



NAHWEGAHBOW
CORBIERE GENOODMAGEJIG
BARRISTERS & SOLICITORS

Canadian Institute for the Administration of Justice

Symposium on Indigenous Courts

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The justice system has been an agent of harm in facilitating Canada's admitted acts of "genocide" against Indigenous Peoples.



"We cannot recount with much pride the treatment accorded to the native people of this country."

MacDonald J., *Pasco v. Canadian National Railway Co.*, [1986] 1 C.N.L.R. 35 (B.C.S.C.), at p. 37



"For many years, the rights of the Indians to their aboriginal lands -- certainly as legal rights -- were virtually ignored."

R. v. Sparrow, [1990] 1 S.C.R. 1075



“For Indigenous peoples, the court system has often been a barrier to justice, rather than a critical tool in the pursuit of it. The Truth and Reconciliation Commission tells us that Canadian law has suppressed truth and deterred reconciliation. It is this history, and current reality, that gives urgency to our duty to act.”

Honourable Robert J. Bauman, Chief Justice of British Columbia CIAJ 2021, Annual Conference: Indigenous Peoples and the Law (Vancouver, BC)



Recommendations for Moving Forward

Truth and Reconciliation Commission



TRC Call to Action #27 – We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, UNDRIP, Treaties and Aboriginal rights, Indigenous law, and Aboriginal/Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Chief Justice Bauman’s “Duty to Learn”



Now is the time to do what we should have done when we arrived here as uninvited guests—demonstrate that we care enough to discover and learn, and to act responsively within the matrix of Indigenous customs, traditions, and protocols. Now is the time for humility.

Honourable Robert J. Bauman, Chief Justice of British Columbia CIAJ 2021, Annual Conference: Indigenous Peoples and the Law (Vancouver, BC)

John Borrows - consensus-building practices are at the heart of Anishinaabe law



The measure [of our truths] is much greater than a judge or a legislator or a lawyer or anyone else that might be officially regarded as being an agent of the law... Creation [is] a Council of different gifts.... Everyone will have space to see themselves in those legal traditions that have been passed to us in different ways...[in considering diverse perspectives] we're trying to find harmonics, resonance by understanding something from different angles..

John Borrows, National Gathering of Unmarked Burials,
Upholding Indigenous Laws in the Search and Recovery of
Missing Children, Summary Report March 2023



What Have We Learned



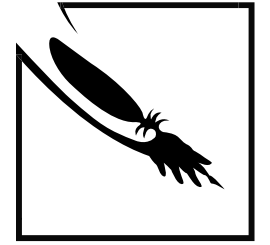
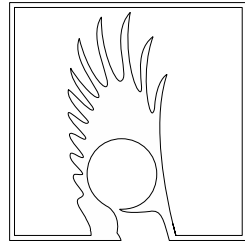
RESTOULE v. CANADA (Attorney General), 2018 ONSC 7701

[13] The role of Anishinaabe law and legal principles presented at trial was part of the fact evidence into the Indigenous perspective. The Plaintiffs did not ask the court to apply Anishinaabe law. Rather, the Plaintiffs and Canada submit that the court should take respectful consideration of Anishinaabe law as part of the Anishinaabe perspective that informs the common intention analysis.

R. c. MONTOUR, 2023 QCCS



[90] ...The Mohawk Nation Council of Chiefs was allowed to become a full party intervenor in this matter to help the Court by providing the Indigenous perspective on some of the issues. There is no indigenous perspective. Amber Meadow Adams expressed her discomfort at being asked to write her report alone for that's not our way of working. She pointed out all she can provide is a perspective, a personal one, not the perspective. But there is Haudenosaunee law and history and knowledge, and I hope what we have brought to the Court has been of assistance. Within the rules, and I'll speak about them more, we've done our best.



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ADVOCATING FOR OUR NATIONS. FIRST.

THANK YOU
FOR YOUR TIME