



THE CANADIAN  
BAR ASSOCIATION

# CBA ABORIGINAL LAW CONFERENCE

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**REFLECTIONS ON THE RCAP:  
CANADA'S COMMITMENT TO A RENEWED  
NATION-TO-NATION RELATIONSHIP  
WITH INDIGENOUS PEOPLE**

**JUNE 1 – 2, 2017 | WINNIPEG, MB**

## Wednesday, May 31

### **17:00 REGISTRATION**

La Verendrye

### **17:00 – 19:00 WELCOME COCKTAIL RECEPTION**

La Verendrye

*Sponsored by Woodward & Company*

KEYNOTE SPEAKER:

**Elder Dave Courchene Jr., Sagkeeng First Nation**

## Thursday, June 1

### **8:00 – 8:40 REGISTRATION & BREAKFAST**

Provencher Alcove & Ballroom

### **8:40 – 9:10 OPENING**

Provencher Ballroom

8:40 CALLING CONFERENCE TO ORDER

**Loud Eagle Drum Group, Peguis First Nation**

8:45 OPENING PRAYER

**Elder William Lathlin, Opaskwayak Cree Nation**

8:55 WELCOME BY CHAIR OF THE CBA ABORIGINAL LAW SECTION

**Ming Song, Arbutus Law Group, LLP**

9:00 CO-CHAIRS' WELCOME AND INTRODUCTION

**Michael Jerch, Jerch Law**

**Joëlle Pastora Sala, Public Interest Law Centre**

**Paul Chartrand, Former Commissioner, RCAP**

### **9:10 – 10:45 PLENARY PANEL: Renewing Nation-to-Nation Relationships**

Provencher Ballroom

Moderator: **Paul Chartrand, Former Commissioner, RCAP**

Speakers: **Grand Chief Derek Nepinak, Assembly of Manitoba Chiefs, former Chief of Pine Creek First Nation**

**Diana Kwan, Chief of Staff and Senior Counsel on the Task Force on Constitutional Relations with Indigenous Nations**

**Al Benoit, Chief of Staff of the Manitoba Métis Federation**

**President Aluki Kotierk, Nunavut Tunngavik Incorporated**

*This panel will set out the unifying and supporting theme for the entire Conference. Each panelist will bring their unique perspectives and discuss issues including:*

- *How do we think about nations?*
- *How do we build nation-to-nation relationships?*
- *Four principles: mutual recognition, mutual respect, sharing and mutual responsibility*
- *How (if at all) can nation-to-nation relationships be achieved?*
- *What does this mean substantively for the practice of law moving forward?*

**10:45 – 11:00 REFRESHMENT BREAK**

Provencher Alcove

*Sponsored by Arbutus Law Group, LLP*

**11:00 – 12:30 PLENARY PANEL: Environmental Law and Co-Governance**

Provencher Ballroom

Moderator: **Anna Johnston**, *West Coast Environmental Law*

Speakers: **Elder Dave Courchene Jr.**, *Sagkeeng First Nation*

**Brian Hebert**, *McKiggan Hebert*

**Nader Hasan**, *Stockwoods Barristers*

**Renée Pelletier**, *Olthuis Kleer Townshend LLP*

*The RCAP suggested that environmental co-jurisdiction and co-management between the Crown and Indigenous peoples would benefit not only Indigenous economies and communities, but the environment, as well. Now, with the federal government reviewing a number of its most important environmental laws, there is a unique opportunity to implement and facilitate co-governance mechanisms in federal legislation. Those reviews, as well as Canada's ratification of UNDRIP and the Prime Minister's commitment to implementing the Truth and Reconciliation Commission's calls to action, pose the question: what does a renewed relationship, nation-to-nation and free, prior and informed consent mean in the context of environmental law and governance?*

*This panel will explore questions issues related to the environment, Indigenous peoples and law, including:*

- *How the recent federal environmental law reviews impact Indigenous peoples and nations*
- *What it means to consider the environment in Indigenous law, and what it means to consider the environment under Canadian law*
- *Whether and how those two legal orders can be reconciled*
- *How can UNDRIP and the TRC Calls to Action be implemented in federal environmental processes and decision-making*

