having single Elders as sole legal authorities because of gender, culture, or other biases that might be reproduced in the absence of a more holistic approach. Her work also suggests that Cree law must incorporate community safety and respect for people affected by the search for reconciliation.[40]

Inuit peoples

Inuit of the Circumpolar North have legal traditions aimed at restitution and reconciliation. These modes of conduct were formed through experiences living on the land in close-knit territorial camps for thousands of years. The extremely cold weather of these regions often made life precarious. Food could be scarce, and people depended on every single person to be a productive member of the community. Inuit could not afford to let harm fester for too long because such conflict could endanger all who lived together.[41]

Therefore, historically, when strangers arrived in Inuit territory they were careful to follow the customs of the people they visited. Deference in such cases was a sign of respect that acknowledged the force of the northern land and the laws of the people they visited.[42]

Of course, like all peoples, Inuit did not always live by their highest values.[43] When proper deference and acknowledgement were not forthcoming, harm could result. When such harm was experienced, Inuit legal traditions provided options for dealing with the problem (just as they do today). As human communities, they applied both reason and custom to the challenges they faced. This process allows tradition to be calibrated and updated as necessary.[44]

When harm occurred within Inuit society, one possibility for working towards reconciliation involved designating a person within a community who would gather people together for the purpose of addressing the harm.[45] During such gatherings, "everyone would talk about what was wrong and what was expected to resolve their problems. Everyone had a chance to express his or her side of the story (aniaslutik)."[46] This allowed people to characterize and/or address a problem at issue from many different perspectives. Other forms of address could take place; for instance, song-duels sometimes occurred to facilitate communication when it was not clear who had done wrong.[47]

These gatherings were often accompanied by a feast where people could also discuss problems on a more informal basis. Checks and balances in the development and application of tradition are present when facts and standards for judgment draw from multiple procedures, making it less likely for one person or method to dominate when problems are addressed.[48]

When a wrongdoing became evident during these gatherings, it was intended to be an embarrassing affair for the wrongdoer.[49] In fact, wrongdoers were to be brought to tears as they understood the criticisms of everyone present.[50] Acknowledgement and remorse are important steps in this strand of Inuit tradition. People cannot apologize, nor can a community move towards reconciliation, until wrongdoers have both fully heard about and honestly confronted and acknowledged the harm they caused to others. Although such events were embarrassing for the wrongdoers, such catharsis was

said to be less humiliating than the future consequences that could flow from hiding or denying the harm.[51]

Inuit society governed the behaviour of its members with clearly defined expectations, and "these rules of behavior, and ways to deal with infractions, were passed on to younger generations through the oral traditions of the group and by following examples set by older members."[52]

There were, of course, other legal traditions that helped the Inuit to deal with harm, apology, and reconciliation. Inuit law and custom are a complex set of ideas and practices that draw on past experiences and present concerns to resolve disputes and regulate behaviour. Legal traditions exist as resources and standards for present action; they should not be regarded as an inflexible set of models frozen in a distant past.

If Inuit traditions were applied to assist Canada in working through issues of harm, apology, and reconciliation, such attention would bring into focus the necessity of deference to Indigenous peoples' knowledge as it relates to law. This could become a significant sign of respect and an acknowledgement that, within Canada, we all live in precarious circumstances. All Canadians need Indigenous law to help us cope with the devastating colonial legacy we continue to experience as a nation, of which the residential schools are but one prominent part.

Inuit law also emphasizes the significance of widespread participation in characterizing and addressing harm, as well as the importance of embarrassment and remorse being expressed by the perpetrators of harm. There is also an important place for feasting, singing, and recounting past harms, which can help parties learn how to address past and present harms and avoid future wrongdoing. Inuit tradition also highlights the importance of reason *and* custom in identifying and addressing harms. This way of approaching conflict deploys customary cultural values as living legal traditions. In this light, Inuit law can serve as a significant resource in meeting present needs, particularly in relation to apologies, restitution, and reconciliation.

Mi'kmaq peoples

The Mi'kmaq of the Atlantic region possess legal traditions that are relevant for considering apologies and reconciliation in a broader light. For example, Mi'kmaq leader Andrew Denny, who holds the title of Kji Keptin (Grand Captain) in the Mi'kmaq governance body called the Grand Council, has commented on the reciprocal role of church, government, and Mi'kmaq laws, values, and concepts in facilitating reconciliation.

> The apologies [by the government and churches] have cleared the path for the Mawio'mi's renewal of our alliance with the Church and an opportunity to continue a path of reconciliation and peace in this sacred journey. It will not be an

> easy journey. A continuing dialogue needs to be developed among the leadership of the Mawio'mi and Mi'kmaq organizations and the Bishops and priests to work together so that Mi'kmaq can become whole and complete once again. We need to return to the spiritual teachings that our Creator gave to our Elders....
>
> Mi'kmaq and non-Mi'kmaq each needs to recognize the shared spirituality with the ecology and our shared spirit of humanity that generates the responsibility to repair the failed relationship in the next hundred years.[53]

This call for a continuing dialogue to clear a path for reconciliation has a profound source within Mi'kmaq law and practice. Mi'kmaq law is built upon deep connections between ecologies and peoples,[54] which encourage mutuality and respect.[55] It is concerned with *netukulimk*, among other things, which is a sophisticated legal concept that guides community action across the generations when people interact with the world around them.[56]

The application of Mi'kmaq law related to reconciliation is demonstrated throughout Mi'kma'ki (Mi'kmaq territory) in various ways during the year.[57] One example occurs every summer at Potlotek (Chapel Island). During this celebration, thousands of members of the Mi'kmaq Nation gather at St. Anne's Mission to feast, socialize, conduct ceremonies, and listen to the teachings of the Elders and the Grand Council. Wampum belts are read, baptisms are conducted, and the Sakamaw (Grand Chief) and Kji Keptin (Grand Captain) speak about important issues within Mi'kma'ki. In such settings, community safety and individual responsibility are promoted.[58]

In Mi'kmaq communities, harm is addressed as it arises because it is widely known through family and community networks. If harm occurs, facts are gathered by people closest to those who have caused harm, and actions are taken to address and remedy misdeeds. If wrongs are confirmed, apologies might be forthcoming from the person who committed them, or from the immediate family of that person. In more serious cases, an older family member might guide the reconciliation process.

