



# THE INDIGENOUS LEGAL LODGE AT UVIC LAW: AN INVITATION



The Truth and Reconciliation Commission (TRC) calls upon Canadians to transform our relationships with one another. The revitalization of Indigenous legal systems is an essential part of this process. Indigenous law is a crucial source of power and authority guiding the work of reconciliation. It must be advanced in concrete ways and in places that inspire and enhance the accomplishment of this work. Its revitalization forms a central theme of the TRC's report and Calls to Action.

Call to Action 50 in particular recommends:

*"the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada."*

The University of Victoria Law School has proposed just such an Indigenous law institute—the *Indigenous Legal Lodge*, to be built with the support of the Government of Canada, Government of BC, and private funders. The Indigenous Legal Lodge has the support of national and provincial Indigenous organizations and law schools nationwide. It will bring people together from all walks of life to learn about and practice Indigenous laws in ways that explore and implement the TRC's vision. It will serve as a national forum for critical engagement, debate, learning, public education, and partnership on Indigenous legal traditions and their use, refinement, and reconstruction through the coming decades.

## CONCEPT

Indigenous law is not only an idea; it is practice. The effective practice of law involves people making decisions and acting upon them in real-world contexts. The Indigenous Legal Lodge will be a leading actor in advancing this goal.

Indigenous law requires that people come together. It necessitates the building of relationships. The Indigenous Legal Lodge will build these relationships in ways that are not possible with the infrastructure found anywhere in Canada.

Indigenous Law lives in time and space. Law becomes concrete and transformative when enacted in specific places. The Indigenous Legal Lodge will be a singularly significant space for the transformation of Canada and the reconciliation of peoples across the land.

Indigenous peoples were historically discouraged from living their laws. In fact, those laws were made illegal by a Canadian state that was intent on destroying those laws so that it could force its own vision of law and order on the country's original peoples. The Indigenous Legal Lodge will help turn the tide on this sad and distressing state of affairs.

The Indigenous Legal Lodge will constitute a publicly accessible educational resource to serve multiple constituencies, including Indigenous peoples themselves, the Canadian public at large, professionals, businesses, governments, judges and students from all walks of life. It will advance the TRC's vision, which sees law as living in the historic and contemporary practices of Indigenous peoples and embedded in the stories, languages, customs, constitutions, and lifeways of Indigenous communities. It will be both a physical and a virtual place that convenes peoples and celebrates forms of law which are spoken, sung, danced, discussed, and practiced in lively and animating ways.

## PURPOSES

The Lodge will answer questions such as: What does Indigenous Law look like? How does it operate? How ought it to be used today to do the work of law?

It will do so by advancing the following purposes:



## Researching

UVic's pathbreaking Indigenous Law Research Unit (ILRU) will be housed in the Indigenous Legal Lodge. ILRU emerged in 2012 from a national partnership with the TRC and the Indigenous Bar Association as the leading forum for the study and application of Indigenous law nationwide. ILRU has formed partnerships with more than 40 Indigenous communities from coast to coast to coast, researching those peoples' legal traditions in all their diverse forms and addressing the full scope of laws that any community requires to live peacefully and harmoniously in the world. This includes lands, water and resources, harms and conflicts, constitution-building, child protection, citizenship, and matrimonial property on reserves. In the process, ILRU has trained over 300 community members in how to work rigorously and effectively with their own laws. ILRU has co-created, with partner communities, distinct frameworks for developing healthy citizenries, inclusive and accountable governments, the effective management of conflicts, and respectful deliberation and debate. Its work has been drawn upon by actors Canada-wide, including many Indigenous peoples, the Indigenous Bar Association, law schools across Canada, governments at all levels, and the Federation of Law Societies.

## Convening

Understanding Indigenous law through Indigenous stories, oral histories, precedents, and ceremonies has formed the backbone of ILRU's work. The Indigenous Legal Lodge is needed to host the sharing of these stories in societally appropriate spaces. Indigenous laws often require that these stories be shared and discussed in ways that preserve and enhance the cultural context from which they emerge. This cannot be realized in places conventionally reserved for legal education, which arrange people, objects and ideas in linear, cubical and hierarchical ways. Indigenous law requires that members of communities be convened in settings that conform to legitimate methods of gathering and speaking. It often requires earth, rock, water, wood, and sky be observable and present in the presentation

of Indigenous law. Outdoor spaces must be easily accessible to make transitions possible between story-telling protocols, requirements and styles.

University buildings generally do not allow the transmission of Indigenous laws in societally appropriate ways. We require working spaces where Indigenous legal traditions can be studied, shared, and conveyed in forms conducive to their methods and modes of interaction. The Indigenous Legal Lodge will be purpose-built to convey Indigenous laws in their varied styles and modes in a cross-cultural and multijudicial context.