## 12:30 – 14:00 LUNCHEON & KEYNOTE ADDRESS

Crystal Ballroom

Blessing: **Elder Belinda VandenBroeck**, *Grandmother's Council*

Keynote: **Honourable Chief Justice Paul Crampton**, *Federal Court*

*The Royal Commission on Aboriginal Peoples provided a roadmap for renewing and rebuilding fair and honorable relationships between Indigenous and non-Indigenous people in Canada. However, its Report highlighted a challenge arising from the Courts' traditional adversarial model: "[C]ourts are a cumbersome, costly and sometimes insensitive way to solve the human issues that underlie land and resource claims. Negotiated settlements, in which the parties talk face to face and work out complex deals, are preferable. Indeed, in nation-to-nation relations, they are essential." Former Federal Court Chief Justice Allan Lutfy addressed this issue at the Indigenous Bar Association's annual conference in 2006, centred on the 10th anniversary of the RCAP report, describing the then newly formed Aboriginal Law Bar Liaison Committee, early initiatives, as well as further plans to respond to the challenges described in the RCAP Report. For the CBA's 2017 conference, Chief Justice Crampton will provide an update on the substantial progress made through a decade of sustained dialogue – and concrete initiatives – in collaboration with the Canadian Bar Association, the federal Department of Justice, the Indigenous Bar Association, and a consultative group of Indigenous Elders.*

## 14:00 – 15:30 CONCURRENT SESSIONS

### PANEL A: Citizenship, Languages, and Identity

La Verendrye

Moderator: **Dr. Niigaanwewidam James Sinclair**, *Professor, Native Studies Department Head, University of Manitoba*

Speakers: **Sylvia McAdam (Saysewahum)**, *author: Nationhood Interrupted:*

*Revitalizing nêhiyaw Legal Systems*

**Jason Madden**, *Pape Salter Teillet*

**Lorena Fontaine**, *Associate Professor, Department of Indigenous Studies, University of Winnipeg*

**Elder William Lathlin**, *Opaskwayak Cree Nation*

*In light of the RCAP concept of 'nation', to identify the criteria or processes necessary to identify those persons who belong to an Aboriginal 'nation' for constitutional, legal or policy purposes.*

*The concept of the 'citizen' is associated with the relationship between the state and the individual.*

- *Why is it so widely used in reference to the issue of who belongs to an Aboriginal people or 'nation'? What are the ancient concepts and practices of the Aboriginal peoples that describe the relationship between the community and its individual members?*

- *What strategies are feasible to maintain the integrity of the Aboriginal languages, given that only three are given a chance of survival?*
- *What is the status of language rights of the Aboriginal peoples?*
- *What concerns emerge from the observation that the courts have developed distinct and unfair tests to identify the distinct collective rights and cultures of Aboriginal peoples compared to the rights and cultures of linguistic minorities in Canada?*
- *What were the RCAP recommendations on the identification of Aboriginal 'nations' and their members? Why are they being ignored? Do they have any merit?*
- *What are the best conceptions of definitions and strategies for identifying Aboriginal peoples in Canada?*
- *What are the main constitutional, legal and political challenges pertaining to the identification of 'the Metis people' for s.35 Constitution Act 1982 purposes?*
- *Who are the members of the nations?*
- *What are the criteria of "nationhood"?*

#### **PANEL B: Land Disputes: Consultation, Accommodation & Specific Claims**

##### **Gateway**

Moderator: **Drew Mildon**, Woodward & Company LLP

Speakers: **Frankie Cote**, Kitigan Zibi Anishinabeg Nation

**Dominique Nouvet**, Woodward & Company LLP

**Ron Maurice**, Maurice Law

**Sa'ke'j Henderson**, JD, IPC, FRSC, Native Law Centre of Canada, University of Saskatchewan College of Law

*This Panel will provide comment and update on the current state of processes meant to address disputes about land use and land rights. Doreen Somers will discuss her experiences as the Director of Industry Relations and Consultation for Athabasca Chipewyan First Nation; Dominique Nouvet will speak as plaintiff's counsel on the failure of consultation and accommodation to achieve reconciliation; Ron Maurice will provide an update on the Specific Claims process including recent changes on equitable compensation principles; and Sa'ke'j Henderson will present on the lack of recognition of Indigenous jurisprudence in land dispute processes and other evidential and procedural weaknesses of the existing federal claims process. This panel will feature comments, updates and various perspectives on themes such as:*