The most serious cases of harm are dealt with by the Kji Keptin and/or Grand Council members because they might be required to facilitate reconciliation between *sakamowati* (districts) of the Mi'kmaq Nation or between Mi'kmaq and other peoples. Before the terms of a formal apology can be developed, extensive discussions must take place with respected leaders and Elders to reach decisions about how to best respond to a harm that has occurred.[59]

These living Mi'kmaq legal traditions hold great wisdom for guiding us towards reconciliation in the present day. Although remedial actions have to take place at a national level between governments, institutions, and Aboriginal peoples, reconciliation must also move through communities and families for it be to most effective.

Métis peoples

Métis peoples also have legal traditions that could be applied to facilitate reconciliation. Métis laws are both oral and written. The historic laws of St. Laurent, for example, were very extensive. Although the laws of the buffalo hunt were less explicit, they still provide great detail about the consequences of violating law.[60] Métis laws are also contemporary and likewise concern themselves with reconciliation.

Writing about the origins of Métis customary law, scholars Lawrence J. Barkwell and Amanda Rozyk and Métis Elder Anne Carriere Acco say that historically "Metis government was based in consensus democracy … Everyone had a part in making the laws … [Today] an objective of Metis justice is the revival and recognition of traditional non-adversarial dispute resolution. This includes the use of Elders as advisors and mediators."[61]

Explaining the teachings of the Métis-Cree community of Cumberland House in Saskatchewan, Elder Carriere Acco says,

> The law is to be understood by means of education at the community level. This is the means by which all community members stay within the circle of well-being. Minoh nani mohwin.
>
> The law must have the human resources and materials to maintain the state of well-being. A community cannot just speak about what it can do to maintain order; it must have the will, the means and the support of the human resources within the community. Ekota pohko ka isi ka pohieyan….
>
> A forum must have the protocols in place to call on the learned, the keepers of wisdom concerning every aspect of life. This provides the civil order that has to be maintained. The knowledgeable people, "Ahneegay-kaashigakick" come to give of their expertise. Then within the community forum the people agree by consensus what the advice means in terms of community and family action. Kawaskimohn is followed by Kawaskimohin.[62]

Storytelling is an important aspect of Métis legal traditions.

> Social control begins at the family level, and is then transferred to the community or national level…. Metis children are taught about the consequences of behaviour through the teachings of their Grandmothers and traditional stories…. These stories are instructive as to accepted community standards as well as the natural, supernatural and cultural sanctions that flow from breaches of the standards and principles.[63]

To illustrate, renowned Métis lawyer Jean Teillet tells a story of a young girl who was bitten by a dog in a Métis community.[64] After the young girl was injured, the dog was picked up by a nurse and a representative of the Ministry of Natural Resources.

Thinking they were doing the right thing, but violating community customs, the two bagged the dog after it was killed and put him in the community freezer. These actions violated Métis law, which required the application of Métis principles to restore balance.

First, the Elders had many questions that they asked those involved. They wondered why the little girl was out by herself, why the dog was loose, why the nurse or Natural Resources officer killed the dog, and why they put the dog in the freezer (which was filled with caribou and other meat).

In deciding what should happen to reconcile people in these circumstances and restore harmony after this event, the Elders in this case were not interested in taking any punitive measures. They made sure that the little girl was okay. They required compensation be made to the person whose dog was killed. They also asked those responsible for putting the dog in the community freezer to restock it because the caribou and other meat had been contaminated by the dead dog as a result of their actions.

This process demonstrates that Métis law is relevant for working towards reconciliation in a community context. The principles they followed could also be applied on a broader basis to address issues arising from harms caused by the residential schools.

Métis legal principles were evident in various national dialogues that brought Métis Survivors, Elders, and political leaders together to share their truths about their residential and day school experiences. It was clear from their stories and comments that for the many Métis Survivors who attended schools that were excluded from the Indian Residential Schools Settlement Agreement, reconciliation remained elusive.[65] They emphasized the importance of Métis community support for Survivors and their families.

