

INDIGENOUS BAR ASSOCIATION IN CANADA 2020-2021

Annual Report



INDIGENOUS BAR
ASSOCIATION

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MESSAGE FROM THE PRESIDENT



Drew Lafond

Tansi nitotemak, I am eternally grateful for the opportunity to serve as the President of the Indigenous Bar Association in Canada (the “IBA”) for the past two years. When I began my term in 2019, the IBA was a growing and dynamic collection of Indigenous leaders in legal thought and practice and its reputation as a formidable advocate on behalf of Indigenous Peoples had been solidified. The board was eager to expand our capacity, strengthen our networks and continue to give back to the communities that we serve.

Our strategic goals and mandate were derailed as a result of COVID-19 and the IBA was faced with a series of logistical, financial and existential challenges. Nevertheless, the IBA has navigated the obstacles introduced by COVID-19

during the last 18 months thanks to the selfless contributions of its members, the unshakable leadership of the board and the tireless dedication of Anne Chalmers. Looking forward, the IBA is again poised to grow and build upon the legacy of our senior members.

The IBA continues to be a voice for those within the legal profession who wish to protect the virtues of Indigenous laws that are expressed through our traditions, customs and cultures, who want to build Indigenous legal systems that honour the natural laws to which we are all subject, and who wish to secure a just and prosperous society for our future generations. We also hope to support the mental well-being of our members undertaking the challenging work and performing the endless demands that have become intrinsic to the legal profession, and to assist those who are coming up with new ways to theorize about and practice law.

During the last two years, I have learned to appreciate that the members of the IBA collectively hold a tremendous amount of knowledge, expertise and vision and a corresponding responsibility to protect and advance Indigenous legal traditions on behalf of our ancestors and those yet to come. I have been a humble witness to the brilliance of our members and the resilience of our communities during my term and I am hoping to share my experiences with the rest of our members in this report.

MESSAGE FROM THE TREASURER



Jocelyn Formsma

Wachay Misiway! It is safe to say that these last two years have been unlike any other as we have been forced to adapt and maneuver through the COVID-19 pandemic. Nevertheless, the Indigenous Bar Association (IBA) and its members have demonstrated resilience, once again. Our success this past year is directly attributed to the dedication, perseverance, and innovation of our members. We commend you for all you’ve accomplished regardless of the pandemic.

Chi-Meegwetch to the continued efforts and dedication of the IBA Board of Directors. Despite not being able to meet in person for nearly two years, this group of Indigenous lawyers has been able to pull together to get the work done.

As the IBA Treasurer, I have been working closely with the IBA President and the Board to develop stronger financial controls, policies and processes that will better serve the IBA. We have had success in applying and securing more funds and fundraising for the IBA Conference. We hope that by increasing our revenue in a more sustainable way that we will be able to ensure the success and the sustainability of the IBA overall.

Strategically, the IBA has made strides to be an organization of choice for advice, insight and perspective with respect to Indigenous peoples and the law. We also remain committed to building and maintaining partnerships, working on initiatives that are important to Indigenous lawyers and legal community, and to make important interventions where our voices are needed.

I welcome you to read the rest of the Annual Report to gain insight into the tremendous work that was carried out by the IBA. Thank you for all of your hard work and unwavering support during a time like no other!

ABOUT THE INDIGENOUS BAR ASSOCIATION (IBA) OUR BOARD MEMBERS



INDIGENOUS PEOPLES' COUNSEL

- Candice Metallic, IPC
- David Nahwegahbow, IPC
- Delia Opekokew, IPC
- Dianne G. Corbiere, IPC
- Donald Worme, IPC
- Eileen Sasakamoose, IPC
- Helen Semaganis, IPC
- J. Wilton Littlechild, IPC
- James (Sakej) Youngblood-Henderson, IPC
- Jean Teillet, IPC
- John Borrows, IPC
- Justice Leonard S. Mandamin, IPC
- Kathleen N. Lickers, IPC
- Kimberly Murray, IPC
- Mark L. Stevenson, IPC
- Mary Ellen Turpel-Lafond, IPC
- Paul L.A.H. Chartrand, IPC
- Professor Darlene Johnson, IPC
- Roberta Jamieson, IPC
- Roger Jones, IPC
- Senator Murray Sinclair, IPC
- Valerie Napoleon, IPC

ADVOCACY AT A GLANCE

We are proud of the advocacy work we do to advance the revitalization and implementation of Indigenous legal traditions, and protection of the interests of Indigenous peoples in the legal profession.

With the help of our board and members, in the last year the IBA:

Released # of public statements/ news releases



Held # of meeting with ministers or senior government officials



Supported/led # of interventions, testimonies evidence at committees



Published # of papers



Wrote # of letters to senior government officials



INTERVENER MOTIONS /COMMUNITY IMPACT STATEMENTS BY THE IBA

INTERVENING MEMBERS

Over the last year, the IBA, with the support of its passionate and talented members and allies, was directly involved in the following court proceedings as an intervener or friend of the court:

- *R. v. Desautel*
- *Restoule v. Canada*
- *Beaver Lake Cree Nation v. Canada*
- *R. v. Brayden Bushby*

INTERVENTION IN R. V. DESAUTEL AT



THE SUPREME COURT OF CANADA

R v Desautel [2021 SCC 17] was a test case concerning whether persons who are not Canadian Citizens and do not reside in Canada can assert an Aboriginal right that is protected by s. 35(1) of the Constitution Act, 1982. The case began after Richard Lee Desautel, a member of the Lakes Tribe of the Colville Confederated Tribes based in the State of Washington, a successor group of the Sinixt people, shot a cow-elk in British Columbia. The elk was shot within the ancestral territory of the Sinixt. The case therefore turned on the scope of the words “aboriginal peoples of Canada” in s. 35(1). Justice Rowe for the majority (Moldaver and Côté JJ. dissenting) found that on a purposive interpretation of s. 35(1), “aboriginal peoples of Canada” means “the modern-day successors of Aboriginal societies that occupied Canadian territory at the time of European contact.” The Court came to this conclusion after finding the two purposes of s. 35(1) are (1) the recognition of the prior occupation of Canada by organized, autonomous societies and (2) to reconcile their modern-day existence with the

Crown’s assertion of sovereignty over them. Justice Rowe also recognized that this interpretation reflects the purpose of reconciliation and emphasizes that section 35(1) did not create Aboriginal rights, those rights predated 1982. The result, is that non-citizens or non-residents of Canada can be Aboriginal peoples of Canada.

The IBA intervened and made submissions on three issues related to the determination of Aboriginal rights under section 35: (1) Indigenous groups should not be required to establish that they are “aboriginal peoples of Canada” at or prior to the application of *R v Van der Peet*; (2) Indigenous persons who reside in the United States should not need to demonstrate a connection to and acceptance by a present-day rights-bearing community in Canada; and (3) the Crown should not be able to rely on practical difficulties to circumvent s. 35 obligations. IBA’s submissions focused on the purpose of section 35, being the rights of Indigenous peoples prior to the arrival of Europeans and the promise of reconciling those rights with the assertion of Crown sovereignty, and the need to adopt an approach that is consistent with those principles.

The Courts final decision demonstrates that they did recognize the purpose of section 35. As for the specific issues raised by IBA, on the first issue, the Court found that whether a group is an “aboriginal people of Canada” is a threshold question only in the sense that if a group is not an Aboriginal people of Canada, there is no need to proceed to the *Van der Peet* test. Thus, the question will only arise where the claimant group is outside Canada. On the second issue, the Court made it clear that there is no need to demonstrate recognition by a related Aboriginal collective residing in Canada. Therefore, the *Van der Peet* test remains the same whether the claimant is inside or outside Canada. On the third issue, the Court made it clear that practical difficulties would not bear on its decision. Overall, the arguments put forward by the IBA were accepted and reflected in the Supreme Court’s final decision.

The IBA extends a huge thank you and congratulations to our member Bruce Mclvor and Kate Gunn at First Peoples Law for their tireless and selfless contributions on this file. Mr. Mclvor’s performance before the Supreme Court of Canada was nothing short of tantalizing.

INTERVENTION IN *RESTOULE V. CANADA (ATTORNEY GENERAL)* AT ONCA



On behalf of a number of First Nation signatories and adherents to the Robinson Treaties of 1850, the 2018 case of *Restoule v. Canada (Attorney General)* [2018 ONSC 7701] primarily considered annuity augmentation clauses found in the Robinson Treaties of the upper Great Lakes region. Broadly, the main issue to be decided by the Superior Court was whether these augmentation clauses express a discretionary or mandatory Crown obligation to increase Treaty annuities in-line with increases in state revenues within Treaty territories. In this case, Justice Patricia Hennessy found that the common intention and essential promise of the Robinson Treaties was to share the wealth of the land and its resources over time. While the Treaties did not prescribe a process or protocol for implementing this promise, principles of the Honour of the Crown and other promises given to Treaty Peoples beget a constitutionally protected right for beneficiaries to share in Crown revenues from the territory. As such, the Court also held that the Crown has a mandatory and reviewable obligation to increase annuities when economic circumstances permit.

As Ontario, but not Canada, has appealed this decision, the second stage of *Restoule v. Canada (Attorney General)* is currently underway at the Ontario Court of Appeal. At issue in the appeal is whether provincial limitations legislation may limit the period in which Indigenous Peoples may claim damages for the breach of constitutionally protected Treaty rights.

The IBA, as an intervenor, recognizes that a number of important Indigenous legal issues are currently before the Ontario Court of Appeal. Of foremost concern to the IBA is that if the Court were to accept Ontario's arguments to the effect that constitutionally protected Treaty or Aboriginal rights may be curtailed through limitations periods, the important protections afforded to Indigenous Peoples by the *Constitution Act, 1982* would be bypassed without merit. In effect, Aboriginal and treaty rights could be breached over and above the well-established tests for justified infringement and placed beyond the reach of a just remedy. This is wholly unsatisfactory for a number of reasons.

As submitted by the IBA, limitations statutes must be interpreted and applied in a manner that complies with the principles underpinning s. 35(1) of Constitution. This includes upholding the honour of the Crown, the promotion of reconciliation, and the protection of Aboriginal and treaty rights. More generally: where Aboriginal and treaty rights are being weighed against mere policy considerations, these considerations ought not deny Indigenous Peoples a remedy for breach of their valid rights. As was correctly decided by Judge Hennessy at the Superior Court level, the IBA holds that there is no limitation period applicable to claims of treaty breach. To uphold both the honour of the Crown and the Crown's commitment to reconciliation with Indigenous Peoples, the IBA believes that the Ontario Court of Appeal must interpret and apply limitations statutes in a manner compliant with principles underpinning s. 35(1) of the *Constitution Act*. To do otherwise would risk setting a dangerous and unwarranted Constitutional precedent while at the same time jeopardizing the already-strained process of reconciliation with Indigenous Peoples.

The IBA is grateful for the tireless efforts of former President Scott Robertson and the whole team at Nahwegahbow Corbiere for providing pro-bono assistance on the IBA's first intervention at a provincial appellate level in the Ontario Court of Appeal.

