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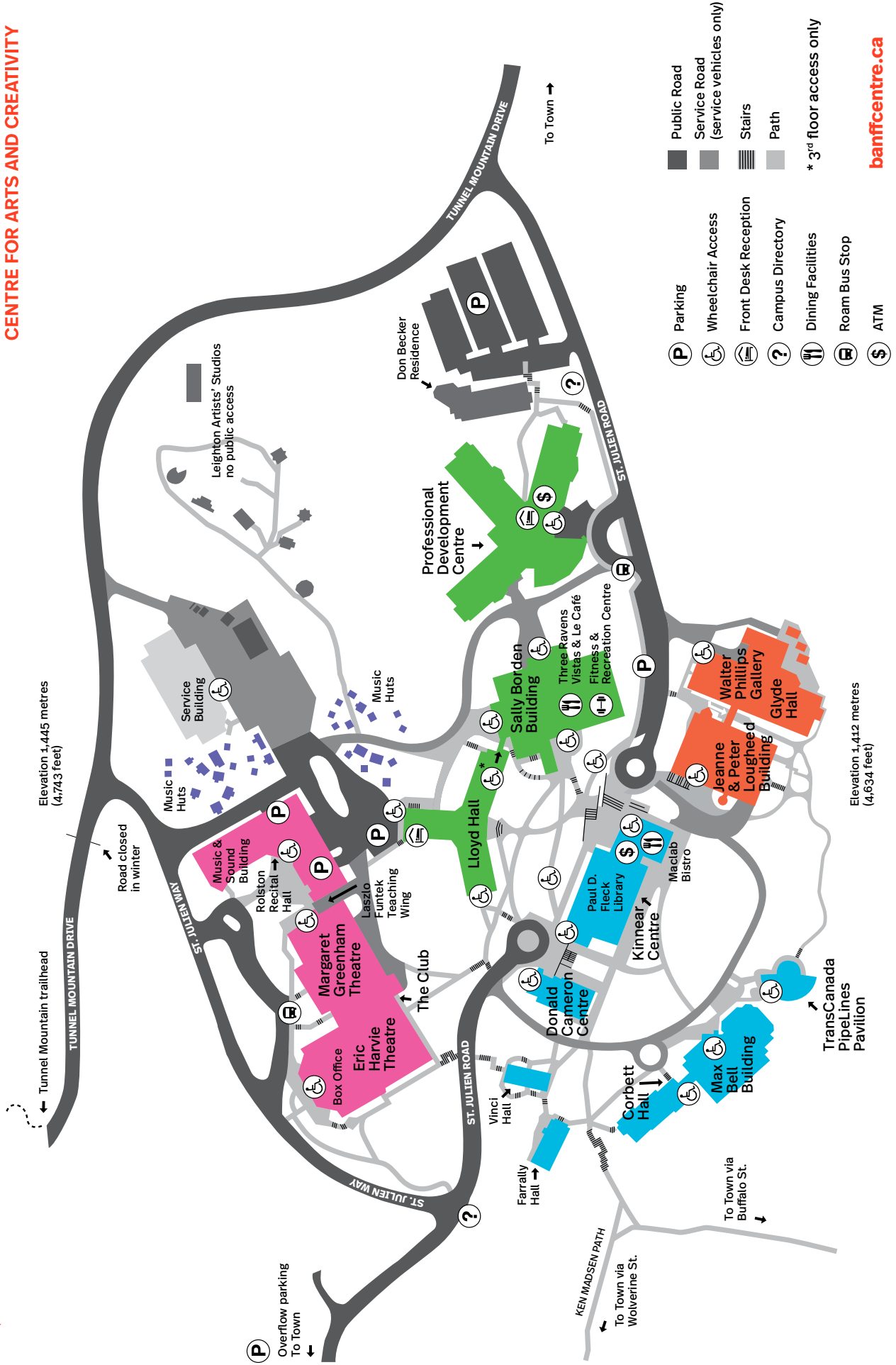
CBA ABORIGINAL LAW CONFERENCE