## Sharing

The sharing of Indigenous Law will extend to the whole of Canadian society. Reconciliation involves learning on all sides. All Canadians need an understanding of what Indigenous law is and what it is likely to become. Professionals, governments, enterprises, and others need to be introduced to the forms, styles, procedures, and principles of the Indigenous legal orders they encounter. The Indigenous Legal Lodge will serve as a forum for this broader sharing of Indigenous Law. This will occur in at least three ways. First, the site of the Indigenous Legal Lodge in Victoria will serve as a gathering place for all those interested in researching, studying, discussing, and refining Indigenous legal traditions, including non-Indigenous parties working in Indigenous contexts. Second, the Indigenous Legal Lodge will connect people technologically through innovative communication styles across the continent and beyond.

It will be wired in ways that allow individuals and communities to share their legal traditions with one another and with students who cannot always be present in their territories. Third, the Indigenous Legal Lodge will be mobile, stimulating the discussion of Indigenous Law across Canada, travelling the country to participate in and develop—in partnership with Indigenous communities, other law schools, professional associations, industry associations, and governments—conferences, workshops, feasts, powwows, giveaways, lodges, councils, and other events in which Indigenous law can be taught and practiced.

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The Lodge must be versatile to accommodate local events of a richly varied physical nature, while also facilitating the connectivity and extension of its resources to reach both remote rural and dense urban sites of Indigenous law.

## Stimulating

A great many countries, worldwide, struggle with how to interact with Indigenous peoples. The Lodge's central role in researching, convening, and sharing understandings of Indigenous law and its actual and potential operation is of great interest in this increasingly interdependent world: in South Africa and Latin America, where ILRU's methods are being used to give content to the recognition of Indigenous Law; in the United States, where peoples with relationships across the Canadian border seek to learn from each other's institutional experiments; New Zealand/Aotearoa and Australia, where states seek methods for working productively with Indigenous jurisdictions over land and marine resources; South Asia, South-East Asia, and Oceania, in which state legal orders interact uncomfortably with customary systems of law; and worldwide in the struggle to give meaning to the UN Declaration on the Rights of Indigenous Peoples.

The Indigenous Legal Lodge will house an unparalleled intellectual community for research, scholarship, and deliberation on Indigenous law. It will serve as a global centre for excellence in the field.

## WHY UVIC?

UVic Law has a long history of successfully collaborating with and supporting Indigenous communities from coast to coast to coast. It is the home of ILRU: the only dedicated research centre on Indigenous law in Canada today. Over 200 Indigenous law students have graduated from UVic Law. More than 20% of the law school's graduate students have been Indigenous; many of them now teach in law schools across Canada and in New Zealand/Aotearoa, Latin America, and South-East Asia. State-of-the-art Indigenous programming has been initiated by UVic Law, including the Akitsiraq Law School in Nunavut, a 20+ year experience in Aboriginal Awareness Camps on Vancouver Island, and Indigenous Law classes at law schools throughout central and eastern Canada. The faculty has innovative teachers and leading researchers in the field, including Dr John Borrows, Canada Research Chair in Indigenous Law, and Dr Val Napoleon, Law Foundation Chair in Aboriginal Justice and Governance and Director of ILRU. The Faculty

has had a long history of interdisciplinary collaboration, not least the National Consortium for Indigenous Economic Development, created in conjunction with the Gustavson School of Business and directed by Haida leader, Miles Richardson.

Law schools and Indigenous organizations across Canada support this initiative. UVic Law has led the resurgence of Indigenous law in Canadian, Australian, New Zealand, and Scandinavian universities. It is the institution best placed to undertake this effort.

## CLOSING VISION

The Indigenous Legal Lodge will be constructed in respectful relationship to the headwaters of an important creek (Bowker Creek) in Coast and Strait Salish Territory, adjacent to the Law School of the University of Victoria. The site, nestled in second-growth woodlands, will bring the natural and built forms together, to integrate and share Indigenous law in a societally appropriate setting. UVic Law has longstanding relationships with local First Nations, their legal experts, and their communities. We will work with these communities to ensure the building meets their standards. We will work with ILRU partners and Indigenous communities nationwide to ensure that the building's design and function not only meet local community requirements but also accommodate other Indigenous nations' needs.

We invite you to become a partner in this endeavour, working to bring these aspirations to life. This venture will require that we teach and tell stories about ourselves in new ways and places—in a manner that draws on the best of our collective wisdom and traditions. We close with a statement, by Elders of many nations, which the TRC quotes in the summary of its Final Report:

Our traditional teachings speak to acts such as holding one another up, walking together, balance, healing and unity. Our stories show how these teachings can heal [societies'] pain and restore dignity. We discovered that in all of our cultural traditions, there are teachings about reconciliation, forgiveness, unity, healing and balance.

We invite you to search in your own traditions and beliefs, and those of your ancestors, to find these core values that create a peaceful harmonious society and a healthy earth.

This is the goal of the Indigenous Legal Lodge at the University of Victoria.