

Why Indigenous Law Matters

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September 27th marked a first for the Law Society of Manitoba. On that day, we held a CPD program on Indigenous Law at Turtle Lodge on Sagkeeng First Nation, in partnership with the Manitoba Bar Association's Aboriginal law section, the Faculty of Law and the Manitoba Indigenous Law Students Association. We previously held an Indigenous legal traditions CPD at the lodge, but this one was unique in that the content and agenda were set *entirely* by Indigenous Elders and knowledge keepers. We asked the Elders to tell us what we, as lawyers, should know about Indigenous law. For the first time, we collaborated closely with Indigenous law students in planning the program, and in another first, an Indigenous Elder, Florence Paynter, gave the program its name in a traditional naming ceremony. The program name in Anishinaabemowin was Tebweta Ajjimowin – which means “to tell the truth”.

The Elders spoke about traditional teachings and laws and shared their experiences. Their stories and the powerful, rousing sounds of the drum conveyed the age-old wisdom and beauty of several Indigenous cultures. One of the most moving parts of the day occurred when four of the Indigenous law students had the chance to tell their truths. In turn, they each shared some raw personal experiences, which offered insight into their reality of straddling two worlds that sometimes conflict

with one another. These included a deeply hurtful racist comment casually delivered by a fellow student in the Common Room at Robson Hall; a young family member who was failed by the child welfare and health care system and died by suicide; the difficulty of facing questions posed by family members who were deeply disappointed by the justice system after the Stanley and Cormier verdicts; and the burden of carrying all of these issues while trying to complete law school. These weren't easy truths to hear and they weren't easy for the students to share, but they needed to be spoken and we needed to hear them.

Last month, the University of Victoria's Faculty of Law made history when it launched the world's first joint degree in common law and Indigenous law. In four years, the first class of 26 students is expected to graduate with a joint JD/JID degree (Juris Doctor/Juris Indigenarum Doctor) in common law and Indigenous legal orders. The program includes field school and community placements where students will have the opportunity to consult and work with Elders and Indigenous communities on Indigenous law.

It's fair to say that there are members of the legal profession and society at-large who wonder what this program, or holding day-long CPDs on Indigenous law means and where it's leading us. Is the ultimate aim to set up a parallel system of justice for Indigenous people in Canada? Is it to integrate elements of Indigenous law into our existing common law system? Some may ask why Indigenous law matters to the broader society at all. According to the University of Victoria Faculty of Law's website, “Students will learn how to understand Indigenous legal orders, reason with them, build institutions based on those orders, and design institutions and procedures that work in concert with other levels of Canadian law.” What is the basis for Indigenous law working “in concert” with Canadian law and how will this be achieved? There isn't a single or straight forward answer to this question. It's never easy to start down a path when you don't know exactly where it will lead you, but sometimes you know you have to begin the journey anyway. This is especially difficult for lawyers; we're trained to identify and avoid risks and we like being in control. However, this is the essence of the journey of reconciliation, which challenges us to step out of our comfort zone and be open to new approaches and different perspectives. The University of Victoria is boldly venturing down this path.

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Some see reconciliation and all that it entails, including Indigenous law, as largely irrelevant to their legal practices and their lives. But the challenge of reconciling with Indigenous peoples is relevant to all of us and it requires our sustained attention and ongoing action. Indigenous peoples have told us repeatedly that they seek self-determination; they aspire to see their traditions and laws recognized, whether dealing with child protection, criminal justice or land issues. The federal government committed to wrestling with some of these difficult issues when, earlier this year, it announced its intention to develop a [Recognition and Implementation of Indigenous Rights Framework](#), consisting of legislation and policy. Although the details of the Framework remain to be seen, the federal government is trying to move the bar forward, using co-developed paths and flexible solutions.

Indigenous peoples represent the fastest growing demographic in Canada. Their success is critical to our collective success. Even though the exact destination isn't clear, and the road is long, winding and bumpy at times, we need the courage to continue taking steps, both large and small, toward reconciliation.



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