June 19 – 21, 2019 | BANFF, AB



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CBA ABORIGINAL LAW CONFERENCE

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WEDNESDAY, JUNE 19, 2019

18:00 **PRE-REGISTRATION** | Kinnear Centre 200 Galleria South (2nd Floor)

18:00 – 20:30 **WELCOME COCKTAIL RECEPTION | KEYNOTE ADDRESS** | Kinnear Centre 205 (2nd Floor)
(0.75 hours – substantive content)

INDIGENOUS HUMAN RIGHTS, UNDRIP AND ITS INVITATION TO LEARN.

Within its broad commitments to Indigenous self-determination, the UN Declaration of the Rights of Indigenous Peoples re-affirms Indigenous peoples' right to good living. Viewed as a human rights document, UNDRIP offers a rich invitation to lawyers to learn from Indigenous nations through their laws and governance. In this keynote introduction, Hannah Askew and Darcy Lindberg will discuss the potential of UNDRIP to fully recognize the autonomy of Indigenous citizenries as well as the importance of relationships with Indigenous peoples and communities to this recognition.

Moderator: **Eden Alexander**, Department of Justice Canada (*Whitehorse, YK*)

Speakers: **Hannah Askew**, Sierra Club BC (*Victoria, BC*)
Darcy Lindberg, University of Alberta (*Edmonton, AB*)

THURSDAY, JUNE 20, 2019

7:30 – 8:00 **MORNING RUN/WALK**
Meet in lobby of Lloyd Hall near the hotel check-in desk.

8:30 – 9:30 **REGISTRATION & BREAKFAST** | Kinnear Centre 200 Galleria South (2nd Floor)

9:30 – 9:35 **WELCOME REMARKS** | Kinnear Centre 203 (2nd Floor)

Co-Chairs: **Leroy Little Bear**, University of Lethbridge (*Lethbridge, AB*)
Kaitlin Long, Norton Rose Fulbright Canada LLP (*Calgary, AB*)

9:35 – 9:40 **LAND ACKNOWLEDGEMENT** | Kinnear Centre 203 (2nd Floor)

Speaker: **Jim Olver**, Banff Centre for Arts and Creativity (*Banff, AB*)

9:40 – 10:00 **OPENING PRAYER** | Max Bell Building 252 (1st Floor)

Offered by: **Elder Philomena Stephens** (*Morley, AB*)

10:00 – 10:15 **REFRESHMENT BREAK** | Kinnear Centre 200 Galleria South (2nd Floor)

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10:15 – 11:50 **PLENARY PANEL: HOW DID WE GET HERE?** | Kinnear Centre 203 (2nd Floor)
(1.5 hours – substantive content)

UNDRIP is the product of decades of work by Indigenous peoples and their allies to recognize and protect the collective and individual rights of Indigenous peoples in international law. This panel offers an overview of the history and development of UNDRIP from people on the frontlines of that work. What were the expectations and struggles over the years? Have those expectations been realized? What compromises were made?

Moderator: **Jameela Jeeroburkhan**, Dionne Schulze S.E.N.C. (*Montréal, QC*)

Speaker: **James (Sákéj) Henderson**, Native Law Centre of Canada - University of Saskatchewan
(Saskatoon, SK)
Sharon Venne, Indigenous rights legal scholar (*Enoch, AB*)

12:00 – 13:00 **LUNCHEON | KEYNOTE ADDRESS: WHERE ARE WE NOW?** | Kinnear Centre 203 (2nd Floor)
(0.5 hours – substantive content)

Speaker: **Naiomi Metallic**, Dalhousie University - Legal Counsel Office (*Halifax, NS*)

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13:15 – 15:00 **CONCURRENT SESSIONS**

SESSION A: LEGISLATION AND THE MIKISEW CREE DECISION | Kinnear Centre 205 (2nd Floor)
(1.75 hours – substantive content)