- *The characterization of disputes as 'claims'*
- *The current state of processes meant to address disputes about land use and land rights*
- *The success or failure of consultation and accommodation for furthering reconciliation*
- *The Specific Claims process*
- *How disputes impact nation to nation relationships*

**15:30 – 15:45 REFRESHMENT BREAK**

Provencher Alcove

*Sponsored by Myers Weinberg LLP*

**15:45 – 17:15 PLENARY PANEL: UNDRIP Implementation: Braiding International, Domestic and Indigenous Laws**

Provencher Ballroom

*Sponsored by the Centre for International Governance Innovation*

Opening remarks by Dr. Oonagh Fitzgerald, Director, International Law Research Program, Centre for International Governance Innovation

Moderator: **John Borrows**, Canada Research Chair in Indigenous Law, University of Victoria Law School, CIGI ILRP Senior Fellow

Speakers: **Brenda Gunn**, Professor, Robson Hall Faculty of Law, University of Manitoba, CIGI ILRP Fellow

**Lorena Fontaine**, Associate Professor, Department of Indigenous Studies, University of Winnipeg

**Sa'ke'j Henderson**, JD, IPC, FRSC, Native Law Centre of Canada, University of Saskatchewan College of Law

*In Canada, implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is an opportunity to explore and reconceive the relationship between international law, Indigenous peoples' own laws and Canada's constitutional narratives.*

*The guiding metaphor for this panel and accompanying collection of papers published by the Centre for International Governance Innovation is "braiding" of international, domestic and Indigenous laws. By braiding together these strands, we can begin to see the possibilities of reconciliation, from different angles, under different lights, and thereby begin to reimagine what a nation-to-nation relationship could mean.*

*The publishing of this collection is timely as 2017 marks the 10th anniversary of the adoption of UNDRIP. This year also happens to coincide with the Canada 150 which provides a much-needed opportunity to reflect on some of the challenges faced by Indigenous peoples during the last 150 years and envision what the next 150 years may hold for this country and its relationship with its First Peoples.*

**18:00 – 21:30 RECEPTION & DINNER**

*Sponsored by Hutchins Legal Inc.*

**Canadian Museum for Human Rights**

85 Israel Asper Way

Bonnie & John Buhler Hall

*\*This event is sold out\**

HONOURING:

**Marian Ironquill Meadmore**

*Marion Ironquill Meadmore is an Ojibwa-Cree Canadian of Peepeekisis First Nation Saskatchewan and became the first female Indigenous lawyer in Canada, receiving her Call to the Bar in Manitoba. Ms Ironquill Meadmore's law practice focused on the development of First Nations child welfare at the provincial level.*

*During Ms. Ironquill Meadmore's life, she has achieved much and has contributed greatly to the well-being of Indigenous people. She was the founder and a leader of numerous Indigenous organizations and institutions that were established across the country that have been known to best serve the people. For instance, Ms. Ironquill Meadmore created and founded Kinew Housing Inc established in Winnipeg, the first public housing for urban native people. Others followed her example and founded their own non-profit housing corporations across the country.*

*Ms. Ironquill Meadmore is an inspiring individual who encourages others around her to achieve their full potential. She continues to work and aid others for the betterment of Indigenous People. She shares her knowledge and innovations with others, who effectively take the learned skills to develop similar organizations and institutions in order to serve the needs of their people.*

KEYNOTE SPEAKER:

**Bev Sellars**, *Author of Price Paid: The Fight for First Nations Survival*

CULTURAL COMPONENTS:

