



THE CANADIAN
BAR ASSOCIATION
Northwest Territories Branch

TRC CALLS TO ACTION

ESTABLISHING A RECONCILIATION RESPONSE PLAN: CONSIDERATIONS FOR LEGAL WORKPLACES



ESTABLISHING A RECONCILIATION RESPONSE PLAN

INTRODUCTION

The Canadian Bar Association (**CBA**) fully supports the goal of achieving reconciliation with Canada's Indigenous peoples, and commends the work of the Truth and Reconciliation Commission (**TRC**) for its invaluable contribution to this process through its June 2015 [Calls to Action](#). Following release of the Calls to Action, the CBA prepared a submission [Responding to the Truth and Reconciliation Commission's Calls to Action](#) and continues its work to advance those objectives.

The legal profession is addressed specifically in Legacy Calls to Action 27 and 28. Those items call on law societies and law schools to ensure that legal professionals are educated about Indigenous people and the law, including the history and legacy of residential schools, the *UN Declaration on the Rights of Indigenous Peoples*, Treaties, Aboriginal and Treaty rights, Indigenous law, and Indigenous–Crown relations. They also require legal professionals to be trained in intercultural competency, conflict resolution, human rights, and anti-racism. These calls to action were considered necessary because of the deficiencies noted by the TRC in the legal profession's understanding and competency in representing individuals, communities, the government, and the private sector when dealing with Indigenous related issues.

Equity for Indigenous people in the legal system is addressed in Reconciliation Calls to Action 50 to 52. They call on the government to fund the establishment of Indigenous law institutes; to publish legal opinions on the scope and extent of Aboriginal and Treaty rights; and to adopt just legal principles with respect to accepting Aboriginal title claims. The lesson from the TRC Report is that reconciliation between Indigenous and non-Indigenous people must inform every aspect of our relationship with each other, and that it requires transformative action on the part of all Canadians, including the private sector.

In September 2018, the CBA British Columbia Branch (**CBABC**) published [Taking Action on Reconciliation](#), an action plan in response to the Calls to Action developed by Indigenous and non-Indigenous members of CBABC through the Truth & Reconciliation Working Group over an 18-month period. *Taking Action on Reconciliation* directed CBABC to build a resource to assist the legal profession in meeting its obligations under the Calls to Action. The CBABC Truth and Reconciliation Working Group prepared a set of template materials to help law firms establish a Reconciliation Response Plan (**RRP**).

RRPs are designed to assist legal workplaces to take all steps within their power to increase awareness and advance reconciliation and, in particular, the Calls to Action in the areas of justice and equality for Indigenous people in the legal system, through their work, their workplace, client relationships, community activities, and the development of their corporate team.

The CBA Northwest Territories Branch (**CBA-NT**) is indebted to the CBABC for its permission to adapt the RRP for specific use by law firms and organizations in the Northwest Territories, and to CBA-NS for their help with that adaptation.



About the artist: [Debra Vincent](#) is a bear clan member of the Mohawks of the Bay of Quinte and resides on the Tyendinaga Mohawk Territory, Ontario. She has enjoyed drawing and painting since childhood and after a lengthy administrative career decided to return to her passion of art full time.

WHY DOES A RECONCILIATION RESPONSE PLAN MATTER?

The TRC addressed crimes committed against children and their families, while also addressing inter-generational trauma and the broad impact on Indigenous societies and cultures as a result of Indian Residential Schools (IRS). The IRS legacy of institutional child abuse, and the separation of children from their families, parents and culture, continues to be reflected in the grossly disproportionate representation of Indigenous people in the child welfare, corrections and criminal law systems, high levels of violence against and amidst Indigenous peoples and communities, and violence against Indigenous women, girls and two-spirited people.

The TRC observed that the legal system has played, and continues to play, a very important role in the inequality of Indigenous peoples within Canadian society. The Canadian legal system is based on “failed notions of assimilation”, an unwillingness to recognize the legal reality that indigenous societies, laws and legal orders existed pre-Crown sovereignty, and a restricted view of what law is, which largely excludes Indigenous laws and legal orders. As a result, a fractured relationship continues between the legal profession and Indigenous peoples.

As noted in the TRC Report, reconciliation is a process of “coming to terms with events of the past in a manner that overcomes conflict and establishes a respectful and healthy relationship among people going forward.” Reconciliation must both “support Aboriginal peoples as they heal from the destructive legacies of colonization” and “inspire Aboriginal and non-Aboriginal peoples to transform Canadian society so that our children and grandchildren can live together in dignity, peace and prosperity on these lands we now share”.

Reconciliation requires listening, truth-telling, and a commitment to move forward in a better way “with concrete actions that demonstrate real societal change”. Reconciliation requires us to move from conflict to collaboration, and to consider how we contextualize the provision of legal services and the administration of a justice system in the spirit of reconciliation.