At the Métis Nation Residential School Dialogue in Saskatoon, Saskatchewan, in March 2012, John Morrisseau, a member of the TRC Survivors Committee, said,

> There [is] so much that could be told about what took place in the Métis communities. This dialogue was the opening of things to come for Métis people. In order to tell our stories properly, we will need to learn to trust ourselves as family. Right now everyone wants to hear, and everyone is afraid to say. But there is a need to get beyond that in order to share and feel trust and kindness from one another. That [will] come after we have had a chance to be together a few more times … Métis have been excluded … [I]t has been the story of our lives. The issue we are dealing with is … a moral issue … I do not want money for healing because I do not think money will solve things; however, if people could look at me and respect me for who I am, that would be a big step in the right direction.[66]

Survivor Angie Crerar said,

> I talk with Elders who have been my strength. But that horror lives in our soul. It's not a pretty story. How could it be? … I have scars on my body, my heart and my soul that will never be erased. Some of them are scars of honour because no matter what they did, they did not break my spirit.… This journey we will walk together. This Dialogue has started the support, being there for each other, sharing what we learned and also our pain. That is who we are. We help each other and will never stand alone.… Our work will never be done but together with our children and grandchildren, we will take a step forward. It is not up to our elected officials to do it all, it is up to each one of us. How proud are we of our heritage? How proud are we of our identity? … We are Métis, and we always will be.[67]

For those who attended the national dialogues, the opportunity for Survivors and intergenerational Survivors to share their stories, their truths, was essential to their own healing and that of the Métis Nation. Jaime Koebel, of the Métis National Council, said, "Not everyone is ready to talk, but in time, somewhere, the stories need to get out and be heard to help further justice in this area."[68] The principles and practices of Métis law and legal traditions will be critical to such a reconciliation process.

In the broader context of reconciliation, Métis law, like other Indigenous legal traditions, can also inform a wide range of Aboriginal-Crown alternative dispute-resolution and negotiation processes involving Treaty and Aboriginal rights, land claims, and resource-use conflicts. Elmer Ghostkeeper, a Métis Elder and past president of the Federation of Métis Settlements in Alberta, points out that Indigenous approaches to resolving conflicts and establishing mutually respectful relationships are frequently ignored by government representatives. He explains that for him the concept of "traditional knowledge" is problematic "because it suggests [something] old and aging. As [Métis] people we are just as contemporary and creative as others. We do have old traditions, but we also have current practices that form part of our wisdom." He says that the term "Aboriginal wisdom" more accurately describes "the body of information, rules, beliefs, values, behavioural and learning experiences which made existence possible and meaningful for the Métis."[69] Elder Ghostkeeper explains that "our [Métis] wisdom sits in our personal experience and the experience of others. It is both old and current knowledge primarily passed on through oral histories and stories that contain many teachings and lessons in many forms."[70]

Tlingit peoples

The Teslin Tlingit peoples of the Yukon have recently established a Peacemaker Court under the authority of their land claims agreement that draws on traditional and modern laws to facilitate peace, order, and good government.[71] This court has

similarities to many American tribal courts that deploy Indigenous peoples' codes, customs, and traditions to resolve disputes.

The Tlingit peoples' Peacemaker Court has jurisdiction over disputes that occur within their communities. This is guided by the *Peacemaker Court and Justice Council Act*, which has codified some of the important procedures, obligations, and principles related to reconciliation.[72] For example, there are five clans within the community: the Raven (Kùkhhittàn), Frog (Ishkìtàn), Wolf (Yanyèdí), Beaver (Dèshitàn), and Eagle (Dakhl'awèdí).[73] Based on traditional practices, each of these clans has different roles and responsibilities in attaining justice and reconciliation.

In the Peacemaker Court, five representatives from each of the five clans form the decision circle. Section 9(2) of the *Peacemaker Court and Justice Council Act* enumerates some important guiding principles of the court. These principles govern how peace and reconciliation should be pursued:

> 9(2) The following principles will guide the Court when it carries out its authority:
>
> (a) The values of respect, integrity, honesty and responsibility;
>
> (b) The collective nature of Teslin Tlingit society;
>
> (c) The obligation to preserve the land, environment and all resources within the Teslin Tlingit Traditional Territory for the well-being of both present and future Teslin Tlingit generations; and
>
> (d) The Teslin Tlingit culture which is based on traditional knowledge, customs, language, oral history and spiritual beliefs and practices which is important for the well being of present and future generations.[74]

It is possible to imagine the principles identified in this section of the *Peacemaker Court and Justice Council Act* being applied by Canada to guide its attempts to reconcile with the Tlingit and other Aboriginal peoples. This activity would be most effective if governments were sensitive to the cultural nuances of Indigenous peoples and applied their legal principles as required by the Act in its context.

An example of how the Act could be interpreted in the context of an apology for residential schools might occur in the following way. The Act as a whole suggests that the best forums for reconciliation are Indigenous-based. Thus the Canadian government might follow up on its formal apology by working with various Aboriginal groups to apologize in an Indigenous forum. Subsection (a) of the Act suggests that such apologies and other activities should "be guided by the values of respect, integrity, honesty and responsibility," as interpreted by Aboriginal people. Subsection (b) suggests that Teslin Tlingit as a whole should be considered in pursuing reconciliation.

Since all members of society—from Elders to adults, youth, and children—are valued, a harm that affects all of them should be rectified in a way that involves as many of

them as possible. Subsections (c) and (d) suggest that Aboriginal histories, languages, traditions, customs, beliefs, and practices should guide reconciliation. References to the land, environment, and resources suggest that reconciliation should also consider the broader policies that the government pursues in relation to these matters as it works towards reconciliation. This list is not exhaustive but provides an idea of what the Canadian government might do in collaboration with the Teslin Tlingit and other Indigenous peoples as it continues to follow through on its apology for the harms caused by residential schools.

Anishinaabe peoples

The Anishinaabe peoples of central Canada have legal concepts related to apology, restitution, and reconciliation, and some of these principles are embedded in the very words of their language. Balance is central to understanding Indigenous law. The Anishinaabe peoples have many legal traditions and practices that encourage *mino-bimaadiziwin* (good living), and that are relevant to reconciliation.