INTERVENTION IN *ANDERSON V ALBERTA (ATTORNEY GENERAL)* AT THE SUPREME COURT OF CANADA



The ongoing litigation between Beaver Lake Cree Nation and the Crown (Alberta and Canada) is the result of more than a decades long dispute centering around Beaver Lake's claim that the Crown has improperly allowed their traditional lands to be taken up for industrial and resource development. In 2019 the Beaver Lake Cree Nation made an application for an order of advanced costs in the sum of \$5 million to allow them proceed with their Statement of Claim filed back in 2008. In that case [2019 ABQB 746], the Court heard detailed submissions on Beaver Lake's financial circumstances and its ability to fund the litigation. Canada and Alberta both argued that Beaver Lake had substantial assets which could be used to fund the litigation, and that advanced costs should not be granted until those funds are exhausted. The Justice B.A. Browne found that it was a sufficiently extraordinary case, and therefore she exercised her discretion to grant the application. Canada and Alberta were ordered to provide Beaver Lake \$300,000 per year for the litigation. That decision was subsequently appealed by Canada and Alberta [2020 ABCA 238].

On appeal, Canada and Alberta argued that Beaver Lake failed to meet the "impecuniosity" branch of the advanced costs test for ordering a defendant to fund public litigation. The test is that the applicant must be impecunious to the extent that, without an order, the party would be unable to proceed with the case. The Appeal Court found that Beaver Lake did not meet the legal test, and was not entitled to the relief granted, on the basis that some money was available to them. Beaver Lake had argued that the money was not available to them due to restrictions on the use of

the particular funds in question. However, the Appeal Court allowed the appeal, finding that Beaver Lake had sufficient funds for both the litigation and the communities necessities.

Beaver Lake has appealed that decision to the Supreme Court of Canada. IBA will be intervening. The issue on appeal is once again the impecuniosity branch of the advanced costs test. Of concern for the IBA, as an intervenor, is the clarification and application of the impecuniosity branch of the advanced costs test to ensure that it accounts for the realities faced by Indigenous peoples and governments while operationalizing the honour of the Crown.

The IBA submits that Indigenous perspectives must inform the Court when determining whether an Indigenous government can afford the litigation. The Court has repeatedly stressed that Indigenous perspectives must be considered in the context of section 35 rights litigation, to not do so in this case would be illogical and exacerbate the colonizer's position of power in the courts. As submitted by the IBA, the Alberta Court of Appeal's application of the test failed to recognize that the applicant was a public-government with fiduciary obligations to its constituents. This context must be taken into account. Indigenous governments require sufficient resources to provide necessities to their constituents, in addition to protecting its communities Treaty rights. Forcing Indigenous governments to choose between litigation and providing the basic necessities of life to its citizens erodes self-determination and self-government. The Court of Appeal failed to account for this context. The IBA also submits that the honour of the Crown should play a role in this analysis. Specifically, without such cost awards the Crown has little incentive to move expeditiously to resolve rights claims. The honour of the Crown calls for increased attention to minimizing costs and complexity of section 35 litigation. Additionally, concerns about access to justice and the inequality between the Crown and a First Nation should be accounted for.

The hearing of this matter will proceed on November 4, 2021, where the IBA will be represented by the formidable Alisa Lombard of the firm Semaganis Worme Lombard.

COMMUNITY IMPACT STATEMENT IN R V BRAYDEN BUSHBY AT THE ONTARIO SUPERIOR COURT OF JUSTICE

R v Bushby [2020 ONSC 7780] was the criminal case of the aggravated assault and manslaughter of Barbara Kentner, a visibly Indigenous woman from Thunder Bay. On January 29, 2017, the offender, Brayden Bushby, threw a trailer hitch from a moving car which struck Ms. Kentner in the abdomen perforating her small bowel. Ms. Kentner died five months later. Mr. Bushby was found guilty of manslaughter.



For the sentencing hearing, the IBA together with the National Association of Friendship Centres (NAFC) submitted a Community Impact Statement pursuant to s. 722.2 of the Criminal Code to assist the Court in understanding the wider impact of the case on the Indigenous community nationwide. The Statements are used only to understand context, they do not translate to a higher penalty on sentencing. Presenting Community Impact Statements is also consistent with the IBA's goal of ensuring greater access to justice for Indigenous communities in Canada.

IBA/NAFC's Statement emphasized the historical and continued victimization of Indigenous women and the overall discrimination faced by Indigenous people in Canada's criminal justice system. The Statement also focused on Thunder Bay specifically, highlighting the Broken Trust report and the Final Report of the Thunder Bay Police Services Board Investigation, both of which unearthed an environment of systemic racism in the Thunder Bay Police Service and in the institution as a whole. In view of the reports, the IBA/NAFC emphasized the overall impact of these major actors on the criminal justice system and the resulting targeting of violence towards Indigenous people, particularly women. As a result, the IBA/NAFC submitted that in sentencing the Court should consider the commonality of Indigenous people being targets for violence in Thunder Bay and Canada's history of violence against Indigenous women. Lastly, the IBA/NAFC highlighted the emotional impact on Indigenous communities, who far too often experience this kind of violence.

In Justice Pierce's sentencing decision [2021 ONSC 4082], she specifically quotes from IBA/NAFC's Statement, particularly from the section on its emotional impact. Justice Pierce also heard Community Impact Statements from the Ontario Native Women's Association and the Nookiiwin Tribal Council. It is clear from the decision that Justice Pierce considered the Community Impact Statements carefully and thoughtfully. In the result, Mr. Bushby was sentenced to eight years in prison.

The IBA is indebted to the generous time and hard work dedicated to this file by our members at Semaganis Worme Lombard and in particular, Don Worme, Alisa Lombard and articling student Rheana Worme.

IN MEMORIUM



IN MEMORIUM: THOMAS BERGER (1933-2021)

The IBA pays tribute and remembers Thomas Berger, QC, OC, OBC, as a tireless and dedicated advocate for Indigenous title and rights. As legal counsel, Berger emerged as a central figure in 1964's treaty rights case of *R. v White and Bob* and saw further prominence as original counsel to the Nisga'a Nation in the landmark case of *R v Calder*, wherein the Supreme Court of Canada first recognized the existence of Aboriginal title.

Appointed to the Supreme Court of British Columbia in 1971, Justice Berger would go on to serve as royal commissioner of the Mackenzie Valley Pipeline Inquiry and would author the well-known "Berger Report," an instant best-seller in Canada. Throughout this period, Justice Berger's commitment to learning Indigenous legal traditions proved invaluable towards foregrounding the inalienable connection between Indigenous Nations and their traditional territories, as well as the far-reaching implications of unresolved Aboriginal title. Mr. Berger will be remembered for "always striving to do the right thing", yet never coming to Indigenous communities with any preconception of what the "right thing" was. He deployed his intellect, compassion and skill tirelessly in the pursuit of justice, and shall leave an enduring legacy of leading the country and his fellow Canadians on a path of reconciliation.

IN MEMORIUM: RICHARD B. SALTER (1939 – 2021)

The IBA pays tribute to and remembers Richard B. Salter. As one of the co-founders of Pape, Salter and Teillet LLP, Rick was a steadfast ally to Indigenous Peoples. He had a passionate commitment to fighting against injustice and to helping Indigenous nations across Canada advance their self-government and self-determination in the face of generations of colonization and repression by the Canadian state.

Among Rick's many achievements, as legal counsel to the Yukon First Nations, he served as a negotiator for the Yukon Umbrella Land Claims Agreement, the Little Salmon/Carmacks Final and Self-Government Agreements, and the First Nation of Nacho Nyak Dun Final Agreement. Rick went on to lead the legal team for the negotiation of the Tlicho Land Claims and Self-Government Agreement. Later, Rick supported the Moose Cree First Nation government through a remarkable period of modernizing its governance, transforming its relationship to industry through ground-breaking partnerships, and asserting its jurisdiction through renewed relationships with other orders of government. His generosity, kindness, courage, and commitment to building up Indigenous governments through supporting Indigenous and community leaders leaves a legacy that will be long remembered.





PUBLICATIONS & RESEARCH

In the last year the members of the IBA have been instrumental in researching and publishing important and timely works concerning the advancement of the interests of Indigenous Peoples. Below is a summary of a few of the notable projects that the IBA has completed or are ongoing:

ACCESSING JUSTICE AND RECONCILIATION

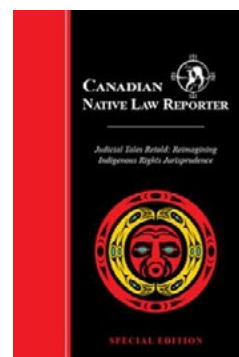
Long before Confederation or the introduction of European systems of law, Indigenous Peoples on Turtle Island maintained, developed, and practiced a wide array of laws unique to self-governing societies and diverse Indigenous ways of life. Throughout the process of colonization to come, these laws and legal systems would be ignored, suppressed, and rendered illegal by the nascent Canadian state. Nonetheless, despite centuries of genocide targeting Indigenous populations physically, culturally and spiritually, Indigenous laws persist much like their Peoples.

In cooperation with the Truth and Reconciliation Commission of Canada and Professor Val Napoleon, in 2012 the IBA completed the project “Accessing Justice and Reconciliation.” Available via the IBA website, this project was dedicated to engaging with Indigenous laws as laws—rather than mere evidence to be weighed—and to developing a methodology for recording Indigenous laws in written text. Through this body of work the project sought to shift erroneous and often pejorative assumptions plaguing many common conceptions of Indigenous law.

Since the completion of “Accessing Justice and Reconciliation” in 2012 and the release of the Truth and Reconciliation Commission’s “Final Report” in 2015, much has changed within the legal landscape. Throughout the land we now know as Canada there has been a surge of interest in Indigenous laws within both Indigenous communities and colonial adjudicative settings. In order to meaningfully tell the story of Indigenous laws in Canada over the last decade or more (for better and for worse), the IBA has undertaken a follow-up project to 2012’s “Accessing Justice and Reconciliation” in partnership with Professors Val Napoleon and Jeffrey Hewitt, and with principal funding from the Law Society of Ontario.

In this follow-up project, the IBA seeks to measure the progress of Indigenous law revitalization in Indigenous spaces, as well as in settings of colonial law, with the aim of capturing empirical meaning in the picture of legal resurgence formed. In doing so, not only do we expect to gain a contextualized understanding of the Indigenous laws currently being revitalized in Canada, but also to utilize this data in the generation of reports and toolkits that facilitate meaningful frameworks of engagement with Indigenous law. Two toolkits tailored to the distinct legal spaces occupied by Indigenous communities and the legal profession will be produced in order to advance understanding and development of Indigenous law.

To-date, no comprehensive measurement or examination of Indigenous laws used within communities, or the judiciary has yet been conducted. To promote more effective engagement with Indigenous laws in Ontario’s courts and tribunals, these measurements and the educative stories they tell are a necessary step towards shaping a more unprejudiced and even-handed justice system. In many fields of law, they are needed to advance a dialogue about how the legal system should be engaging with Indigenous laws as laws. Ultimately, they are needed to further the social and legal justice that is sorely needed for Indigenous Peoples in Canada.