**Inuit Throat Singing:** Nikki

**Métis Fiddling and Jigging:** Dean & Marilyn Davis and Musicians

**Friday, June 2**

**8:00 – 8:45**      **REGISTRATION & BREAKFAST**  
Provencher Alcove & Ballroom

**8:45 – 9:00**      **OPENING**  
Provencher Ballroom

8:45      **CALLING CONFERENCE TO ORDER**  
**Loud Eagle Drum Group**, *Peguis First Nation*

8:55      **CO-CHAIRS' WELCOME BACK**  
**Michael Jerch**, *Jerch Law*  
**Joëlle Pastora Sala**, *Public Interest Law Centre*  
**Paul Chartrand**, *Former Commissioner, RCAP*

**9:00 – 10:45 PLENARY PANEL: Health and Social Services**

Provencher Ballroom

Moderator: **Allison Fenske**, *Public Interest Law Centre*

Speaker: **Naomi Metallic**, *Chancellor's Chair in Aboriginal Law and Policy, Dalhousie University Schulich School of Law*

**Justin Safayeni**, *Stockwoods Barristers*

**Grandmother Knowledge Holder, Mary Maytwayashing**, *Lake Manitoba First Nation*

**Murray Trachtenberg**, *Murray Trachtenberg Law Office*

*This panel will address the health, healing and social services issues experienced in Indigenous nations, including issues related to:*

- *Access (or lack thereof) to responsive medical and social services*
- *Social and spiritual well-being as it impacts the nation-to-nation relationship*
- *Multi-jurisdictional dynamics in the provision of programs and services to Indigenous people*
- *The importance of family in Indigenous legal orders*
- *The gap separating Indigenous and non-Indigenous people in terms of quality of life*

**10:45 – 11:00 REFRESHMENT BREAK**

Provencher Alcove

*Sponsored by DGW Law Corporation*

**11:00 – 12:30 PLENARY PANEL: Economic Growth & Opportunities**

Provencher Ballroom

Moderator: **Bradley Bryan**, *Woodward & Company LLP*

Speakers: **Ashley Stacey**, *Olthuis Kleer Townshend LLP*

**Carol Anne Hilton**, *Senior Advisor of the Federal Finance Minister, CEO of Transformation International*

**Garth Wallbridge**, *Wallbridge Law Office*

*Panelists will provide differing perspectives on broad subjects, including:*

- *How Indigenous nations can achieve a self-reliant economic base to accompany and sustain self-government*
- *What measures need to be taken, and by whom, to rebuild Indigenous economies that have been severely disrupted over time, marginalized, and largely stripped of their land and natural resource base?*
- *Employment levels and income disparities between Indigenous and non-Indigenous people*
- *The growth in businesses owned and operated by Indigenous people*
- *Commercial practices of Indigenous legal traditions*
- *The integration of Indigenous law in economic relations*



- *Income and employment opportunities in rural and remote Indigenous nation*
- *Nation to nation relationships and economic growth and opportunities*

## **12:30 – 14:00 LUNCHEON & KEYNOTE ADDRESS**

Crystal Ballroom

Blessing: **Elder George Fleury**

Keynote: **Phil Fontaine**, *President, Ishkonigan Inc., Former National Chief of the Assembly of First Nations*

## **14:00 – 15:30 CONCURRENT SESSIONS**

### **PANEL A: Engaging with Indigenous laws, traditions and legal institutions**

La Verendrye

Moderator: **Aimée Craft**, *Director of Research, National Inquiry into Missing and Murdered Indigenous Women and Girls; Adjunct Professor University of Manitoba, Faculty of Law and Department of Native Studies*

Speakers: **Heidi Stark**, *Assistant Professor, Political Science, University of Victoria*  
**Sara Mainville**, *Olthuis Kleer Townshend LLP*

*This panel will provide insights about Indigenous laws and legal traditions. Panelists will engage in discussion related to:*