Although many historic examples of these laws could be cited,[75] recent Anishinaabe practice has highlighted the Seven Grandfather and Grandmother Teachings.[76] These laws encourage Anishinaabe peoples to live in accordance with *nibwaakaawin* (wisdom), *zaagi'idiwin* (love), *mnaadendiwin* (respect), *aakwaadiziwin* (courage), *dbaadendiziwin* (humility), *gwekwaadiziwin* (honesty), and *debwewin* (truth). These guiding principles are enacted as living traditions in many people's lives within Anishinaabe-akiing (Anishinaabe territory), although many fall far short of them in their daily lives (as is the case with all other humans who try to live in accordance with their highest laws). Nevertheless, these traditions stand as a guide towards a better way of being in the world. They are found in daily living, and are also chronicled in numerous stories, songs, sayings, teachings, and ceremonies that exist to mediate relationships with the human and wider world.[77]

Powerful changes would flow into the reconciliation process if wisdom, love, respect, courage, humility, honesty, and truth were regarded as forming the country's guiding principles.[78] If the Seven Grandfather and Grandmother Teachings were applied, Canada would renew a foundational set of aspirations to guide its actions beyond the broad principles currently outlined in the Canadian Charter of Rights and Freedoms and other constitutional traditions. These teachings would help Canadians to build their country in accordance with its formative Treaty relationships, which flowed from Anishinaabe and other Indigenous perspectives, where peace, friendship, and respect stood at the heart of kin-based ties that encouraged the adoption of every newcomer to this land as a brother or sister.[79]

If we learn anything from Indigenous legal traditions in this report, it should be the need to live together using wisdom, love, respect, courage, humility, honesty, and truth as our strongest guides. That these principles also coincide with Canada's oldest Treaty commitments could help us to see a broader political underpinning in their development and application in a contemporary context through Section 35(1) of Canada's Constitution.

Of course, although these traditions can be reflected in a secular constitutional context, they can also transcend it. In an Anishinaabe context, the Seven Grandfather and Grandmother Teachings are highlighted when people gather in ceremonies to petition the spirit world and draw closer to creation and their brothers and sisters. *Asemaa* (tobacco) is a sacred plant offered at the beginning of such events as an expression of gratitude, modesty, humility, and meekness. The offering of asemaa acknowledges Anisihinaabe dependence on the spirits, rocks, plants, animals, and others for their very survival, even in contemporary urban settings. At the time of offering, a prayer is often given to further acknowledge human indebtedness and weakness. Such prayers confess that we all make mistakes and must ask for pity and *zhawenimaan* (blessings) in all we do.[80]

Elder Dr. Basil Johnston gives an example of this approach when discussing a father's prayer with his son while preparing for a vision quest: "On their arrival, Ogauh [who was the father] placed an offering of tobacco in the centre of the circle. 'Forgive us,' he said, 'Forgive my son, I bring him to you that he may receive a vision. We ask that you be generous and grant him dreams.'"[81] Although this is one small example, it represents the idea that many Anishinaabe people regard apologies as a necessary part of their preparations in working together to live well in *mino-bimaadiziwin* (the world).

In light of our earlier discussion, it could be instructive to regard apologies as having a constitutional dimension—constituting who we are as human beings and who we are as a nation-state. Because tobacco and apologies are constitutional, at least in the former sense, they are an important part of Anishinaabe reconciliation in many settings. At the same time, the use of asemaa and apologies could also be regarded as constitutional in a more formal sense as well. When asemaa is used in a pipe ceremony, as was the case when most Treaties were agreed upon, more formality is required. When tobacco is offered and a pipe is used in its transmission, the tobacco becomes a vehicle for reconciliation between those who participate,[82] as occurred in Treaties. The use of the Seven Grandfather and Grandmother Teachings, tobacco, and apologies could have constitutional significance for Canadians more generally, who trace their rights to land and governance in this country to the Treaties.[83]

The need for Anishinaabe to apologize and work towards reconciliation is illustrated in the example of four respected Anishinaabe leaders who personally applied these laws and traditions to their residential school experiences. The four leaders were

Tobasonakwut Kinew (Anishinaabe Elder, pipe carrier, and Medewin medicine society member), Fred Kelly (Anishinaabe Elder, Medewin member, and team member who negotiated the Indian Residential School Agreement), Phil Fontaine (former Grand Chief of the Assembly of First Nations, who is regarded as being most responsible for the 2005 Indian Residential School Agreement and the 2008 formal apology by the Canadian government), and Bert Fontaine (brother of Phil and a leader in the Sagkeeng First Nation of Manitoba). On April 14, 2012, these men adopted as their brother the Catholic Archbishop James Weisgerber of Winnipeg.[84] They did so using the principles described above in a traditional Naabaagoondiwin ceremony at Thunderbird House in Winnipeg, Manitoba.

During the ceremony, Phil Fontaine offered a personal apology to the Catholic Church. He acknowledged that his public reaction to his personal residential school experience "overshadowed the goodness of many people."[85] He said, "My bitterness and anger hurt many good people dedicated to our well-being and I only focused on the people who hurt us.... I tarred everyone with the same brush and I was wrong. As you apologized to me on more than one occasion, I apologize to you."[86] The ceremony included singing and drumming, as well as the exchange of gifts and the sharing a ceremonial pipe. As part of the gesture of reconciliation, Tobasonakwut Kinew said,

> I have accepted James Weisgerber as part of my family, as my brother. We are now prepared to move ahead as brothers and sisters. I leave the past of the residential schools behind me.
>
> The ceremony is a public event so that more survivors, the generation following who are still impacted and leaders can witness the historic and unbreakable bond that will be made.[87]

The significance of this event as an example of personal reconciliation between Indigenous peoples and their neighbours should not be overlooked. It demonstrates the wisdom, love, respect, courage, humility, honesty, and truth of the men involved in this event. They recognized their weaknesses and apologized for them, despite having arguably lesser culpability because of the physical and other abuses they suffered in residential schools. If those who have suffered can apologize for their actions in relation to residential schools, this might serve as an example for other people throughout the country who have not suffered as gravely, and who want to improve their broader relationships.