JUDICIAL TALES RETOLD: REIMAGINING INDIGENOUS RIGHTS JURISPRUDENCE

Coalescing out of discussions taking place during the IBA’s 2018 Annual Conference entitled “Systems Disruption,”

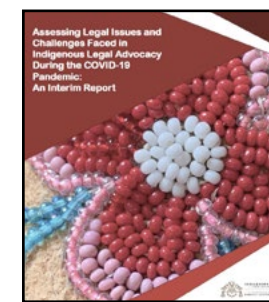
Judicial Tales Retold: Reimagining Indigenous Rights Jurisprudence is a collection of re-written Supreme Court of Canada decisions published earlier in 2021 and intended as a means to disrupt current patterns of thinking surrounding section 35 Aboriginal rights. Penned by a diverse array of Aboriginal rights scholars with decisions issued from the perspective of a fictional “Indigenous Nations Court,” Judicial Tales Retold asks of its readers: how could (or should)

leading Supreme Court cases involving Indigenous Peoples have been decided instead? Towards answering this question, and to better envision the legal possibilities available to these cases through multiple Indigenous traditions of law, the Indigenous Nations Court has been premised to derive its authority not through any legislative action of the state, but through the inherent jurisdictions and collective actions of many Indigenous Nations.

The name of this collection, Judicial Tales Retold, is notable for its interpretation of legal judgments as ‘tales,’ or constructed narratives of law. Indeed, to interpret law as being created and reaffirmed through the process of storytelling holds parallel recognition in a wide range of Indigenous legal traditions as well as within the case law methodology of English common law. To view judicial decisions as ‘tales’ thus foregrounds the act of human creation and construction as essential to the law and allows for a nuanced apprehension of law—not as a neutral body of objective and constant rules, but as a woven and imperfect tapestry that may be questioned, debated, and critiqued in order to re-envision a more suitable tale.

It is also notable that within this exercise of re-imagination, the authors and editors utilize the term “Indigenous rights” rather than the narrower conception of “Aboriginal rights” created by way of the Canadian colonial project. As both a deliberate use of terminology and a broadening of the legal standing held by Indigenous perspectives, this choice also gestures towards the importance of the narrative lens through which our legalities are built. Moreover, the creative use of Indigenous legal perspectives within Judicial Tales Retold highlights the transformative, justice-affirming potential of Indigenous legal sources and beckons for further works of imagination to be integrated within the fabric of contemporary Canadian law.

Published through the Canadian Native Law Reporter at the University of Saskatchewan’s Indigenous Law Centre, Judicial Tales Retold features contributions by Darren O’Toole, Naiomi Metallic, James Sa’ke’j Youngblood Henderson, Karen Drake, Kent McNeil, Janna Promislow, Kerry Sloan, Hadley Friedland, and Felix Hoehn. Available through the Indigenous Law Centre, one may purchase the collection online in both softcover and digital format.



ASSESSING LEGAL ISSUES AND CHALLENGES FACED IN INDIGENOUS LEGAL ADVOCACY DURING THE COVID-19 PANDEMIC: AN INTERIM REPORT

The spread of COVID-19 has proven devastating for countless individuals, families, and communities across Turtle Island, yet Indigenous Peoples in Canada have nonetheless experienced many of the pandemic’s adverse impacts in wholly disproportionate ways. While a number of health-based, economic, political, social, and legal disparities have affected Indigenous populations for decades (if not centuries), these and other structural inequalities have only intensified since the advent of the pandemic. Being that law is a determinant of health that can impact the well-being of both individuals and communities, the IBA, in partnership with the Canadian Bar Association and the University of Saskatchewan, has undertaken to produce two nationally-oriented reports towards assessing the legal impacts of COVID-19 on Indigenous Peoples in Canada. More specifically, the two reports seek to assess (1) the legal issues faced by Indigenous communities during the pandemic, and (2) the challenges encountered by legal advocates of Indigenous clients.

Alongside researchers at the University of Saskatchewan, a first Interim Report was released in June of 2021. As the first of two phases comprising the research project, the Interim Report aims to gather and summarize the results of a survey responded to by 122 lawyers—both Indigenous and non-Indigenous—working within the field of Indigenous legal advocacy. The results of the Interim Report illustrate a number of key findings, including overwhelming concern that the pandemic is causing additional legal challenges for Indigenous clients.

Currently underway, phase two of the project will be detailed in the forthcoming Final Report, expected in late 2021. Consisting of remotely conducted interviews, the Final Report will seek to update and address any emerging concerns or notable gaps evident within phase 1's survey.

For their roles in researching and preparing this project, the IBA is thankful for Emily Snyder Christy Anderson, Brock Roe, Simon Lambert, and Naomi Metallic.

GUIDELINES FOR ABORIGINAL LAW COMMITTEE



FEDERAL COURT - INDIGENOUS BAR - ABORIGINAL LAW BAR LIAISON COMMITTEE

PRACTICE GUIDELINES FOR ABORIGINAL LAW PROCEEDINGS

Under the ambit of the Federal Court of Canada's Aboriginal Law Bar Liaison Committee, the IBA—in continuing cooperation with the Federal Department of Justice, the Canadian Bar Association, and the Advocates' Society—has provided extensive guidance towards amendments and additions to the Federal Court's draft of its Practice Guidelines for Aboriginal Law Proceedings, 4th ed. These recent amendments to the Practice Guidelines strive to provide a flexible blueprint for advocates to aid in facilitating a just, expeditious, and economical determination of civil proceedings involving Indigenous Peoples.

Intended as an aid to legal practitioners, the judiciary, and ultimately Indigenous Peoples, the 3rd edition of the Practice Guidelines was released in 2016. In the forthcoming 4th edition, a number of additional issues facing Indigenous litigants and Aboriginal law have been addressed: the need for greater dialogue between parties; a deleterious excess of court-required Indigenous documentary evidence;

a persistent lack of oral history evidence in pre-trial disclosure; insufficient notice of expert witness qualifications; and, an inconsistent approach to the Court's recognition of Elders. Targeted as such, the 4th edition of the Practice Guidelines features a number of additions aimed to assist with Canada's project of reconciliation and the resolution of disputes in civil litigation scenarios:

1. A Federal Court pilot program for the translation of decision summaries into Indigenous languages.
2. Court openness to requests for remote video access for hearings and legal processes.
3. New guidelines for the appointment of "Expert Witnesses." Under a pilot process developed by the Aboriginal Law Bar Liaison Committee, the Federal Court will establish the Indigenous Law Advisory Committee, composed of individuals knowledgeable in the field of Indigenous law. The Advisory Committee aims to assist the Court by appointing a neutral advisor/assessor of Indigenous laws and traditions so that legal practitioners and the federal judiciary are better suited to receive, interpret, and apply Indigenous law.
4. As a result of recommendations given by the Advisory Committee, the Federal Court will institute a protocol to balance the appropriate reception of Elder testimonies and oral history evidence with the practical truth-seeking requirements of the Canadian justice system. This protocol intends to promote greater fairness and sensitivity to Indigenous legal traditions in matters of civil litigation where Indigenous Peoples are involved and often over-burdened by colonial evidentiary requirements centred around historical or empirical documentary texts.

For their continued contributions on behalf of the IBA, we are indebted to Scott Robertson and Paul Seaman.



PARLIAMENTARY COMMITTEE SUBMISSIONS

The House of Commons and Senate Standing Committees regularly call upon the IBA to make submissions in relation to Bills that could potentially impact the interests of Indigenous Peoples. This year was a particularly busy year for the IBA as we agreed to make submissions on the following Bills and legislative matters:

BILL C-15: AN ACT RESPECTING THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

In response to requests by the federal government for input on Bill C-15, An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples, IBA President Drew Lafond and Member-At-Large Lori Mishibinijima provided submissions before the Senate of Canada's Standing Committee on Aboriginal Peoples. While Bill C-15 was eventually passed through the Senate, the IBA proposed the following key revisions and additions to the Committee that would have, in our respectful opinion, significantly strengthened the substance and implementation of the Act:

1. In order to solidify Canada's stated commitment to adopting a "distinctions-based approach" to the implementation of UNDRIP, language must be included to indicate that the government must consider the diversity of the Indigenous Peoples as a guide for Crown conduct. While the preamble to the Act acknowledges the distinction between First Nations, Inuit, and Métis, this simple recognition of diversity does not in-itself amount to a purposive requirement for the Crown. Ultimately, if Canada wishes to fully adopt UNDRIP, it ought to be clear when doing so.
2. Similarly, Bill C-15 does not expressly affirm that it binds Her Majesty the Queen in right of Canada. While the IBA understands and agrees that Canada's intent is for the Act to bind the Crown, inconsistencies latent within federal legislation and the Canadian legal system suggest that this intention ought to be expressly stated.
3. UNDRIP cannot simply be a moral force that creates non-binding expectations for Canada—it must be used as a vehicle for courts to interpret and thereby breathe life into section 35 of the Constitution. To this end, a clear and unambiguous statement that UNDRIP is to be used to interpret Indigenous Peoples' constitutional rights and federal obligations to Indigenous Peoples is required.
4. While Bill C-15 states that Canada will implement UNDRIP "in consultation and cooperation with Indigenous people," much more than vague details must be provided towards outlining how cooperation, consultation, and implementation with Indigenous stakeholders will take place.
5. As a basic matter of access to justice, in order for Canada to collaboratively incorporate UNDRIP into Canadian law alongside Indigenous Peoples, it is essential that Bill C-15's Action Plan be amended to allow for long-term, stable, and predictable funding supports for Indigenous communities, governments, and organizations. Additionally, regulation making powers under the Act may wish to be considered in order to allow for constructive arrangements with Indigenous groups, space to recognize Indigenous laws and jurisdictions, and for any further steps needed to achieve an alignment of Canadian law with the stipulations of UNDRIP.

BILL C-3: AN ACT TO AMEND THE JUDGES ACT AND THE CRIMINAL CODE



In her submissions to the Standing Senate Committee on Legal and Constitutional Affairs, Indigenous lawyer and Indigenous Peoples' Counsel Jean Teillet spoke on behalf of the IBA in regard to two components of Bill C-3, An Act to amend the Judges Act and the Criminal Code.

As her first point of address to the Senate Committee, Teillet notes that Bill C-3 includes proposed amendment 278.98 (3) to the Canadian Criminal Code, an amendment which intends to enhance the transparency and accountability of the judiciary by requiring the Court to provide reasons for judgment in a given proceeding. To be sure, the IBA certainly supports the goals of enhanced transparency and accountability, especially where written reasons would have been extremely helpful in the countless instances of Indigenous women—as victims of violence—being further victimized by members of the judiciary. Compared to previous versions of Bill C-3 however, the proposed amendment before the Senate was notably weakened by allowing for the provision of reasons to be satisfied by court records as well as the more costly and time intensive written reasons to a judgment.