It is a fundamental truism that in a democracy that embraces the rule of law, government acts by enacting laws. That power of government to enact laws has the inherent potential to significantly affect the Aboriginal and Treaty rights of Canada's Indigenous peoples. The Mikisew Cree argued that Parliament has a duty to consult and accommodate when enacting laws that may have repercussions on those rights. Canada, and a number of provinces, disagreed, arguing parliamentary privilege. Ultimately, the Supreme Court of Canada found there was no duty to consult. Yet, in British Columbia, government has taken on that very obligation and regularly engages with Treaty First Nations on its draft laws. In this context, how do Canada's Indigenous peoples and governments move forward within the spirit of UNDRIP?

Moderator: **Brent Lehman**, Ratcliff & Company LLP (*North Vancouver, BC*)

Speakers: **Kate Gunn**, First Peoples Law (*Vancouver, BC*)
Robert Hamilton, University of Calgary (*Calgary, AB*)
Robert Janes, Q.C., JFK Law Corporation (*Victoria, BC*)

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SESSION B: INDIGENOUS LAWS AND TREATY FEDERALISM | Kinnear Centre 201 (2nd Floor) *(1.75 hours – substantive content)*

As the Canadian legal system and Canadians face more situations involving ‘reconciliation’, individuals and institutions may be wondering what they should or must do to have Indigenous parties respect any non-Indigenous action. This session is focused on what understanding Treaties entail (challenging previous ideas of Federalism that have been historically undermined, if not forgotten completely), how Treaties were originally imagined and how they must be implemented. This panel will focus particularly on the obligations arising at the crossroads of Indigenous legal frameworks and Federalism.

Moderator: **Eden Alexander**, Department of Justice Canada (*Whitehorse, YT*)

Speakers: **Joshua Nichols**, University of Alberta and Centre for International Governance Innovation (*Edmonton, AB*)
Signa Daum Shanks, Osgoode Hall Law School (*Toronto, ON*)

15:00 – 15:15 REFRESHMENT BREAK | Kinnear Centre 200 Galleria South (2nd Floor)

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15:15 – 16:30 CONCURRENT SESSIONS

SESSION A: SELF-DETERMINATION AND BELONGING: IN COMMUNITY, IN CANADA AND BEYOND | Kinnear Centre 201 (2nd Floor) *(1.25 hours – substantive content)*

UNDRIP recognizes the rights of Indigenous peoples to self-determination and to decide the criteria for citizenship within their communities. This panel will explore how these rights affect the relationships between Indigenous citizens and their communities, Indigenous nations and the Canadian state, and Indigenous nations and the international community.

Moderator: **Claire Truesdale**, JFK Law Corporation (*Victoria, BC*)

Speaker: **Caroline Briand**, Cain Lamarre, s.e.n.c.r.l. (*Montréal, QC*)
Oonagh Fitzgerald, Centre for International Governance Innovation (*Waterloo, ON*)
Cheryl Simon, Simon Governance Services (*Halifax, NS*)

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SESSION B: ECONOMIC, HEALTH, EDUCATION AND SOCIAL RIGHTS | Kinnear Centre 205 (2nd Floor) *(1.25 hours – substantive content)*

This panel brings together diverse perspectives on the achievement of economic sovereignty, and economic reconciliation with the Crown. Presentations will feature practitioners as well as an Indigenous leader to contribute to both a domestic and international dialogue, blending principled discussion with on-the-ground commentary.

Topics include how UNDRIP principles may be imported into international trade and investment agreements as a means of achieving economic reconciliation, as well as how Indigenous governments can borrow from international economic sovereignty models to support their own vision for the future and ensure economic self-determination.