CBA-NT acknowledges with much regret the significant harm done to Indigenous peoples, families, communities and individuals as a result of the role the legal system, and the legal profession itself, played in the implementation and enforcement of harmful laws and policies. For over a century, Canada pursued policies aimed at eliminating Indigenous government, laws and traditions and ignoring Indigenous rights. Canadian law reflects and enforces these policies. The establishment and operation of IRS was a central element of these policies best described as “cultural genocide”.

WHY DEVELOP A RECONCILIATION RESPONSE PLAN?

A RRP allows legal workplaces to contribute meaningfully to reconciliation by setting objectives and implementing actions to meet the goals of reconciliation. It demonstrates commitment to a civil society and a clear path to a better future, and it sets up aspirational and testable indicators and outcomes. It allows your firm or organization to be a leader in the promotion of equity and helps build supportive relationships and opportunities with respect to increasing access to justice, and developing business, employment, and educational opportunities for Indigenous people.

Establishing an RRP is one way to respond to Call to Action #92:

92. *We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:*
- i. *Commit to meaningful consultation, building respectful relationships and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.*
 - ii. *Ensure that Aboriginal peoples have equitable access to jobs, training and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.*
 - iii. *Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law.*

An RRP also can help respond to Call to Action # 27 that calls upon the legal community to:

27. *“...ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, 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.”*

By developing and implementing a RRP in your law firm or organization, you can help build awareness of the negative experience of Indigenous people in Canada and the role of the legal system in that experience, and take steps to improve relationships with Indigenous people in your community.

DRAFTING A RECONCILIATION RESPONSE PLAN

To assist to develop a RRP, CBA-NT has set out in **Attachment A** six key objectives and measurable actions that can be taken by the legal profession to contribute to reconciliation internally, and within the community.

In drafting a RRP, law firms and organizations should consider the following:

- Why is reconciliation important to its business and to Indigenous communities?
- What is its purpose in developing a Reconciliation Response Plan?
- How do the values, strategic priorities and business plan of the law firm or organization align with reconciliation?
- What are the key objectives of the RRP?
- How will the objectives be implemented into measurable actions or targets within the law firm or organization?
- What is timeline for the action items to be delivered?
- How will success against the RRP be measured and continuous improvements implemented?

Once drafted, legal workplaces may wish to share the RRP with the CBA-NT's Aboriginal Law Section, Indigenous practitioners, or Elders for feedback.

IMPLEMENTATING THE RRP

To ensure its effectiveness, it is recommended that legal workplaces appoint a person or committee to oversee RRP implementation and communicate it to staff. This implementation committee should represent as many diverse perspectives and backgrounds as are available within your law firm or organization.

The committee should meet regularly to oversee and assume responsibility for enacting various actions on schedule and generating outcomes as intended. The committee can also promote the RRP internally, train staff, create metrics and report on progress, and assess the effectiveness of the RRP. Continuous improvement and evolution of the RRP over time is encouraged.

CONCLUSION

CBA-NT hopes that this resource will help law firms and organizations to respond to the TRC Calls to Action by developing and implementing a RRP. It is hoped that through taking action, the legal profession will play a key role in transforming Canadian society by advancing reconciliation, justice, and equality for Indigenous people within Canada's legal system.

ADDITIONAL RESOURCES

- [United Nations Declaration on the Rights of Indigenous Peoples](#)
- [Truth & Reconciliation \(TRC\) Commission of Canada](#)
- [TRC Calls to Action](#)
- [What is Reconciliation? Senator Murray Sinclair, Chair, TRC \(Video\)](#)
- [Attorney General of Canada's Directive on Litigating with Indigenous People](#)
- [Federal and Provincial Law Societies of Canada - Focus on Reconciliation](#)



About the Artist: [Tracey Metallic](#) is a Mi'gmaq artist born and raised on the shores of the Restigouche River. Tracey's artwork reflects much of her own journey in life and she believes that everyone is on their own journey looking to better their lives and to put everything they have experienced into retrospect. Residing in her home community of Listuguj, in the territory of Gespe'gewagi, Tracey holds a Bachelor of Arts and Bachelor of Social Work from St. Thomas University and a Masters of Social Work from Wilfred Laurier University.