BILL C-7: AN ACT TO AMEND THE CRIMINAL CODE (MEDICAL ASSISTANCE IN DYING)

In response to Bill C-7, An Act to amend the Criminal Code (medical assistance in dying), former IBA president of the IBA Scott Robertson gave submissions to the Standing Senate Committee on Legal and Constitutional Affairs on behalf of the Indigenous Bar Association in Canada. Bill C-7 received royal assent on March 17, 2021.

In our submissions to the Standing Senate Committee, Mr. Robertson noted that the views of Indigenous Peoples on this matter are far from homogenous. Where the original Peoples of this land hold their own laws, views and perspectives, these perspectives also include the right to die. However, as diverse and vibrant cultures, Indigenous communities across Canada already face a number of unique challenges with respect to the provision of health care, and are vastly underserved by Canadian regimes governing health and law. Longer wait times, prohibitive transportation costs, inadequate services and a lack of overall funding are systemic within the health care system. Further, findings of systemic discrimination and institutionalized racism remain stubbornly pervasive in both the legal and the healthcare system. Despite this backdrop of injustice, proposed amendments to the Criminal Code with respect to medical assistance in dying (“MAID”) have been largely silent as on Indigenous issues, and fail to address how this legislation will affect and accommodate Indigenous Peoples.

Where death for some Indigenous peoples requires ceremonies, medicine and prayers that will guide their spirit back to the spirit world, IBA submissions sought to provide impetus for the Standing Senate Committee to acknowledge and consider these unique perspectives when discussing further amendments to Bill C-7. Importantly, we suggest that in order for meaningful reconciliation to transpire at all levels of Canadian society, legislation such as Bill C-7 must also pay respect and recognizance to the unique circumstances of Indigenous Peoples within Canada. In order to give full life to reconciliatory intentions, the IBA has called upon the Standing Senate Committee to undertake wide and meaningful consultation with Indigenous communities in order to determine the kinds of protections and amendments needed to implement and administer MAID in a culturally respectful and acceptable manner.

ENFORCEMENT ON FIRST NATION RESERVES, STANDING COMMITTEE ON INDIGENOUS AND NORTHERN AFFAIRS

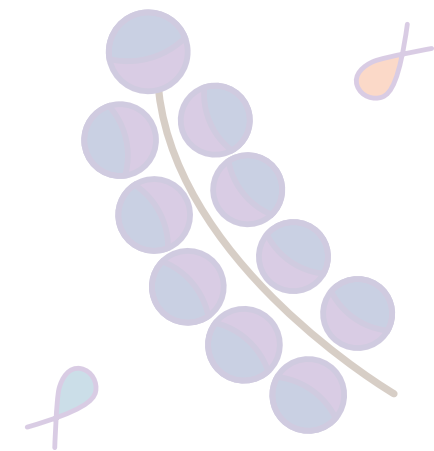
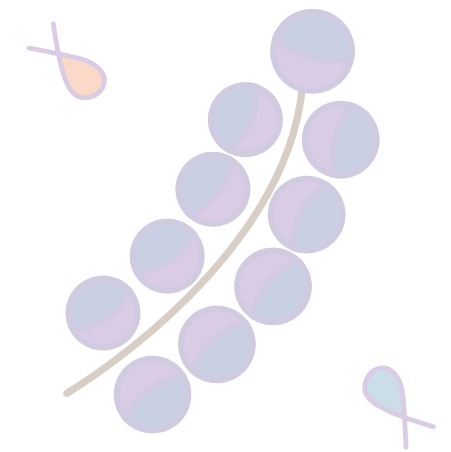


Vice President Arcand-Paul, provided submissions to the Standing Committee on Indigenous and Northern affairs on the topic of enforcement on First Nations Reserves. The submissions made centered on a review of the current by-law making capacities, and eventual development of laws by and for First Nations, adequate funding for First Nations to develop such laws or by-laws, and appropriate enforcement by all levels of government.

Questions from the Committee reflected the ongoing role the IBA can occupy to assist in the development and enforcement of laws and by-laws on First Nations reserves, systemic racism and barriers to the criminal justice system.

- Presentation before the House of Commons Standing Committee on Justice and Human Rights on April 29, 2021 [oral submissions delivered by Drew Lafond attached)
- Presentation before the Standing Committee on Official Languages regarding amendments to the Official Languages Act (speaking notes of Naomi Metallic attached) June 24, 2021
- Bill C-7: An Act to amend the Criminal Code (medical assistance in dying) February 2, 2021

The members of the IBA delivered a number of presentations at forums and gatherings across the country. The transition of Indigenous gathering to an online format afforded our members the opportunity to reach audiences and communities, and to form partnership, which were previously out of reach.





PRESENTATIONS

OUR CHILDREN, OUR FUTURE: IBA PRESIDENT DREW LAFOND PRESENTS “NAVIGATING INDIGENOUS CHILD AND FAMILY SERVICES LEGISLATION”



IBA President Drew Lafond was invited by the Assembly of First Nations (“AFN”) to share his presentation “Navigating the First Nations Legal Path: Preparing Laws Under An Act respecting First Nations, Inuit and Métis children, youth and families” (the “Act”) at the AFN’s second Virtual Leadership Gathering on First Nations Child and Family Services and Self-Determination.

In his presentation, President Lafond guided participants through the legislative history of the above Act as well as the lawmaking capabilities it affords Indigenous Nations. Towards the implementation and enforcement of social services for Indigenous children and families, President Lafond’s presentation specifically detailed the implications of the Indigenous right to self-determination, and the jurisdictional possibilities available under the Act. To witness President Lafond’s presentation, please visit the following webpage.

FEDERATION OF LAW SOCIETIES – THE JOURNEY TO LEGAL PRACTICE, NEW PERSPECTIVES AND POSSIBILITIES

Vice President Arcand-Paul was invited to sit on a panel with Dr. Val Napoleon, IPC, Judge Gerald Morin and member Beth Kotierk, to discuss the topic of “Embracing Change in the Legal Landscape: Views from the Indigenous Bar”. VP Arcand-Paul discussed systemic and actual racism in the profession, contingency fee agreements with Indigenous clients, regulators offering support to Indigenous Nations for non-paternalistic and decolonial regulation of Indigenous laws.

Topics also raised included harassment in legal workplaces, the role of the judiciary and the University of Victoria’s joint degree program in Canadian Common Law and Indigenous Legal Orders (JD/JID).

ANNUAL EXCHEQUER CUP



IBA President Drew Lafond was pleased to serve as a Judge of the annual Exchequer Cup alongside Karey Brooks of JFK Law and the Honourable Paul Crampton, Chief Justice of the Federal Court. The Exchequer Cup is a prestigious moot court competition comprised entirely of law clerks from the Federal Court and Federal Court of Appeal. At issue this year was a fact pattern centred around Aboriginal law, with participating teams asked to argue whether appeal judges made a reviewable error in determining that the duty to consult was triggered and satisfied, and whether Canada’s fiduciary obligations to the appellants were met.

- Oral Presentations delivered before the United Nations Expert Mechanism on the Rights of Indigenous Peoples, to discuss “Assessing Legal Issues and Challenges Faced in Indigenous Legal Advocacy During the COVID-19 Pandemic: An Interim Report”
- Panelists at the 2021 Native American and Indigenous Studies Association annual conference to present “Assessing Legal Issues and Challenges Faced in Indigenous Legal Advocacy During the COVID-19 Pandemic: An Interim Report”
- Presentation before the Federation of Law Societies of Canada on June 16, 2021 regarding the need for justice reform (used same speaking notes)

JUSTICE AND LAW REFORM

Indigenous Peoples are grossly overrepresented in the Canadian justice system, they are more likely than non-Indigenous people to spend more time in pre-trial detention and have less access to lawyers. Also, Indigenous peoples have consistently decried the justice system’s failure to respond to the alarming and disproportionate Indigenous incarceration rates in Canada, which have steadily increased and surpassed crisis levels. In Canada, Indigenous peoples comprise thirty (30) and forty-two (42) percent of the total male and female inmates, respectively, despite the fact that Indigenous people make up only five (5) percent of Canada’s population.

Moreover, since the declaring a state of emergency as a result of the COVID-19 pandemic, violence against Indigenous peoples and within Indigenous communities has become the subject of extensive media coverage. The relationship between Indigenous Peoples and Canada’s justice system is one of the most robustly examined topics in this country, and while reports, commissions and inquiries, such as the Report of the Aboriginal Justice Inquiry of Manitoba have concluded that the higher crime rates amongst Indigenous communities are a result of despair, dependency, anger, frustration and a sense of injustice stemming from historic cultural and community breakdown, there has been very limited meaningful action in the way of real, systemic change to our legal system.

In this regard, the IBA has undertaken a number of actions to directly address the injustices that Indigenous Peoples experience within our justice system.

OPEN LETTER TO THE PRIME MINISTER REGARDING THE APPOINTMENT OF INDIGENOUS JUDGES TO THE SUPREME COURT OF CANADA

Millennia before European explorers arrived on the shores of Turtle Island, Indigenous Peoples lived (and now continue to live) as orderly societies maintained and structured by unique legal processes and systems of law. Within the multi-juridical nation we now know as Canada, it is also lawfully established that three distinct legal orders—English, French, and Indigenous—apply simultaneously, co-exist within, and co-condition the constitutional foundation of the state.

In the opinion of the IBA, it also stands to reason that to promote an even distribution of justice in such a state, the ultimate responsibility for developing and stewarding law and legal order ought to be placed in the hands of jurists who are of those constitutive legal orders. Stated otherwise, for reasons of expertise and perspective, the Supreme Court judiciary—per its role as the dutiful and ultimate arbiter of Canadian constitutionality—must be at least comparably representative of the diverse legal orders to which it occupies itself and which condition its very existence. Nonetheless, throughout its one hundred and forty-five-year history, the Supreme Court of Canada has not-once counted among its judges an Indigenous jurist or representative of an Indigenous legal tradition.

As one response to the chronic and historical absence of Indigenous perspectives at the Supreme Court level, as well as in relation to the problems this presents for the substantive administration of justice in Canada, the IBA submitted an Open Letter to Prime Minister Justin Trudeau and Attorney-General David Lametti. For further details, including cooperative proposals for procedural improvements towards vetting of Supreme Court candidates, please see the attached correspondence below.

REGARDING THE DEVELOPMENT OF A NATIONAL STRATEGY TO IMPLEMENT RECOMMENDATIONS FROM INQUIRIES, REPORTS AND COMMISSIONS ON INDIGENOUS PEOPLES: CORRESPONDENCE TO FEDERAL MINISTERS LAMETTI, MILLER, AND BENNETT

The crisis of endemic discrimination currently faced by Indigenous populations in Canada’s justice system cries out for immediate attention and demands decisive action by elected officials. Where this crisis is increasingly highlighted by acts of public violence perpetrated against Indigenous Peoples, it is evident that change in Canada is desperately needed in the present. Numerous public inquiries, reports, and commissions on Indigenous Peoples have been completed over the past thirty years towards remedying these social ills and striking at the root causes of this long-standing discrimination. Throughout the texts of these documents, the IBA’s research has identified several common and illustrative themes which locate the sources of

endemic discrimination and speak to Canada's continued failure of Indigenous Peoples. While this body of work has significantly expanded over time, substantive progress towards legal and social justice remains elusive at best, as recommendations are consistently offered and endorsed by federal and provincial governments, yet nothing changes.