Moderator: Amy Barrington, Maurice Law (*Calgary, AB*)

Speakers: Chief Conroy Sewepagaham, Little Red River Cree Nation
Ron Maurice, Maurice Law (*Calgary, AB*)
Risa Schwartz, Risa Schwartz International Law (*Toronto, ON*)

18:30 – 22:00 DINNER | KEYNOTE ADDRESS | MountView Barbecue - Banff National Park (**Pre-purchase your tickets**) *(0.5 hours – substantive content)*

Speaker: The Honourable Frank Iacobucci, C.C., Q.C., L.S.M.

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FRIDAY, JUNE 21, 2019

7:30 – 8:00 MORNING RUN/WALK
Meet in lobby of Lloyd Hall near the hotel check-in desk.

8:30 – 9:00 REGISTRATION & BREAKFAST | Kinnear Centre 200 Galleria South (2nd Floor)

9:00 – 10:30 PLENARY PANEL: LAND, WATERS, TERRITORY, CONSERVATION AND ENVIRONMENT |
Kinnear Centre 203 (2nd Floor) *(1.5 hours – substantive content)*

Indigenous peoples' unique relationship with their territory is at the core of their identity. UNDRIP recognizes this relationship and provides protections against the forcible removal or displacement of Indigenous peoples from their territories. This panel will discuss how Canadian law can change or be re-interpreted in light of this commitment and how we can better recognize Indigenous laws and systems of land tenure that play a vital role in protecting Indigenous lands and waters.

Moderator: Derek Simon, Burchells LLP (*Halifax, NS*)

Speakers: Aimée Craft, University of Ottawa (*Ottawa, ON*)
Brenda Gunn, University of Manitoba (*Winnipeg, MB*)
Robin M. Junger, McMillan LLP. (*Vancouver, BC*)

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10:30 – 10:45 **REFRESHMENT BREAK** | Kinnear Centre 200 Galleria South (2nd Floor)

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10:45 – 12:15 **PLENARY PANEL: FREE, PRIOR AND INFORMED CONSENT** | Kinnear Centre 203 (2nd Floor)
(1.5 hours – substantive content)

Article 32 of UNDRIP states that “States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent prior to approval of any project affecting their lands and territories and other resources...”. This panel will provide three legal perspectives on the meaning of free, prior and informed consent (FPIC), how FPIC is currently being used and applied, and what the panelists foresee as the future of FPIC in Canadian law.

Moderator: **Kaitlin Long**, Norton Rose Fulbright Canada LLP (*Calgary, AB*)

Speaker: **James (Sákéj) Henderson**, Native Law Centre of Canada - University of Saskatchewan (*Saskatoon, SK*)

Robin Longe, Norton Rose Fulbright Canada LLP (*Vancouver, BC*)

Arlene Strom, Suncor Energy Inc. (*Calgary, AB*)

12:15 – 13:45 **LUNCHEON | CBA TOUCHSTONE AWARD PRESENTATION** | Kinnear Centre 103 (1st Floor)

2019 Touchstone Award Recipient: The Honourable Douglas R. Campbell

13:45 – 15:15 **CONCURRENT SESSIONS**

SESSION A: DISPUTE RESOLUTION AND REMEDIES | Kinnear Centre 201 (2nd Floor)
(1.5 hours – substantive content)

The successful implementation of UNDRIP in Canada requires the development of effective dispute resolution and remedies. This panel focuses on the opportunities provided by Articles 28 and 40 of UNDRIP and the use of traditional Indigenous dispute resolution mechanisms. In addition, speakers will discuss some examples of how key concepts from these articles have already been used in Canada and how these examples may provide useful models, as Indigenous peoples, governments, lawyers and dispute resolution experts seek to realize UNDRIP’s dispute resolution and remedies opportunities.