We all have weaknesses as people. If we look at this issue from an Indigenous political perspective, we can see that each person's weakness, at some level, has contributed to our collective malaise in how we are dealing with reconciliation in Canada. We recognize that people who have philosophies that are not guided by these laws and traditions may reject such characterizations; however, in light of the Commission's study of these issues from many perspectives and having heard from people from

coast to coast to coast, we affirm that apologies make a difference in the life of our nation and to the individuals within it.

Although we acknowledge the broader importance of apologies in Canada, we must stress that the apology offered by the four Anishinaabe leaders was not a formal political event; it was not sponsored by institutions such as governments, churches, or Aboriginal organizations. It shows that reconciliation can proceed in important ways even if broader institutions are not involved. The Naabaagoondiwin ceremony is focused on individuals and families, and it seeks to build relationships on a family basis—at least initially. In keeping with this example, much more could be done to extend bonds of kinship between Indigenous and non-Indigenous peoples in more decentralized ways. It is not necessary to wait for institutions to initiate and continue the work of reconciliation. At the same time, there is nothing to prevent broader institutional application of these legal traditions if supported by an institution's leaders.

Some might argue that the principles of wisdom, love, respect, courage, humility, honesty, and truth are much too vague to possess legal relevance. Those who make this argument could reflect on the broad framing of other central legal values in Canada. It is arguable that concepts like freedom of religion, conscience, speech, assembly, life, liberty, security, equality, and so on are equally vague as a starting point for protecting peoples' fundamental rights. Nevertheless, through continually extensive analysis and application, these concepts remain at the heart of Canada's constitutional regime despite their definitional challenges. Vagueness alone is not a reason for rejecting the Seven Grandfather and Grandmother Teachings as legal standards; in fact, like the concepts within the Canadian Charter, the very reason we should adopt them may be their broad aspirational nature, which allows them to have so many meanings to different people, and to motivate our actions at the highest levels.

Hul'q'umi'num peoples

Another example of how Indigenous peoples deploy their traditions to resolve disputes through apology, restitution, and reconciliation is found among the Coast Salish Hul'q'umi'num peoples on southern Vancouver Island and the Gulf Islands in the Salish Sea.[88] These practices are grounded in their *snuw'uyulh* (teaching), which contains the "fundamental rules of life, the truths of life that are based on the Hul'q'umi'num concept of Respect."[89] Coast Salish Elder Ellen White Rice describes this concept as "Respect for others and their differences and for the power of love. The teachings show that we are all different but the power of love and commitment transcends all differences."[90]

Respect is an essential component of reconciliation and must always be part of any meaningful apology and restitution. When the snuw'uyulh is applied to

facilitate reconciliation, it is important to remember that there are degrees of depth and learning within this concept.[91] Furthermore, it is important to recognize that each Hul'q'umi'num community "may have slightly different Snuw'uyulh, based on their surroundings and environment."[92]

One of the understandings flowing from the snuw'uyulh is that apologies and restitution are necessary to restore balance within a community when someone is harmed. Usually, such actions are taken and offered by individuals and families most immediately affected by harm. Apologies and reconciliation are often localized within Hul'q'umi'num society because it is considered disgraceful to have somebody else resolve your problems.[93] Individuals' own families are most qualified to help people clear their heart and mind if they have harmed someone or been harmed themselves. In terms of administering this system, it is often Elders within a family who will teach wrongdoers how to apologize.[94]

Apologies and restitution frequently consist of offerings and verbal confessions by those who caused harm, including acknowledgement of the cause and consequences of the wrong.[95] In describing these practices, Hereditary Chief Frank Malloway has observed,

> If you did something wrong the family would take the responsibility and make an offering. They call it an offering. Some of the things in the old days were canoes, because they were like cars today, "Ah, I'll give you my car if you forget about this." But it was canoes in those days. I don't think it was really food because food was so plentiful that it wasn't expensive. Later on, my dad was saying, when it was settlement time, it was horses. They took the place of canoes. He talked about bringing horses right into the longhouse to distribute to somebody.[96]

If the apology and offerings are accepted, there might be some form of acknowledgement made to the wrongdoer by those who were harmed.

The advancement of offerings and apologies is said to "bring good feeling back."[97] This is part of the snuw'uyulh. As one Elder has said, an exchange of offerings means "we're not mad at you anymore."[98] Another Elder has explained,

> I think if they, the family, agree that this person is sorry and really trying to pay back by doing different things[,] they'll agree, 'okay, maybe you've done enough.' Maybe then they'll have a little ceremony to say, 'okay we'll agree with that family and this family,' do it publicly in a feast or potlatch or something.... Of course they agree to it first.[99]

Some harms may be more serious than others due to the scale of their impact. In these cases, reconciliation requires a broader approach; apologies are to be given publicly at a potlatch or other ceremonial gathering.[100] Gifts may be offered as compensation or other forms of restitution made to the injured party during feasts or other ceremonies.[101]

Canada could learn from the snuw'uyulh by following through with demonstrations of remorse, offerings, and ceremonies once it has apologized. If this does not occur, Hul'q'umi'num legal traditions teach us that ill feelings between the parties will certainly persist until the government gives up something very important to it and shows a serious commitment to changing its relationship with Aboriginal peoples.