ATTACHMENT A – KEY ELEMENTS OF A RECONCILIATION RESPONSE PLAN

COMPONENT	OBJECTIVE	ACTIONS
CULTURAL COMPETENCY	Develop the cultural competency of the law firm or organization, and its staff.	• Conduct a survey to capture baseline data on employees' understanding of Indigenous history, culture, and contributions to help inform the design of appropriate educational curriculum. • Train staff on the TRC recommendations and Calls to Action. • Register staff to attend <i>The Path – Your Journey Through Indigenous Canada</i> – an educational program supported by the CBA that seeks to increase awareness of the legacy of the Indian Residential School System, support anti-racism/bias training, and increase cultural competency as it relates to the Indigenous community. • Hire Indigenous people to lead cultural awareness training for your staff or conduct a Blanket exercise. • Review internal policies to ensure that: there are no barriers to participation in important cultural events; Indigenous concepts such as the definition of family/kinship are included; and issues of cultural sensitivity are addressed.
REGOGNITION	Improve recognition within the law firm or organization regarding: • Canada's residential school system and the country's history of colonialism (including taking land from Indigenous people – action supported by law). • The unceded territories of Nova Scotia's Indigenous people. • The distinct cultures and identities of Indigenous people, including their unique relationships to the land, waters, and resources. • Indigenous laws and duties.	• Conduct an event to acknowledge National Indigenous People's Day & Orange Shirt Day. • Support or sponsor local reconciliation events or initiatives. • Invite an Indigenous Elder to attend a staff or client event and provide an acknowledgment of traditional territory. • Employ Indigenous techniques or practices such as a Talking Circle or smudging ceremony, where appropriate. • Develop a cultural protocol to raise awareness of the meaning and significance of Indigenous cultural protocols, such as welcome and acknowledgement of traditional territories. • Demonstrate sincere and tangible signs of respect in the workplace by adopting a relevant oral "land acknowledgement" for use when appropriate.

	• Cultural, linguistic, economic, and geographic barriers between Indigenous people and the legal system. • Diversity among Indigenous peoples. • Over-representation of Indigenous people in Canadian prisons. Under-representation in the legal profession.	• Install a relevant permanent land acknowledgement, for example a plaque.
INCREASE ACCESS TO JUSTICE	Actively contribute to access to justice for Indigenous peoples.	• Prioritize pro bono activity in support of Indigenous people, including collaborating with organizations delivering pro bono services to Indigenous communities, businesses, and individuals. • Connect with Indigenous advocacy groups to reach those needing legal assistance. • Develop a Best Practices Guide for engaging with Indigenous clients covering: the availability of culturally appropriate justice forums; pursuit of court advocacy opportunities for Indigenous accused; and recognition of Indigenous laws or cultural considerations where appropriate. • Conduct litigation involving Indigenous communities in accordance with principles of reconciliation, including being mindful of unique Indigenous cultural and social concerns.
INDIGENOUS EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES	Conduct Indigenous student outreach and provide employment opportunities for Indigenous lawyers.	• Provide financial or other support to the Indigenous Blacks and Mi'kmaq Initiative at the Schulich School of Law. • Attend Indigenous law student associations meet n' greets. • Provide annual funding for an Indigenous law student to attend a legal conference or event of the CBA, CBA-NS or Aboriginal Lawyers Forum. • Sponsor an Indigenous student to undertake non-legal educational opportunities to develop business knowledge, profile and leadership capability including corporate board training. • Adopt a policy of hiring an Indigenous articulated student each year. • Contribute to community outreach initiatives to inspire Indigenous youth to consider a career in the legal profession and take other steps to encourage participation in the legal profession.

		• Create a strategy to increase recruitment, retention, and advancement of Indigenous people with the law firm or organization. • Review recruitment, employment, and talent management policies for potential barriers to Indigenous employment and retention, including taking action to mitigate against the risk of unconscious bias during decision making. • Establish or contribute to a mentoring program for Indigenous law students and lawyers.
SUPPORT INDIGENOUS- OWNED BUSINESS	Promote supplier diversity and support Indigenous-owned businesses.	• Hire Indigenous people to provide advice on the development and implementation of a RRP, education programs and policy reviews. • Engage Indigenous people to speak at staff and client events. • Update procurement policies to require supplier diversity and choose Aboriginal businesses and suppliers when available. • Create a list of Indigenous-owned suppliers of required materials, services, and facilities, and incorporate into the law firm or organization's procurement or supply chain arrangements. • Promote and support Indigenous artists through a relationship with a local Indigenous art dealer or arts collective. • Commission local Indigenous artists to create art for display in the halls or on the walls of your offices. • Provide pro bono training to boards of Indigenous businesses and economic development corporations.
ADVOCATE FOR RECONCILIATION WITHIN THE LEGAL PROFESSION	Become an advocate for promoting reconciliation actions in the legal community.	• Communicate the RRP, and provide regular updates, to staff and clients to engage them in reconciliation initiatives and encourage their participation. • Invite clients or other stakeholders to collaborate thereby promoting reconciliation within the greater legal community. • Encourage the development and implementation of a RRP within corporate organizations and share best practices. • Actively participate in community events related to reconciliation.