In an open letter to the Honourable Ministers David Lametti, Marc Miller, and Carolyn Bennett, the IBA documented and addressed the longstanding causes of discrimination that have seemingly fallen beyond the purview of Canadian justice. Where systemic discrimination towards Indigenous Peoples is pervasive within the justice system and Canadian society in general—and where piecemeal efforts at remediation have largely failed—the attached correspondence advocates for the necessity of a collaborative national approach. Alarming, while the attached correspondence extends an invitation for Ministers and state-actors to collaborate with the IBA in refining the structural supports, partnerships, and funding needed to implement such a National Strategy, little willingness to engage has been demonstrated to-date.

STATEMENT TO THE INDIGENOUS SYMPOSIUM ON JUSTICE REFORM DELIVERED AT THE NATIONAL INDIGENOUS SUMMIT'S "JOINING VOICES TO CALL FOR JUSTICE REFORM," ON BEHALF OF THE ESTATES OF THE LATE MR. BRADY FRANCIS AND THE LATE MR. RODNEY LEVI, AND WITH THE SUPPORT OF THE ELSIPOGTOG FIRST NATION AND THE METEPENAGIAG MI'KMAQ NATION



The IBA solemnly delivered a statement to the Indigenous Symposium on Justice Reform on behalf of the Estates of the late Mr. Brady Francis and the late Mr. Rodney Levi, two Mi'kmaq men recently killed in the Province of New Brunswick.

Given the continued failure of Indigenous People by both federal and provincial justice systems, the IBA demanded that Canada take urgent action to rectify pressing and debilitating concerns generated by its legacy of continued colonialism. If Canada's Treaties and commitments are to mean anything at all, colonial leadership must cease the inaction and inflammatory rhetoric that has perpetuated racism and the discriminatory treatment of Indigenous Peoples for decades. This status quo must end: Indigenous lives matter, and it is high time for the Crown to abide by its promises and to uphold the Indigenous right to life, free from discrimination and racism.

IBA LETTER TO THE OFFICE OF THE MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA

On February 18 and February 24, 2021, Federal Bills C-22 and C-23 were respectively introduced to the Canadian House of Commons. Read together, the Bills represent a number of amendments to the Canadian Criminal Code, the Controlled Drugs and Substances Act, and the Identification of Criminals Act. Collectively, these amendments purport to address several systemic inequalities within the Canadian justice system known to disproportionately affect Black, Indigenous, and other Peoples of Colour. Included among the proposed reforms are a reduction in requirements for mandatory minimum sentences, wider availability of conditional sentencing options, and an expanded license to appear before courts via electronic media.

While the IBA views these reforms as generally positive in nature, the attached correspondence outlines clear issues persistent within the IBA's continued relationship with the Department of Justice. Most prominently, despite significant resources expended and repeated attempts to engage with Department of Justice officials, the IBA has been provided with no indication that our contributions have in any way been considered or included during the formulation of Bills C-22 or C-23 towards substantively addressing ongoing crises within Canadian justice. As stated within the attached: "[i]t is no longer appropriate for a government to simply pay lip service to mending the relationship with Indigenous Peoples while taking no tangible steps to implement previously identified solutions to consistently identified problems within government funded institutions."

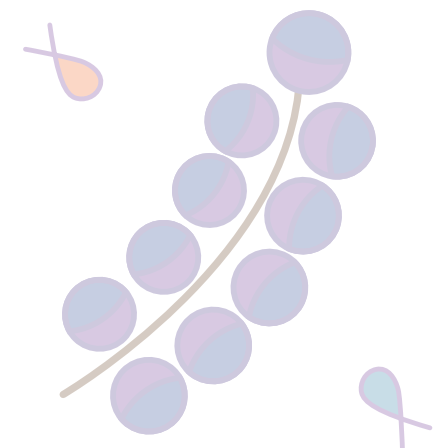
OPEN LETTER REGARDING THE RESURRECTION OF THE LAW COMMISSION OF CANADA

Jean Teillet, IPC, wrote to the honourable Minister of Justice David Lametti in response to the revival of the Law Commission of Canada. Re-established within Canada's Budget 2021, in part to establish "a new relationship with Indigenous peoples," the Law Commission of Canada has historically served as an independent federal commission responsible for providing advice to the Canadian government on matters of law. In this open letter to Minister Lametti, Teillet discusses the value of amendments to the Law Commission of Canada Act, passed at a time when Canada had not yet embraced its duty to establish a new relationship with Indigenous Peoples. In order for the Law Commission to be able to accomplish this goal, and for Canada's laws to better respect Indigenous Peoples, Jean Teillet forcefully argued that success will require the creation of an independent Indigenous Section within the Commission and the appointment of at least one full-time Indigenous Commissioner.

In addition to detailing the necessary measures needed for the Law Reform Commission to be fruitful in its relationship with Indigenous Peoples, Teillet also addresses two urgent areas for law reform that require sustained attention. First, that Canadian criminal law—in particular the Criminal Code, the Evidence Act, the Judges Act, and the federal Duties and Responsibilities of Crown Counsel—permits for profound disrespect towards Indigenous culture and has long failed to respect these values. Second, that the above statutes foreclose the ability to sanction federally appointed Judges for their actions against Indigenous People, and effectively eliminate the capacity to speak towards cultural and moral violations by the state during the course of a trial. While the resurrection of the Canadian Law Commission is certainly a welcome sign in the Canadian legal landscape, as detailed in the attached correspondence there is still much work to be done to ensure the proper institutional structure needed to enable a new relationship between Canada and Indigenous Peoples.

LETTER TO THE LAW SOCIETY OF ALBERTA

Recently in Alberta and Saskatchewan, there have been several cases in which courts have found that unscrupulous lawyers have engaged in exorbitant contingency fee agreements with Indigenous clients, or alternatively, have charged their Indigenous clients for legal fees not authorized under the lawyer's retainer. As IBA research has documented, these are not isolated incidents, but rather a discernible trend within the Alberta and Saskatchewan bars. In response to this growing issue, the IBA has penned a letter to the Law Society of Alberta advocating for reforms to the Society's Rules and Code of Conduct, and which address these instruments' increasingly evident shortcomings for Indigenous clients.



NOTABLE ACCOMPLISHMENTS OF INDIGENOUS LAWYERS & ALLIES IN CANADA

We would like to celebrate the accomplishments of the IBA's members and allies during the last year. These individuals have demonstrated leadership and resilience in the face of the challenges that our communities and our profession have experienced during the COVID-19 pandemic.



GRACE AUGER APPOINTED AS JUDGE TO THE ALBERTA PROVINCIAL COURT

Grace Auger, a leading figure within the Alberta bar and former Vice-President of the IBA, was appointed to serve as a Judge of the Alberta Provincial Court on July 9, 2021 and was officially sworn-in on August 3. A proud mother and grandmother, Judge Auger is a member of the Bigstone Cree Nation and an inspiring example of the strength, dedication, and wisdom of Indigenous women throughout Turtle Island.

Before her appointment to the Alberta Provincial Court, Judge Auger led a remarkable career as a legal professional—a fixture at the community-oriented Tsuut'ina and Siksika Courts, she has for years been a reliable and consistent voice for those unable to represent themselves in criminal, family and administrative proceedings. As a practitioner, her steadfast promotion of Indigenous restorative justice frameworks has showcased both the practical application and healing potential of Indigenous legal knowledge (aligned with the guiding 'principles' of Gladue), as well as the continuing need for restorative justice within Canada's ongoing process of reconciliation. The IBA congratulates Judge Auger on this momentous and merited achievement. Her legal knowledge, Indigenous perspective, and wealth of experience will surely benefit the administration of law in Alberta.

Link to IBA Press Release: <https://indigenousbar.ca/the-iba-celebrates-the-appointment-of-grace-auger-to-the-alberta-provincial-court/>



RETIREMENT OF PROFESSOR CATHERINE BELL

After thirty-two years as a scholar and educator at the University of Alberta, renowned professor Catherine Bell decided to retire this year. Widely published in the discipline of Métis and First Nations law, Bell has dedicated her career to the scholarship and instruction of Aboriginal law and Indigenous legal issues. Through her body of scholarly work towards understanding the diverse legal systems present in what is now Canada, Professor Bell has assisted in the interpretation of Indigenous laws, trained Indigenous lawyers to better understand the relationship between Indigenous and Canadian legal orders, and aided Indigenous Peoples in the institution of their own legal traditions within structures of self-governance.

We celebrate the career of Professor Bell not only for her significant influence over law and policy change within Canada, but also for her sustained excellence as an educator and her meaningful contributions to positive change in the everyday lives of Indigenous Peoples. On her well-earned retirement, the IBA extends our best wishes to Professor Catherine Bell.

Link to IBA Press Release: <https://indigenousbar.ca/the-iba-celebrates-the-career-of-professor-catherine-bell/>



STACY RYAN APPOINTED TO THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

Madam Justice Stacy Ryan became the first Inuk, as well as the first woman from Labrador to be appointed as a Justice of the Supreme Court of Newfoundland and Labrador. As a practitioner, Justice Ryan is known for her dedication to family and criminal law matters throughout Labrador. Since 2014, she has held the position of Staff Solicitor for the Newfoundland Legal Aid Commission, and has served as a Master of the Newfoundland and Labrador Supreme Court for the past six years.

The IBA applauds the Honourable Stacy Ryan for gaining a deep understanding of the justice issues and concerns facing Nunatsiavut communities and the region at-large, and for her momentous appointment to the Supreme Court of Newfoundland and Labrador.

Link to IBA Press Release: <https://indigenousbar.ca/the-iba-congratulates-justice-stacy-ryan-on-her-appointment-to-the-supreme-court-of-newfoundland-and-labrador/>



JUDGE CHERYL ARCAND-KOOTENAY ELEVATED TO THE ALBERTA COURT OF QUEEN'S BENCH

The Honourable Cheryl-Arcand Kootenay was promoted to the Court of Queen's Bench of Alberta, less than three years after her appointment as Judge to Alberta's St. Paul Provincial Court. A nehiyaw iskwew (Cree woman) from Alexander First Nation, Justice Arcand-Kootenay is known for her dedication and expertise in the fields of Aboriginal and family law. As a practitioner, she has served as Director's Counsel for Akamkispitaw Ohpikihawasowin Child and Family Services (a delegated First Nation Child and Family agency in Maskwacis) and as a roster lawyer for the Legal Representation for Children and Youth branch within Alberta's Office of the Child and Youth Advocate.