- *The role of reconciliation and indigenous laws in helping realize the nation to nation relationship*
- *The establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws (as called for by the TRC)*
- *Assisting practitioners with understanding how, if at all, they can engage with Indigenous Legal orders*

### **PANEL B: Re-Envisioning Fiscal Relationships**

Gateway

Moderator: **Michael Welters**, *Aldridge + Rosling Barristers & Solicitors*

Speakers: **Judith Rae**, *Olthuis Kleer Townshend LLP*

**Elisabeth Patterson**, *Dionne Schulze*

**Michael Hudson**, *Associate Assistant Deputy Minister, Aboriginal Affairs, Department of Justice*

**Elder Dennis White Bird**, *Political Liaison at the Assembly of Manitoba Chiefs*

*Panelists will engage in discussion on a broad range of topics, including:*

- *Recognition of Indigenous governments as one of three constitutionally recognized orders of government in Canada*

- *A Canada-wide fiscal framework to govern the fiscal relationship among federal, provincial and Indigenous governments*
- *Fiscal autonomy for Indigenous governments by increasing access to independent revenue sources*
- *Fair and just redistribution of lands and resources*

**15:30 – 15:45 REFRESHMENT BREAK**

Provencher Alcove

**15:45 – 17:15 PLENARY PANEL: Reflections on the Past and Upcoming Twenty Years**

Provencher Ballroom

Moderator: **Romeo Saganash**, *Member of Parliament, Abitibi-Baie James-Nunavik-Eeyou*

Speakers: **Paul Chartrand**, *Former Commissioner, RCAP*  
**Ovide Mercredi**, *former Chief of Assembly of First Nations*  
**Loretta Ross**, *Manitoba Treaty Relations Commissioner*  
**Michael Hudson**, *Associate Assistant Deputy Minister, Aboriginal Affairs, Department of Justice*

*Given that 2017 marks the 150th year of Canada and the 20th anniversary of RCAP, panelists will: reflect on different conceptions of history; reflect on RCAP as a whole; and discuss notable developments since RCAP. They will also discuss and develop concrete ideas and solutions that the attendees of the Conference can carry with them and use in the future in order to resolve issues faced by Indigenous Communities.*

**17:15 – 17:30 CO-CHAIRS' REFLECTIONS AND CONFERENCE WRAP UP**

Provencher Ballroom

**Michael Jerch**, *Jerch Law*  
**Joëlle Pastora Sala**, *Public Interest Law Centre*  
**Paul Chartrand**, *Former Commissioner, RCAP*