Gitxsan peoples

In British Columbia, feasting and the potlatch system have been used for millennia as legal and political mechanisms for addressing harms in a way that enables people to achieve a measure of justice and that restores relationships. Legal scholar John Borrows explains the central role that feasting plays in the legal, political, and socio-economic lives of Aboriginal peoples in certain regions of British Columbia.

> For millennia, their histories have recorded their organization into Houses and Clans in which hereditary chiefs have been responsible for the allocation, administration and control of traditional lands. Within these Houses, chiefs pass on important histories, songs, crests, lands, ranks and property from one generation to the next. The transfer of these legal, political, social and economic entitlements is performed and witnessed through Feasts. Feasts substantiate the territories' relationships. A hosting House serves food, distributes gifts, announces the House's successors to the names of deceased chiefs, describes the territory, raises totem poles, and tells the oral history of the House. Chiefs from other Houses witness the actions of the Feast, and at the end of the proceedings, they validate the decisions and declarations of the Host House. The Feast is thus an important institution through which the people governed themselves.[102]

Writing about the *bah'lats* (potlatch) of the Ned'u'ten people (Lake Babine First Nation in British Columbia), legal scholar June McCue describes the shaming and cleansing ceremonies that Canada would have to undergo in order to clear its name. She explains that to restore the honour of the Crown, Canada must enter the feast hall. There, she says, "Canada's colonizing record would be heard ... Canada would acknowledge this wrongdoing, make apologies and be prepared to compensate or retribute the Ned'u'ten for such conduct with gifts. It may take a series of *bah'lats* for Canada to bring respect to its name."[103]

In a similar vein, while acknowledging that Indigenous legal systems have been damaged by colonization, legal scholar Val Napoleon observes that in spite of this lived reality, Gitxsan law is still viable today; it is still a living legal order.

> Many Gitxsan laws have been violated by both Gitxsan and non-Gitxsan, and this contributes to cultural paralysis.... Reconciliation here would mean either an explicit acknowledgment of, and agreement to, the changes to Gitxsan laws to fit

> contemporary circumstances, or application of Gitxsan laws to deal with transgressions ... It would be difficult to force the participation of the transgressor, but nonetheless, the process of dealing with transgression through the Gitxsan system even without the transgressing parties, would be healthy and constructive for the Gitxsan.[104]

This observation is demonstrated in one example of a welcome home and apology feast held in 2004 for Gitxsan Survivors who had attended the Edmonton Residential School. The apology feast was unique in that it was hosted by the Canadian government and the United Church. These institutions were held accountable in accordance with Gitxsan law. This feast, which applied Gitxsan legal traditions, "connected the cultural loss experienced by ... survivors to a powerful public reclaiming of history, culture, family, community, and nation in a way that also brought Canada and the United Church into the feast hall—as hosts with particular responsibilities to fulfill."[105]

That two non-Indigenous institutions served as hosts for this feast demonstrates the applied and living nature of Indigenous law; the Gitxsan adapted their customary feasting protocols creatively to allow these institutions to apologize for their actions in running residential schools. These changes in protocol were carefully negotiated in advance to ensure that Canada and the United Church operated in accordance with Gitxsan law.[106]

This "living peacemaking process" shows how Indigenous legal orders are "capable of adapting old diplomatic and legal principles in new ways to accommodate changing circumstances."[107] "In giving government and church responsibilities as hosts, the Gitxsan used their legal system to respond constructively to the legacy of residential schools. They sought a way to reintegrate into Gitxsan society those who had been lost."[108] The ceremony itself allowed the Canadian government and the United Church to apologize for their actions in residential schools; it also allowed the community to publicly commemorate "the names of all the Gitxsan children—those still living and those now lost to their families and nation," as their names were "read out in order to remember and honour them."[109]

The apology became part of the oral history record of Gitxsan law. Those who attended the ceremony witnessed how Gitxsan law provided an opportunity to begin repairing the relationship between the Gitxsan peoples, the Crown, and the church. Government and church representatives worked directly with Survivors, Elders, and Hereditary Chiefs for many weeks to prepare for the feast and fulfill their responsibilities as hosts. Working together at the community level enabled all those involved to begin to develop a different kind of relationship—one based on mutual respect and empathy. The feast hall created a space where Survivors' experiences were acknowledged, and where they were honoured and welcomed back into the community.

One of the non-Indigenous hosts who participated in the feast described the powerful teachings that Indigenous law holds for all Canadians.

> The feast taught me important lessons, compelling me to rethink my cultural assumptions about the meanings of history, truth, justice, and reconciliation. I learned that history resides not in dusty books but lives in the stories we carry in our hearts, minds, and spirits as we struggle to understand, acknowledge, and transform the past that is still present. I learned that truth is not only about facts but about the harsh realities of a shared colonial experience that is rooted in human relationships. I learned that justice is found not only in case law and courtrooms but in the exquisite beauty of sacred dances, symbols, and songs, in the strong words of elders, *simgigyat*, *sigid'm hanaak*, and families, and in the healing ceremonies and rituals of the feast hall that express the laws of the Gitxsan nation. I learned that reconciliation is not a goal but a place of transformative encounter where all participants gather the courage to face our troubled history without minimizing the damage that has been done, even as we find new decolonizing ways of working together that shift power and perceptions. I learned that Indigenous sacred places are powerful. They make space for us to connect with each other, exchanging testimony, making restitution and apology in ways that speak to our highest values as human beings.[110]

As Commissioners, we have participated in many community feasts and other ceremonial practices of Indigenous law and peacemaking. We are convinced that there are urgent and compelling reasons to learn from these legal traditions; they have great relevance for Aboriginal peoples and all Canadians today. They should be regarded as the laws of the land and applied to the broader reconciliation process.