A perennial mentor to Indigenous law students at the University of Alberta and a current candidate for the Masters of Law in Dispute Resolution at Osgoode Hall Law School, Justice Arcand-Kootenay's exemplary dedication to continuing education and mentorship have left an indelible mark on the Alberta Bar. Long recognized as a source of inspiration and upliftment within her community and family, the legal expertise and commitment to professional growth shown by Justice Cheryl Arcand-Kootenay will no doubt prove a boon to the Court of Queen's Bench of Alberta.



DAVID C. NAHWEGAHBOW, IPC, RECEIVES THE ADVOCATES' SOCIETY AWARD OF JUSTICE

David C. Nahwegahbow, IPC, LSM, and founding partner of the firm Nahwegahbow, Corbiere Genoomagejig was selected as the 2021 recipient of the Advocates' Society Award of Justice. The Award of Justice takes notice of legal professionals who epitomise the highest standards of advocacy and tirelessly promote worthwhile, but often neglected causes.

A member of the Whitefish River First Nation and among the first Anishinaabeg Peoples to practice law in Canada, David C. Nahwegahbow has represented Indigenous interests at all levels of court throughout his four decades of legal service. A founding member and former president of the IBA as well as the first Indigenous recipient of the Law Society Medal in Ontario, his legal career is known for its continuous advancement of both Indigenous Peoples and Indigenous legal issues throughout Canadian society. An educative ally to Canada's judiciary, not only has Mr. Nahwegahbow substantially contributed to the goal of achieving social justice for Indigenous peoples, but he remains an eminently humble and generous example of mentorship within the Indigenous legal community. The IBA sends our congratulations to David C. Nahwegahbow on this well-deserved recognition.

Link to IBA Press Release: <https://indigenousbar.ca/2021-award-winner-david-c-nahwegahbow-ipc-lsm-of-nahwegahbow-corbiere-genoomagejig-recipient-of-the-award-of-justice/>



CANDICE METALLIC, IPC, RECIPIENT OF THE 2021 LAW SOCIETY MEDAL

Candice S. Metallic, IPC, was honoured by the Law Society of Ontario as a 2021 recipient of the Law Society Medal for her significant contributions to the legal profession. A citizen of the Listuguj Mi'gmaq Nation and the first lawyer from her community, Metallic is also the founder and principal of Metallic Law, Barristers & Solicitors.

In her over 20 years of legal practice, Candice S. Metallic has worked on a number of important cases and projects devoted to law reform and the advancement of social and legal justice for Indigenous Peoples. She was part of the team that argued the influential case of *Delgamuukw v British Columbia* at the Supreme Court of Canada, and has acted as legal counsel for the Assembly of First Nations and the Honourable Frank Iacobucci. Congratulations to Candice S. Metallic on this momentous achievement—through your resolute and respected voice, Indigenous Peoples and Indigenous issues throughout Canada have a powerful champion.



DR. BEVERLY JACOBS RECEIVES THE LAURA LEGGE AWARD

The Law Society of Ontario awarded Dr. Beverly Jacobs, OC, with the annual Laura

Legge Award in honour of women lawyers who have demonstrated a high degree of leadership within the legal profession. Currently the Acting Dean at the University of Windsor's Faculty of Law, Dr. Jacobs is a member of the Mohawk Nation and an expert in a multitude of issues facing Indigenous Peoples locally, nationally, and internationally. As a leading voice for Indigenous Peoples everywhere, she is often sought out for her poignant and powerful commentary as well as for her wealth of knowledge and invaluable contributions to Indigenous legal and social justice struggles.

Among a long list of other accomplishments and distinctions, Dr. Jacobs is a proud mother and grandmother, the former President of the Native Women's Association of Canada, and has been inducted as a Member into the Order of Canada. Congratulations to Dr. Beverly Jacobs on this extraordinary and well-deserved recognition.



HELEN SEMAGANIS, IPC, RECEIVES QUEEN'S COUNSEL DESIGNATION IN SASKATCHEWAN

Helen Semaganis, IPC, a member of the Poundmaker Cree Nation and managing partner at Semaganis Worme Lombard was awarded the prestigious Queen's Counsel designation in Saskatchewan. A proud mother of

five children who remains grounded in the traditional knowledge of her nehiyaw culture, Semaganis has consistently been involved in advocacy for legal rights of Indigenous Peoples with a particular focus on the recognition of Indigenous family and child wellness. She has worked as the National Researcher on Indian child welfare legislation and policy for the department of Indian and Northern Affairs, and is the lead negotiator for the Treaty Governance Process for the Federation of Sovereign Indigenous Nations.

The IBA extends our congratulations to Helen Semaganis, QC, IPC, who is an embodiment of experience, talent and diligence, and an inspiration to Indigenous legal professionals across Canada.

Link to IBA Press Release:
https://indigenousbar.ca/hgsemaganis_ipc_qc/



DR. JOHN BORROWS, IPC, APPOINTED AS AN OFFICER OF THE ORDER OF CANADA

Dr. John Borrows, IPC, was appointed as an Officer of the Order of Canada on December 30, 2020. Professor Borrows is a member of the Chippewas of Nawash First Nation and holds the Canada Research Chair in Indigenous Law at the University of Victoria.

A prolific and powerful writer, Dr. John Borrows has presented at multiple IBA Annual Conferences and continues to weave a lasting scholarly legacy across an array of legal traditions. Widely known and deeply respected as a leading authority on Indigenous, Aboriginal, and Canadian constitutional law, Dr. Borrows has been instrumental in the modern movement to revitalize and recognize Indigenous legalities both inside and apart-from settler dominated juristics. The dedication and hard work of Professor Borrows and other Indigenous scholars has been essential in the development of the University of Victoria's joint degree program in Canadian common law and Indigenous Legal Orders, the first program of its kind. Congratulations to Dr. John Borrows on receiving this prestigious and well-deserved recognition.

JAIMIE LICKERS AND TAMARA NAPOLEON DISTINGUISHED BY LEXPERT



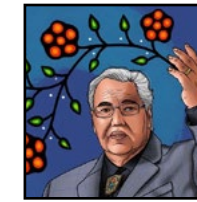
Jaimie Lickers and Tamara Napoleon were recently distinguished as "Rising Stars" by Lexpert, a leading source of news and information about Canada's leading lawyers. Lickers, an Onondaga from the Haudenosaunee Six Nations of the Grand River, is Vice President of Indigenous Markets at the Canadian Imperial Bank of Commerce. Napoleon, from the Sauteau First Nation in British Columbia, practises law at Miller Titerle and Co. as an advisor of Indigenous economic development, corporate structuring, Indigenous governance, and natural resource stewardship.



DR. VAL NAPOLEON, IPC RECEIVES INDSPIRE AWARD FOR LAW AND JUSTICE

May 20, 2021 – Dr. Val Napoleon, Indigenous Peoples Counsel, was recognized with the Indspire Award for Law and Justice. One of Canada's most influential Indigenous legal scholars, Dr. Napoleon hails from Treaty 8 Territory in northeastern British Columbia, and is a member of the Sauteau First Nation as well as an adopted member of the Gitanyow (Gitksan) Nation. Currently, Dr. Napoleon is the Interim Dean of the University of Victoria, and since 2012 has acted as the Law Foundation Professor in Aboriginal Justice and Governance, an endowed chair.

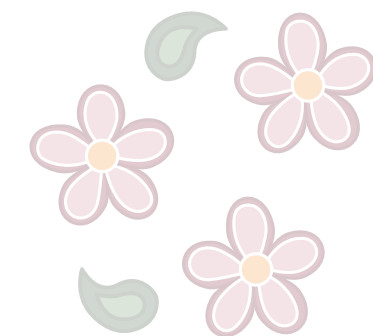
The IBA celebrates Professor Val Napoleon for the meaningful change she has helped to create for Indigenous People across Canada and abroad, and moreover, for her receipt of this much-deserved recognition. Previous recipients of the Award for Law and Justice include Dianne Corbiere, IPC, and Dr. John Borrows, IPC.



SENATOR MURRAY SINCLAIR, IPC, RETIRES FROM THE CANADIAN SENATE

The IBA extends our best wishes to the Honourable Murray Sinclair (Mizanay Gheezhik), MSC, IPC, upon his retirement from the Canadian Senate. As one of the most prolific and recognizable Indigenous public figures in Canadian society, Senator Sinclair has created a lasting legacy of contributions towards the betterment of Indigenous Peoples and the natural world in Canada.

Called to the Alberta Bar in 1980 and first appointed to the Provincial Court of Manitoba in 1988, Senator Sinclair became the first Indigenous judge in Manitoba before being elevated to the Manitoba Court of Queen's Bench in 2001. Significantly, while a judge of that court he chaired 2009's Truth and Reconciliation Commission, whose Final Report and 94 Calls to Action recognized Canada's cultural genocide of Indigenous Peoples and is considered a foundational document for Canada's project of reconciliation. Following his retirement, the Honourable Murray Sinclair will serve as the 15th chancellor of Queen's University.

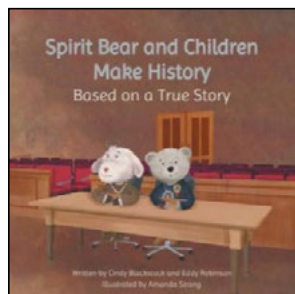




PARTNERSHIPS/ ALLIANCES

The IBA's partnerships and networks have grown considerably in recent years. I am proud to report that there have been significant strides in the IBA's communication and collaboration with organizations, Nations and Indigenous governments to protect the interests of Indigenous People and undertake the work needed to make reconciliation a reality in our legal systems. This section outlines a few of the important partnerships that contribute to the success of the IBA and the ongoing performance of its mandate.

FILM SCREENING IN COLLABORATION WITH THE FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA: *SPIRIT BEAR AND CHILDREN MAKE HISTORY*



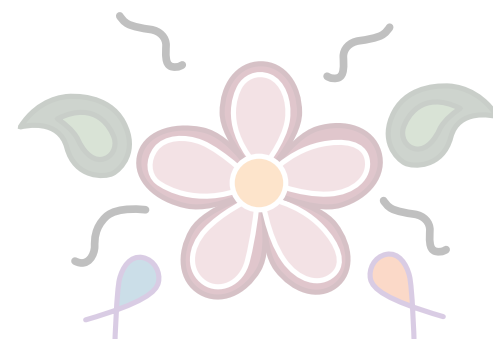
In partnership with the First Nations Child and Family Caring Society of Canada, the IBA hosted a free screening of the film *Spirit Bear and Children Make History*. A stop-motion picture based on the

eponymous book, *Spirit Bear* was adapted for screen by Michif animator Amanda Strong and Cindy Blackstock. The film tells the story of Spirit Bear hopping a train to Ottawa and banding together with children and animals to end injustice against First Nations children at the Canadian Human Rights Tribunal. Dedicated to Jordan River Anderson, and based on the real case that helped further implement Jordan's Principle in Canada, *Spirit Bear* is an inspiring story of human rights and how children can change the world. A member of the Carrier Sekani Tribal Council in British Columbia, in 2017 Spirit Bear received an honorary Barrister degree from Osgoode Hall Law School and was admitted to the Bar by the IBA.