**17:30 – 17:45 ELDER REFLECTION AND CLOSING PRAYER**

Provencher Ballroom

**Grandmother Knowledge Holder, Mary Maytwayashing**, *Lake Manitoba First Nation*

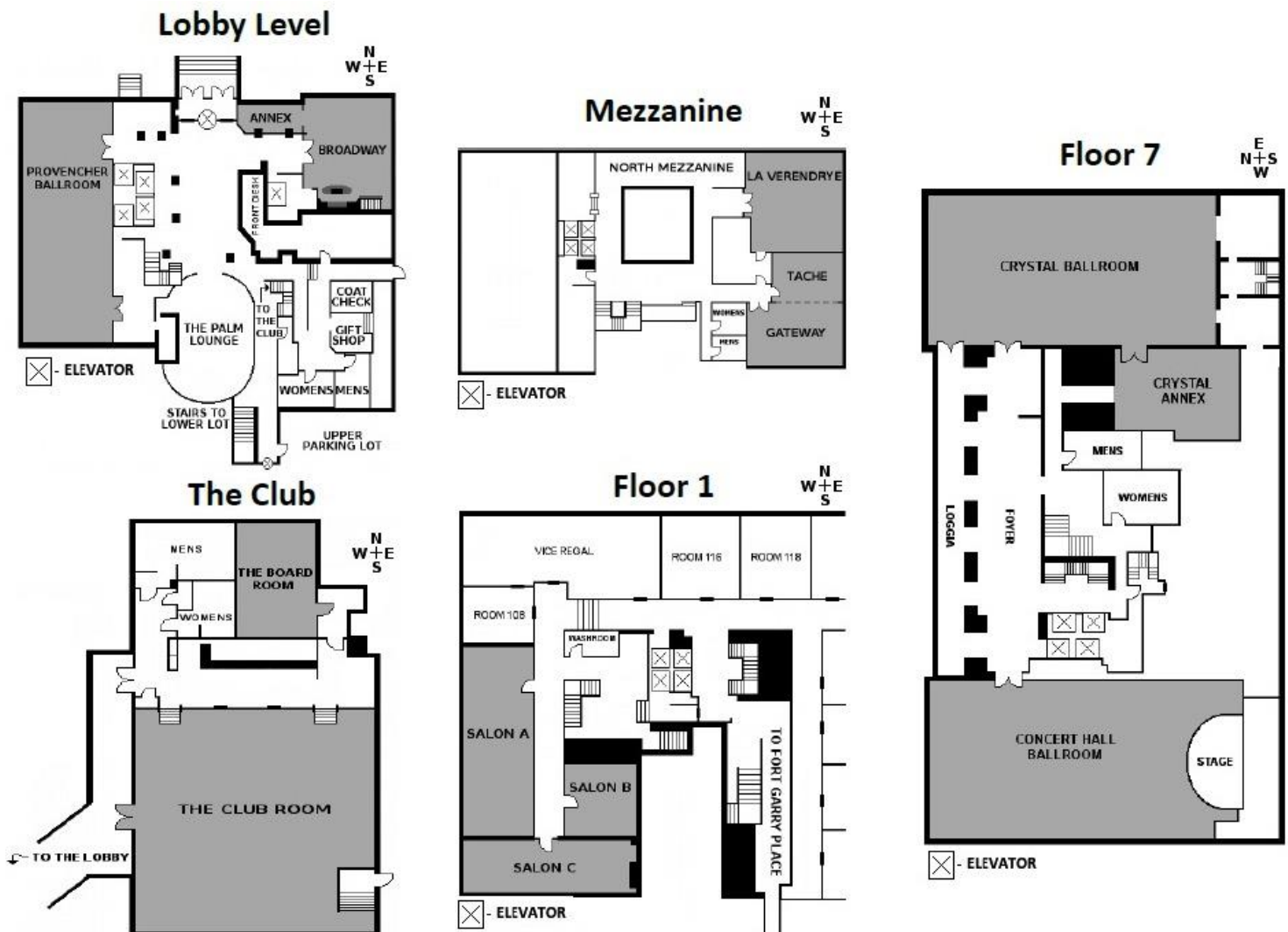
**18:00 CLOSING RECEPTION**

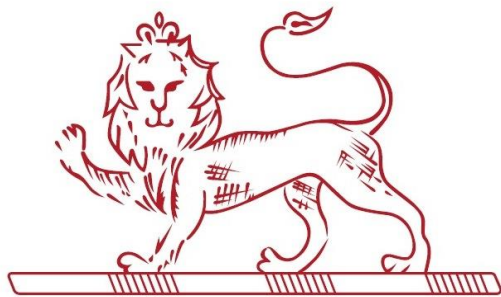
The Club Room

*Sponsored by Burchells*

## Floor Plan

Registration:	May 31 – La Verendrye (Mezzanine)
	June 1 & 2 – Outside of Provencher Ballroom (Lobby Level)
Welcome Reception:	La Verendrye (Mezzanine)
Plenary Sessions:	Provencher Ballroom (Lobby Level)
Lunches:	Crystal Ballroom (Floor 7)
Concurrent Sessions:	La Verendrye (Mezzanine)
	Gateway (Mezzanine)
Closing Reception:	The Club Room (The Club)





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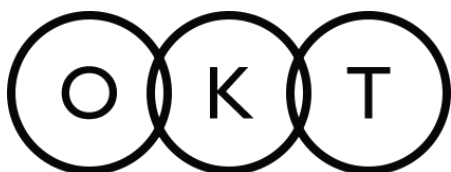
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