Indigenous legal concepts related to apology, restitution, and reconciliation are embedded in First Nations, Inuit, and Métis languages. The words contain standards about how to regulate our actions and resolve our disputes in order to maintain or restore balance to individuals, communities, and the nation. The revitalization of Indigenous law and governance systems depends on the revitalization of Indigenous languages.

Whether codified in the Peacemaker Court, practised more informally at the community level, or used with governments, churches, and other institutions, Indigenous law is being recovered and revitalized by Aboriginal peoples across the land. This work is just beginning; much more must be done.

The way forward: The Accessing Justice and Reconciliation project

Both the *UN Declaration on the Rights of Indigenous Peoples* and the study by the UN Expert Mechanism on the Rights of Indigenous Peoples that we referred to earlier affirm that Indigenous peoples' right to self-determination is the centralizing principle from which all other rights flow, including the right to access and practise

their own laws. The Commission believes that many Aboriginal communities want and need more opportunities to work with their Elders and Knowledge Keepers in order to learn about and use their own legal traditions. Developing collaborative community-based research and learning, sharing best practices, and producing educational resources on Indigenous law will ensure long-term support for communities in achieving this goal.

In 2012, the TRC partnered with the Indigenous Bar Association and the Indigenous Law Clinic of the University of Victoria's Faculty of Law to develop a national research initiative, the Accessing Justice and Reconciliation (AJR) project. Working with seven community partners, the AJR project examined six different legal traditions across the country: Coast Salish (Snuneymuxw First Nation, Tsleil-Waututh Nation), Tsilhqot'in (Tsilhqot'in National Government), Northern Secwepemc (T'exelc Williams Lake Indian Band), Cree (Aseniwuche Winewak Nation), Anishinabek (Chippewas of Nawash Unceded First Nation No. 27), and Mi'kmaq (Mi'kmaq Legal Services Network, Eskasoni).

The AJR project's final report describes its vision and goal.

> The overall vision for this project was to honour the internal strengths and resiliencies present in Indigenous societies, including the resources within these societies' own legal traditions. The goal of the AJR project was to better recognize how Indigenous societies used their own legal traditions to successfully deal with harms and conflicts between and within groups and to identify and articulate legal principles that could be accessed and applied today to work toward healthy and strong futures for communities.[111]

The project began with a nationwide call to Indigenous communities for expressions of interest in collaboratively developing the project. After communities responded and agreed to work with the project, student researchers received an intensive orientation in Indigenous legal theories, Indigenous laws, and community-based research skills. With the blessing of the seven participant communities, the researchers next analyzed publicly available stories related to how Indigenous peoples dealt with harm. The animating question the researchers asked in analyzing the stories was, "how are harms dealt with in [Indigenous] communities, and between communities?" After significant study, cross-referencing, and correlation, legal principles were drawn from each tradition.

Once this preliminary work was finished, the researchers approached the communities that had agreed to participate; they took what they learned to the communities they had studied. The principle of reciprocity required this background preparation. Principles of respect required serious preparation before engaging with the Indigenous law Knowledge Keepers; it was important not to 'lightly' ask people for their stories. Rather, the researchers approached the Knowledge Keepers with something to give. The stories provided an excellent starting point for discussion, as

community members discussed their teachings and how they should or should not apply to harms today.

Reports were then produced and presented to the communities. By analyzing the legal processes, responses and resolutions, obligations, rights, and general underlying principles found in the stories and oral traditions of specific communities, the project provided insights into how Indigenous law in all its diversity and interconnectedness is applied in real-life situations. The AJR project also included a public education component designed to ensure that the project report, community reports, and other materials and resources are widely accessible.[112] The AJR website has links to the published reports, papers, a teaching guide, and a graphic novel on Cree law.[113]

The AJR final report presented the following findings and recommendations:

> There is no 'one size fits all' approach within or among Indigenous legal traditions. There are a wide variety of principled legal responses and resolutions to harm and conflict within each legal tradition.
>
> Recommendation 1.1. Further research is needed to identify and articulate the full breadth of principled legal response and resolutions within Indigenous legal traditions.
>
> Recommendation 1.2. Further research is needed (i) to more clearly identify or develop legal processes necessary for a decision to be accepted as legitimate by those impacted by it, and (ii) identify the guiding or underlying constitutive principles that form interpretive bounds within specific Indigenous legal orders.

Indigenous legal traditions reveal both consistency and continuity over time, and responsiveness and adaptability to changing contexts.

> Recommendation 2.1. Support community-based research and engagement processes to enable communities to identify and discuss legal principles so they become more explicit and accessible within communities themselves.
>
> Recommendation 2.2. Support community justice and wellness initiatives to identify and articulate guiding or supporting legal principles, as a basis for developing, grounding and evaluating current practices and programming addressing pressing social issues within their communities.[114]

The Commission concurs with these findings and recommendations. We conclude that Indigenous laws must receive heightened attention, encouragement, and support to ensure that First Nations, Inuit, and Métis communities benefit from their continued growth, development, and application.