ONTARIO COURT OF APPEAL WORKING GROUP TO IMPROVE EQUITY, DIVERSITY, AND INCLUSION



In response to a number of issues experienced by racialized lawyers within Ontario court systems, the Ontario Court of Appeal working group was formed by Chief Justice George Strathy towards improving court practices for racialized, Indigenous, and LGBTQIAS+ lawyers. In practice, the working group serves as a forum for racialized lawyers to communicate their concerns with the Court in order to strengthen equity, diversity, and inclusion within the Ontario legal profession. Among recent developments, the working group has successfully implemented a procedure permitting counsel to provide the court with a phonetic pronunciation of their names. The IBA is indebted to the work of Christina Gray and Professor Scott Franks for their professional representation of the IBA at the Ontario Court of Appeal Working Group.



COLLABORATIVE EFFORTS WITH THE CANADIAN ASSOCIATION OF BLACK LAWYERS



Throughout the past year, the IBA and the Canadian Association of Black Lawyers ("CABL") have co-authored two statements addressed to the Honourable David Lametti, Minister of Justice and Attorney General of Canada.

In the first joint statement dated November 30, 2020, our organizations expressed extreme dissatisfaction with the Attorney General's Office in regard to both the nature and timing of an invitation to discuss federal bench diversity. While neither the IBA or CABL were invited to the September's session which was conducted in English, both organizations were invited to the French language session in late November, albeit with little notice and in a strictly non-participatory capacity. Coincidentally, one of the most pressing issues to be addressed within the judiciary is the French language requirement, a stipulation responsible for creating significant barriers to otherwise qualified candidates who may be differently multi-lingual or raised in communities where French education is either non-existent or underfunded. In this first joint statement to the Attorney General Lametti, both the IBA and CABL called for an end to token gestures of appeasement from the state, for the removal of the French language requirement, and ultimately, for the opportunity to meaningfully participate in the judicial appointment process.

The second joint statement, dated February 28, 2021 and addressed to Minister of Justice Lametti, addressed our organizations' significant concerns with the current state of the federal human rights system and its failure to promote access to justice for Black, Indigenous, and other racialized communities. Unlike Ontario and British Columbia who have

implemented a direct-access model to processing complaints at their respective human rights tribunals, the Canadian Human Rights Commission continues to function as gatekeeper of the Canadian Human Rights Tribunal. Moreover, concerns that the Commission's gatekeeping role hinders access to justice for complainants, results in excessive delays, and dismisses or improperly investigates complaints have been well-documented for over 20 years. In 2019, 43% percent of the complaints received by the Commission were made against the federal government, yet only 7% of total complaints were referred to the Tribunal. While it is therefore evident that the federal government has a vested interest in maintaining the Commission's gatekeeping role, this is not an acceptable reason for inaction where race-based complaints have been dismissed at comparatively high rates and, for reasons of cost and complexity, the majority of racialized complainants are unable to access judicial review of decisions. Given that the complaint processing function of the Canadian Human Rights Committee is doing more harm than good to racialized complainants, the IBA and CABL called on Minister of Justice David Lametti to dismantle this component of the Committee mandate towards instituting a direct-access human rights system in Canada.

COLLABORATIVE EFFORTS WITH THE CANADIAN CIVIL LIBERTIES ASSOCIATION - LETTER TO THE LAW SOCIETY OF MANITOBA REGARDING RECONCILIATION, DIVERSITY AND THE "GOOD CHARACTER" PROCESS



In the province of Manitoba, students of law seeking to gain access to the legal profession are currently obliged to disclose a wide variety of personal and private information under the 'good character' requirements instituted by the Law Society of Manitoba in the "Application for Admission as an Articling Student." Under this regime, would-be articling students are compelled to disclose any details and documentation of allegations, complaints, charges, or convictions made against them—

regardless of the process's relevance, credibility, or outcome. Crucially, it is notable that this 'good character' requirement disproportionately affects students of Indigenous, Black, and other marginalized heritages due to the inter-generational effects of colonialism, over-policing, profiling, and systemic discrimination.

Towards addressing these problematic issues within the Manitoba bar, the Canadian Civil Liberties Association, in consultation with the IBA, addressed a letter to the Law Society of Manitoba towards explaining a number of concerns and criticisms raised by Indigenous students related to current LSM procedures. The Canadian Civil Liberties Association details the unnecessary and inefficient nature of the 'good character' process, describes its discriminatory implications, and showcases the procedure as an impediment to meaningful reconciliation between Canadian society and Indigenous Peoples.

SUBMISSION OF A JOINT COMMUNITY IMPACT STATEMENT WITH THE NATIONAL ASSOCIATION OF FRIENDSHIP CENTRES

The IBA partnered with the National Association of Friendship Centres (NAFC) to develop and submit a Community Impact Statement as part of the sentencing in the case of R v Bushby. It was important to express the impacts of the case on Indigenous communities across the country. Our joint submission was referred to and quoted in the decision (R. v. Bushby, 2021 ONSC 4082 (CanLII), <https://canlii.ca/t/jg8ls>)

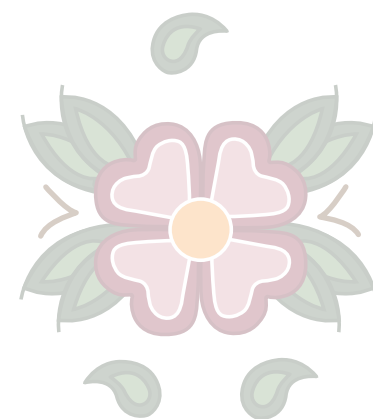
COLLABORATION WITH CASTLEMAIN



Earlier this year, the IBA struck a partnership with Castlemain Group, a consulting firm based in BC that works exclusively with First Nations and Indigenous organizations. We are working with their strategic engagement and communications lead Mary Gerges, and specialist Arturo Calvo on several administrative and communications priorities including:

- Annual conference planning
- Optimizing operational and administrative processes
- Strengthening membership engagement
- Ongoing external communications support

We are excited to continue leveraging Castlemain's expertise as the IBA grows and expands as an organization.



NEWS RELEASES & MEDIA

Throughout the year, the IBA responds to current justives events and issues impacting Indigenous peoples and communities. Below is a list of the news releases and statements we put out since 2020. Our board of directors is also regularly asked to give comments to media and write opinion pieces.

INDIGENOUS BAR ASSOCIATION RESPONDS TO STATEMENTS REGARDING INDIGENOUS LAND ACKNOWLEDGEMENTS IN COURTROOMS

July 13, 2021 – On May 25th, 2021, Federal Court Justice Richard Bell voiced his strong objections to the practice of recognizing traditional and unceded Indigenous lands within courtroom procedures. In response to these comments, the Indigenous Bar Association in Canada (the "IBA") wishes to express its extreme disappointment...

[Click here to read full release.](#)

THE IBA CONGRATULATES NINGIUKADLUK MARY SIMON, CANADA'S FIRST INDIGENOUS GOVERNOR GENERAL-DESIGNATE

July 12, 2021 – The Indigenous Bar Association in Canada (the "IBA") congratulates Ningiukadluk Mary Simon, the first Inuk and first Indigenous person named Governor General of Canada. Known as a skilled diplomat and strong advocate of Inuit rights, Ms. Simon's recent appointment as Governor General-designate is historic, well-deserved, and a milestone in Canada's journey towards reconciliation with Indigenous peoples...

[Click here to read full release.](#)

THE INDIGENOUS BAR ASSOCIATION CONTINUES TO MOURN GENERATIONS OF INDIGENOUS CHILDREN VICTIMIZED BY CANADIAN RESIDENTIAL "SCHOOL" SYSTEMS

June 30, 2021 – For those presently in need of support during these trying times, the IBA urges you to contact the Residential School Crisis Line at 1-866-925-4419, or the Indigenous Residential School Survivors' Society at 1-800-721-0066.

Following the recent announcement of several-hundred unmarked gravesites located within Cowessess First Nations territory, and near the former site of Marieval Indian Residential School in what is now known as Saskatchewan, the Indigenous Bar Association in Canada ("the IBA") continues to grieve for the countless Indigenous children stolen and victimized by Canada's residential "school" systems...

[Click here to read full release.](#)

OUR PATH THROUGH A NEW LEGAL LANDSCAPE

June 29, 2021 by VP Brooks Arcand-Paul and Andrea Menard (Law Society of Alberta's Indigenous Initiatives Liason) for Canadian Bar Association National, Law Matters Magazine

The legal landscape has shifted monumentally over the past 30 years and will continue to do so now that Bill C-15 has received Royal Assent. The implementation of the United Nations Declaration on the Rights of Indigenous Peoples, or UNDRIP, at the federal level, means that Indigenous Nations now have additional tools in their arsenal to advance their law-making jurisdictions. Academics and decision-makers must now think differently about recruiting people into the legal profession and elevating them as decision-makers...

[Click here to read full article.](#)

INDIGENOUS LAWS ARE A CRITICAL PART OF CANADA'S LEGAL LANDSCAPE

June 21, 2021 – By VP Brooks Arcand-Paul for Canadian Bar Association National, Law Matters Magazine

Today we celebrate National Indigenous Peoples Day. What better way to celebrate the resilience of Indigenous Nations than to recognize that for centuries, Indigenous laws have governed the lands, waters, and territories of what now is called Canada.

Indigenous Peoples are the first people of this country. Their laws have governed our societies since time immemorial in areas such as marriage, adoption, finance, trade, resource management, taxation and many others. There were treaties and lawmaking between Indigenous Nations, and for some time,

these laws even governed the relationships between Indigenous Peoples and settlers on our territories as the prevailing law of the land...

[Click here to read full article](#)

THE IBA CONGRATULATES THE HONOURABLE MAHMUD JAMAL ON HIS APPOINTMENT TO THE SUPREME COURT OF CANADA & ENCOURAGES CANADA TO TAKE IMMEDIATE ACTION TO REMOVE SYSTEMIC BARRIERS THAT CONTINUE TO EXCLUDE INDIGENOUS JURISTS

June 20, 2021 – The Indigenous Bar Association in Canada (the “IBA”) congratulates the Honourable Mahmud Jamal on his appointment to the Supreme Court of Canada. Born in Kenya, Justice Jamal has the historic distinction of being the first person of colour to be appointed to the Supreme Court of Canada (the “SCC”). The IBA is confident that Justice Jamal’s perspectives and lived experience will play a crucial role in the decisions of Canada’s highest court. He is a formidable candidate to serve in the prominent role previously held by the Honourable Rosalie Abella...

[Click here to read full release.](#)

THE INDIGENOUS BAR ASSOCIATION IN CANADA GRIEVES WITH THE TK’EMLUPS TE SECWEPENC AND ALL INDIGENOUS PEOPLES IN CANADA WHO CONTINUE TO SUFFER THE EFFECTS OF GENOCIDE

June 11, 2021 – The members of the Indigenous Bar Association in Canada (the “IBA”) are horrified by the discovery of the remains of 215 children on the reserve of the Tk’emlúps te Secwépenc near the Kamloops residential school. The members of the IBA, many of whom are related to the individuals who attended the Kamloops residential school, continue to endure feelings of trauma, loss, and anguish following the discovery. Indigenous peoples all over Canada, and those with close ties to the Secwépenc Nation, continue to mourn the loss of their ancestors and denounce the dreadful atrocities committed against them. The IBA stands with the Tk’emlúps te Secwépenc and all Indigenous peoples in Canada who continue to suffer the effects of genocide...