Moderator: **Michael Fortier**, Torys LLP (*Toronto, ON*)

Speakers: **Diana Kwan**, Department of Justice Canada (*Ottawa, ON*)

Pamela Large-Moran, PLM Law (*Charlottetown, PE*)

Terri-Lynn Williams-Davidson, White Raven Law Corporation (*Surrey, BC*)

SESSION B: GENDER RIGHTS | Kinnear Centre 203 (2nd Floor)
(1.5 hours – substantive content)

Article 22 of UNDRIP speaks to the need for particular attention to protecting the rights of Indigenous women. This panel will speak to the role of UNDRIP in empowering Canadian Indigenous women, particularly in recognition of the findings set out in the MMIWG Final Report.

Moderator: **Caroline Briand**, Cain Lamarre, s.e.n.c.r.l. (*Montréal, QC*)

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Speaker: **Christa Big Canoe**, Lead Commission Counsel MMIWG (*Whitby, ON*)
Sarah Morales, University of Ottawa (*Ottawa, ON*)
Leah Gazan, University of Winnipeg (*Winnipeg, MB*)

SESSION C: INDIGENOUS KNOWLEDGE | Kinnear Centre 205 (2nd Floor)
(1.5 hours – substantive content)

Article 31 of UNDRIP recognizes that Indigenous peoples must have enforceable legal rights to "control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions". This panel will explore domestic and international efforts to implement the promise of Article 31. Professor Daniel Dylan, from the Bora Laskin Faculty of Law of Lakehead University, will discuss a proposal to create a multijurisdictional Canadian framework to protect Indigenous knowledge. Dr. Oluwatobiloba (Tobi) Moody, Post-Doctoral Fellow with the Centre for International Governance Innovation (CIGI), will provide an overview of the UN's efforts to create an international instrument to protect Indigenous knowledge.

Moderator: **Meaghan Conroy**, MLT Aikins LLP (*Edmonton, AB*)

Speakers: **Daniel Dylan**, Lakehead University (*Thunder Bay, ON*)
Dr. Oluwatobiloba (Tobi) Moody, Centre for International Governance Innovation (*Waterloo, ON*)

15:15 – 15:30 **REFRESHMENT BREAK** | Kinnear Centre 200 Galleria South (2nd Floor)

15:30 – 16:30 **PLENARY PANEL: WHERE DO WE GO FROM HERE?** | Kinnear Centre 203 (2nd Floor)
(1 hour – substantive content)

To see where UNDRIP may take us, we take a look back to where we have been. This panel puts the future of UNDRIP in Canada in context of the history of Crown-Indigenous relations. The panel further considers UNDRIP through the lens that what began as an aspirational instrument without legal force has led Parliament and the Legislatures to promoting and protecting Aboriginal rights of Canada's Indigenous peoples, all on the path to normalizing Indigenous rights in international law. The panel considers the simple formula articulated by the UN Special Rapporteur on the Rights of Indigenous Peoples, Prof. James Anaya: "Use the declaration for engagement with governments, with Congress, with the courts. Tribes need to use it with the outside world and within their communities...to build healthy relationships on all levels." The panel considers what this formula means in the Canadian context. A future hallmark of truth and reconciliation between Indigenous and Non-Indigenous peoples in Canada may be the ways and extent to which UNDRIP is given legal force under the laws of Canada and of the provinces. The panel measures legislative action in Canada to implement UNDRIP in law: where it has gone, where it has not, and where it may go from here.

Moderator: **Joshua Jantzi, B.Sc., J.D.**, Gowling WLG (Canada) LLP (*Calgary, AB*)

Speakers: **Councillor Brian Jackson**, Piikani Nation (*Brocket, AB*)
Maïtée Saganash, Columnist, Activist (*Waswanipi, Québec*)
Romeo Saganash, M.P. for Abitibi-Baie-James-Nunavik-Eeyou (*Waswanipi, Québec*)

16:30 **CLOSING REMARKS** | Kinnear Centre 203 (2nd Floor)

Co-Chairs: **Leroy Little Bear**, University of Lethbridge (*Lethbridge, AB*)
Kaitlin Long, Norton Rose Fulbright Canada LLP (*Calgary, AB*)

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