The AJR project's final report concluded that many more Aboriginal communities across the country would benefit from recovering and revitalizing their laws. Doing so would enable First Nations, Inuit, and Métis communities to more effectively remedy

community harms and resolve internal conflicts, as well as external conflicts with governments. Legal scholar Val Napoleon, the project's academic lead, and Hadley Friedland, the project coordinator, write,

> We believe there is much hope that even the process of intentionally and seriously continuing ... [this work] will contribute to a truly robust reconciliation in Canada.... This work is vital for the future health and strength of Indigenous societies and has much to offer Canada as a whole.... Legal traditions are not only prescriptive, they are descriptive. They ascribe meaning to human events, challenges and aspirations. They are intellectual resources that we use to frame and interpret information, to reason through and act upon current problems and projects, to work toward our greatest societal aspirations.
>
> Finding ways to support Indigenous communities to access, understand and apply their own legal principles today is not just about repairing the immense damages from colonialism. As Chief Doug S. White III (Kwulasultun) puts it ... "Indigenous law is the great project of Canada and it is the essential work of our time. It is not for the faint of heart, it is hard work. We need to create meaningful opportunities for Indigenous and non-Indigenous people to critically engage in this work because all our futures depend on it."[115]

Canada at the crossroads: Choosing our path

In his paper "The Duty to Learn: Taking Account of Indigenous Legal Orders in Practice," delivered at a conference on "Indigenous Legal Orders and the Common Law" held in Vancouver, British Columbia, in 2012, Chief Justice Lance Finch talked about how Canadians can be a part of reconciliation.

> As part of this process, I suggest the current Canadian legal system must reconcile itself to coexistence with pre-existing Indigenous legal orders.... How can we make space within the legal landscape for Indigenous legal orders? The answer depends, at least in part, on an inversion of the question: a crucial part of this process must be to find space for ourselves, as strangers and newcomers, within the Indigenous legal orders themselves....
>
> For non-Indigenous lawyers, judges, and students, this awareness is not restricted to recognizing simply that there is much we don't know. It is that we don't know how much we don't know.[116]

Justice Finch's words evoke the need for the Seven Grandfather and Grandmother Teachings outlined earlier: wisdom, love, respect, courage, humility, honesty, and truth.

Indigenous peoples' knowledge systems are full of profound teachings, including legal teachings. If used in contemporary circumstances, they can help guide this country into better relationships among all beings inhabiting Turtle Island (North America). Chief Justice Finch described it best. We all have a "duty to learn" about Indigenous law. There is a duty to listen to the voices of those who lived on this land for thousands of years. Ignorance will take us down the wrong road. Honest efforts are needed to learn and apply Indigenous principles of apology, restitution, and reconciliation.

In applying Indigenous law and diplomacy to facilitate reconciliation, we must remember that legal traditions are never static.[117] Traditions become irrelevant, even dangerous and discriminatory, if they do not address each generation's shifting needs. Canadian common law and civil law traditions have grown and developed through time. For example, the common laws of tort, contract, and property have been changed since the Industrial Revolution. They were transformed to provide remedies for new harms that developed when society became increasingly complex. Likewise, the civil code of Quebec was adapted to address new social realities. This led to new provisions to deal with inequality between spouses, privacy, and personal rights. Additionally, Canadian constitutional law and other public laws have evolved to implement international law related to human rights and freedoms.

Indigenous legal traditions also continue to grow and develop. They change through time to adapt to new complexities. Indigenous law practitioners creatively strive to retain order as their communities move through time, as is the case with practitioners of Canadian law more generally. Unfortunately, Canadian law has discriminatorily constrained the healthy growth of Indigenous law contrary to its highest principles.[118] Nevertheless, many Indigenous people continue to shape their lives by reference to their customs and legal principles.[119]

These legal traditions are important in their own right. They can also be applied towards reconciliation for Canada, particularly when considering apologies, restitution, and reconciliation. Ensuring that Indigenous peoples can access and apply their own laws both within their communities and to resolve conflicts and negotiate Treaties and other agreements with the Crown is essential to reconciliation.

Without Indigenous law and protocol establishing the common ground on which the parties meet—reconciliation will always be incomplete. At the same time, we recognize that Indigenous forms of reconciliation will not be available to the Canadian state until First Nations, Inuit, and Métis peoples decide to offer them, leaving significant power in the hands of Indigenous peoples. Canada is not the only party necessary to activate national healing and justice. This is as it should be. Indigenous nations are self-determining communities. They have the ability to decide whether they will receive or act on Canada's overtures towards reconciliation.

Practically speaking, Indigenous peoples will genuinely respond to Canada's offerings of apology or initiate their own overtures only when they are satisfied that Canada has sincerely created conditions that will allow Indigenous law and protocol to be meaningfully received and acted upon.[120] Until this happens, Indigenous peoples will likely not offer Canada the conditions necessary for reconciliation.

In the meantime, our country will continue to suffer in relation to its unity, reputation, and productivity. This will be a tremendous loss for every Canadian. Yet, when people are gravely harmed, it is unfair to expect them to act otherwise. Indigenous nations retain the ability to reject what Canada does in the name of reconciliation until they judge Canada as acting in good faith in relation to creating a meaningful set of better relationships. It will therefore be vital to set the tone and express the principles for establishing respectful relationships with an official public declaration—a Royal Proclamation of Reconciliation (see Call to Action 45)—that commits all Canadians to reconciliation.

The Commission emphasizes that the teaching and application of First Nations, Inuit, and Métis peoples' laws and legal traditions hold great promise for taking the country towards reconciliation by guiding it further along pathways of truth, healing, and justice. Only then will Canada finally live up to the true spirit and intent of the Treaties that were, and still are, envisioned by Indigenous nations. Only then will all Canadians truly be Treaty people; the work of reconciliation is up to all of us.

Call to action:

50) In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples,* we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.