[Click here to read full release.](#)

IF CANADA IS SERIOUS ABOUT RECONCILIATION, WE NEED AN INDIGENOUS SUPREME COURT JUDGE

April 15, 2021 – By Kent McNeil and VP Brooks Arcand-Paul for the Globe and Mail

“Not broken, but simply unfinished.” As reflected in this line from Amanda Gorman’s poem at U.S. President Joe Biden’s inauguration, there is still work to be done to achieve our justice system’s highest ideals.

As a country, Canada is beginning to acknowledge and understand the contributions that Indigenous peoples make towards Canadian democratic institutions and legal systems. However, an Indigenous jurist has never been appointed to the Supreme Court of Canada (SCC)...

[Click here to read full article](#)

THE IBA DENOUNCES DOMESTIC TERRORISM AFFLICTED ON MI’KMAW FISHERIES, AND CALLS UPON THE FEDERAL GOVERNMENT TO TAKE IMMEDIATE STEPS TO ENSURE THE SAFETY OF MI’KMAW FISHERIES IN MI’KMA’KI

October 16, 2020 – The Indigenous Bar Association (IBA) in Canada denounces the attack by non-Indigenous fishermen on Mi’kmaq harvesters providing a livelihood and food for their families and community in Mi’kma’ki (what is currently known as Nova Scotia)...

[Click here to read full release.](#)

IBA DEMANDS ALL LEVELS OF CANADIAN GOVERNMENT MAKE SUBSTANTIVE AND FUNDAMENTAL CHANGES TO CANADIAN POLICING FOLLOWING MULTIPLE DEATHS OF INDIGENOUS PEOPLE BY POLICE

June 17, 2020 – The Indigenous Bar Association in Canada (the “IBA”) expresses outrage and dismay at the continued use of excessive and deadly force by police in Canada against Indigenous Peoples. Rooted in colonialism, the systemic racism and violence against Indigenous Peoples must end. The time for substantive and fundamental change to policing practises in Canada, is now...

[Click here to read full release.](#)

IBA STANDS IN SOLIDARITY WITH THE BLACK LIVES MATTER MOVEMENT AND CALLS UPON FEDERAL, PROVINCIAL AND TERRITORIAL GOVERNMENTS AND THE MEDIA TO PUT AN END TO SYSTEMIC ANTI-BLACK RACISM AND DISCRIMINATION IN CANADA

June 7, 2021 – The Indigenous Bar Association in Canada (the “IBA”) stands in solidarity with the Black Lives Matter movement in Canada and the United States and the protests that have emerged following the deaths of Regis Korchinski-Paquet, Breonna Taylor, Tony McDade, George Floyd, Ahmaud Arbery and so many other Black lives. The historic, violent and systemic oppression of Black people in Canada and the United States must end. We are emboldened by the public demonstrations worldwide, calling for real and fundamental change to combat anti-Black racism...

[Click here to read full release.](#)

INDIGENOUS BAR ASSOCIATION CALLS UPON FEDERAL, PROVINCIAL AND TERRITORIAL JUSTICE MINISTERS AND ATTORNEYS GENERAL TO IMMEDIATELY RELEASE LOW-RISK INDIGENOUS INMATES OVER COVID-19

April 23, 2020 – The Indigenous Bar Association in Canada (“IBA”) calls on federal, provincial and territorial Ministers of Justice and Attorneys General to immediately release low-risk Indigenous people who are currently incarcerated. For clarity, we define low-risk as anything below dangerous offender, which is a specific designation. With respect to dangerous offenders and those who pose a significant risk upon release, supplementary COVID-19 protection plans specifically designed for incarcerated Indigenous people must be put in place immediately across Canada. The IBA calls upon all correctional facilities to ensure COVID-19 protection plans for incarcerated Indigenous people are constructed in a way that considers the legacy of colonization and mitigates further trauma...

[Click here to read full release.](#)

THE INDIGENOUS BAR ASSOCIATION CALLS FOR AN INQUIRY INTO THE DEATH OF 16-YEAR-OLD INDIGENOUS GIRL SHOT AND KILLED BY WINNIPEG POLICE

April 15, 2020 The Indigenous Bar Association (“IBA”) expresses profound outrage and dismay at the

disproportionate use of force by a member of the Winnipeg Police Service (“WPS”) who shot and killed Eishia Hudson, a 16-year old Indigenous girl last week.

Despite numerous calls by local Indigenous and human rights groups to address deep-seated institutional racism, WPS members continue to display problematic and oppressive behaviours. Dubbed “Canada’s most racist city” by Maclean’s magazine in 2015, the WPS has provided insufficient training to their members to effectively de-escalate situations, specifically those involving Indigenous youth. This killing comes less than 5 months from an incident at a Winnipeg convenience store where the WPS shot a 16-year-old Indigenous boy nine times...

[Click here to read full release.](#)

INDIGENOUS BAR ASSOCIATION CHALLENGES PREMIER’S UNDERSTANDING OF LAW

April 10, 2020 - By Alexandria Winterburn and Vice President Brooks Arcand-Paul - Premier Brian Pallister’s response to the proposed federal legislation on the United Nations Declaration on the Rights of Indigenous Peoples (“UN Declaration”) implies Premier Pallister has a callow and concerning understanding of Aboriginal and Treaty rights and the fundamental history and laws of this country which has a detrimental effect on the advancement of reconciliation. These comments are incredibly alarming coming from the Premier of Manitoba, where Indigenous peoples comprise almost eighteen (18) percent of the population (over 223, 310 as of the 2016 census) and where legislation on reconciliation has been adopted...

[Click here to read full article.](#)

THE IBA CALLS ON CANADA TO ASSIST WITH THE PROTECTION OF INDIGENOUS LAWS AND TO SECURE SPACE FOR THE DEVELOPMENT AND PRACTICE OF SUCH LAWS

February 25, 2020 – The Indigenous Bar Association in Canada (the “IBA”) calls upon the federal and provincial Crown to work in partnership with Indigenous Peoples to undertake the challenging task of reshaping the rule of law so it respects and aligns with Indigenous legal traditions and laws. This is urgently needed as it relates to decisions and actions affecting Indigenous Peoples’ lands and waters.

[Click here to read full release.](#)

**KEY RESULTS FOR STRATEGIC PRIORITY #1 -
ORGANIZATIONAL STRUCTURE PLAN**

<p>Hire a Part Time Executive Director</p>	<ul style="list-style-type: none"> • Enable the Board to become less operational and more strategic. The ED should be part time, someone that is already familiar with the administrative duties of the Board and able to execute on Board strategy and direction.
<p>Committee Structures</p>	<ul style="list-style-type: none"> • Further expand the mandate of the IBA by establishing committees to work under Board members to operationalize tasks around finance, relationship building and communications. • Formalize the roles, responsibilities and accountabilities of each committee through terms of reference and regular board reports.
<p>2022 One-day Board Retreat</p>	<ul style="list-style-type: none"> • Organize a one-day retreat approximately half-way through the year for the board members meet and discuss progress on existing initiatives and the next steps for finalizing initiatives prior to the Annual General Meeting.

**KEY RESULTS FOR STRATEGIC PRIORITY #2
INTERNAL STRATEGIC PLAN**

<p>Key Projects</p>	<ul style="list-style-type: none"> • List of key projects that the IBA Board agrees to undertake moving forward, with periodic reviews.
<p>Internal Budget</p>	<ul style="list-style-type: none"> • Itemize and track an internal budget with line items for Revenues (money the IBA is receiving from membership fees and sponsorships) against Expenses (projects the IBA is funding).
<p>Scholarship Foundation</p>	<ul style="list-style-type: none"> • Discuss ways in which the Board can work with the IBA Scholarship Foundation to enhance and grow its capital

**KEY RESULTS FOR STRATEGIC PRIORITY #3
EXTERNAL STRATEGIC PLAN**

<p>Relationship Building</p>	<ul style="list-style-type: none"> • Continue building on positive relationships with key priority partners • The IBA has become the 'voice of the Indigenous community' at the table with partners such as the Federal Court of Canada
<p>Community Driven</p>	<ul style="list-style-type: none"> • Become responsive to community input regarding what they think fulfills the IBA's mandate • Seek input from the community on potential projects. Be the credible voice of the community at the table with discussions with the AFN, ISC and the Federal and Provincial Courts

**KEY RESULTS FOR STRATEGIC PRIORITY #4
COMMUNICATIONS PLAN**

<p>Newsletter Committee</p>	<ul style="list-style-type: none"> • Communicate with donors about the role of the IBA and the importance of its work • Communicate with public; collect input regarding the projects selected by the Board
<p>Press Releases</p>	<ul style="list-style-type: none"> • Provide media releases on current issues and directions taken by the IBA
<p>Social Media Platforms</p>	<ul style="list-style-type: none"> • Maintain a consistent and ongoing social media presence on Facebook and Twitter
<p>Website Review/ Update</p>	<ul style="list-style-type: none"> • Identify any gaps or kinks with the IBA's website and remedy the defects going forward
<p>IBA App</p>	<ul style="list-style-type: none"> • Research, budget and plan the organization of an IBA application for members-only

ABOUT THE COVER IMAGE AND ARTIST

We are so grateful to David Werner for allowing us to feature his beautiful artwork, and elements of it, in this annual report.

David is Michif/Métis His family members are Morrissettes from Duck Bay, Manitoba. Going back, his Parenteau family was at Batoche and going back further, they were at the Red River Settlement. Both his great-grandparents went to LeBret residential school around 1906. David's interest in beadwork came later in life. He says, "We didn't have any family beadwork pieces and I wanted to create beadwork for my children and future generations. I learned beadwork from Gregory Scofield and Amy Briley, since then all my designs are grounded in Métis and Northern Métis style." David is a second year law at the University of Saskatchewan. He owns his own business that sells Métis-inspired stickers at metisstickerempire.ca.

THE COVER PAGE ARTWORK IN DAVID'S OWN WORDS:

"Two summers ago I peeled some birchbark, picked spruce roots and made a basket with Michela Carrier up at Cumberland House. When I think of browns, sepia and warm colours I think of the inside of birchbark. Birchbark always feels warm to the touch, I wanted to add a visual element that brings the memory of feeling warm. I chose to use a number of floral elements, including the a version of the wild rose and 5-petal flowers. I included buds, as they make me think of new growth and the next generation(s). The berries are in a northern style (divided in half) and they bring to mind the fruit or harvest that comes at the end of the year. The IBA is unique because it does such important advocacy and it helps Indigenous law students feel part of a larger, supportive community. I chose these floral elements to reflect my experiences with the IBA."

