



**Law Society**  
of Ontario

**Barreau**  
de l'Ontario

# Equity, Diversity, and Inclusion for Indigenous Peoples

## CO-CHAIRS

**Bernd Christmas, CEO and General Counsel**  
*Nch'kay Development Corporation*

**Sara Mainville**  
*Olthuis Kleer Townshend LLP*

November 22, 2021



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Library and Archives Canada  
Cataloguing in Publication

**Equity, Diversity, and Inclusion for Indigenous Peoples**

ISBN 978-1-77345-382-8 (PDF)



# Equity, Diversity, and Inclusion for Indigenous Peoples

CO-CHAIRS: **Bernd Christmas**, CEO and General Counsel  
*Nch'kay Development Corporation*

**Sara Mainville**, *Olthuis Kleer Townshend LLP*

**November 22, 2021**

**12:00 p.m. to 2:00 p.m.**

**Total CPD Hours = 2 h EDI Professionalism **

**Webcast**  
**Law Society of Ontario**  
**Toronto, ON**

**SKU CLE21-01109**

## Agenda

- |                                |   |
|--------------------------------|---|
| <b>12:00 p.m. – 12:05 p.m.</b> | <b>Welcome and Opening Remarks</b><br><br>Bernd Christmas, CEO and General Counsel<br><i>Nch'kay Development Corporation</i>                                      |
| <b>12:05 p.m. – 12:40 p.m.</b> | <b>The Truth You Need to Know Before Reconciliation in Canada</b><br><br>Jocelyn Formsma, Executive Director<br><i>National Association of Friendship Centres</i> |
| <b>12:40 p.m. – 1:00 p.m.</b>  | <b>Law Society Indigenous Framework</b><br><br>Dianne Corbiere, <i>Nahwegahbow Corbiere Genoodmagejig</i><br><i>Barristers &amp; Solicitors</i>                   |

**1:00 p.m. – 1:05 p.m.**

**Question and Answer Session**

**1:05 p.m. – 1:25 p.m.**

**The Impact of Inequality and the Journey to EDI**

Nicole Richmond, Barrister and Solicitor

*Alexandria Winterburn, Pape Salter Teillet LLP*

**1:25 p.m. – 1:50 p.m.**

**How to Address and Prevent Inequality**

Benjamin Brookwell, *Olthuis Kleer Townshend LLP*

Bernd Christmas, CEO and General Counsel  
*Nch'kay Development Corporation*

Randall Kahgee, *Olthuis Kleer Townshend LLP*

**1:50 p.m. – 2:00 p.m.**

**Question and Answer Session**

**2:00 p.m.**

**Program Ends**

# Equity, Diversity, and Inclusion for Indigenous Peoples

November 22, 2021

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Co-authored by:  
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## TAB 1

# Equity, Diversity, and Inclusion for Indigenous Peoples

The Truth You Need to Know Before Reconciliation  
in Canada

Resources and Reading List

**Jocelyn Formsma, Executive Director**  
*National Association of Friendship Centres*

November 22, 2021



# The Truth You Need to Know Before Reconciliation in Canada

## **Resource List:**

- [2021 National Action Plan: Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ People](#)
- [The 2003 CBC Massey Lectures, “The Truth about Stories: A Native Narrative”](#)
- [Robinson Huron Treaty 1850 Litigation Fund](#)
- [Indian and Cowboy – Stories from the land podcast](#)
- [Aptnlumi](#)

## **Reading List:**

- The Truth About Stories: A Native Narrative (Indigenous Americas) by Thomas King





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**TAB 2**

# **Equity, Diversity, and Inclusion for Indigenous Peoples**

Law Society Indigenous Framework (PowerPoint)

Indigenous Initiatives - Resources

**Dianne Corbiere**

*Nahwegahbow Corbiere Genoodmagejig Barristers & Solicitors*

November 22, 2021



# Law Society Indigenous Framework

Dianne Corbiere, Nahwegahbow Corbiere Genoodmagejig  
Barristers & Solicitors

November 22, 2021



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# Background

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- **1997:** Adoption of the Bicentennial Report
- **2000:** Creation of the Equity and Aboriginal Issues Benchers Committee (now the Equity and Indigenous Affairs Committee)
- **2004:** Establishment of the Aboriginal Working Group to act as a resource to the Law Society
- **2009:** Adoption of the Final Report of the Indigenous Bar Consultation
- **2016:** Indigenous Advisory Group permanently established to advise the Law Society

# Indigenous Advisory Group

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- The Indigenous Advisory Group was established an independent advisory body to:
  - a) Advise the Law Society on the unique issues faced by Indigenous peoples, communities and licensees in Ontario.
  - b) Strengthen the relationships between Indigenous peoples and Canadian legal structures and institutions in a manner that respects Indigenous values, beliefs and legal systems.
- The IAG is composed of:
  - Lawyers, paralegals, students, and non-licensees from First Nations, Inuit and Métis communities from across the province
  - Elders Council

# Indigenous Framework

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- In September 2016, the Equity and Indigenous Affairs Committee partnered with the IAG to develop the Indigenous Framework.
- Through the Indigenous Framework, the Law Society renewed its commitment to:
  - Fulfill the Law Society's mandate to advance and facilitate access to justice for Indigenous peoples and communities.
  - Promote reconciliation with First Nations, Métis and Inuit peoples.
- Convocation adopted the Indigenous Framework in June 2017.

# Indigenous Framework

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- The Indigenous Framework incorporates key policy recommendations and elements from:
  - Law Society's 2009 Final Report of the Indigenous Bar Consultation
  - Truth and Reconciliation Commission (TRC) Calls to Action
  - Report of the Royal Commission on Aboriginal Peoples
  - The Ipperwash Inquiry
  - The United Nations Declaration on the Rights of Indigenous Peoples
  - The Iacobucci Report – First Nations Representation on Ontario Juries
  - National Inquiry into Missing and Murdered Indigenous Women and Girls

# Framework Recommendations

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- The Indigenous Framework is based on four foundational pillars to help guide the Law Society in its interactions with Indigenous peoples:
  1. Creating and Enhancing Cultural Competency
  2. Achieving and Improving Access to Justice
  3. Promoting and Supporting Knowledge of Indigenous Legal Systems
  4. Taking Action on Reconciliation
- Law Society initiatives within the four pillars must be guided through an Indigenous lens in order to fully meet the objectives of the Framework.

# Indigenous Framework Recommendations



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# 1. Enhancing Cultural Competency

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## Recommendations

### Creating and Enhancing Knowledge

- Provide training on unconscious bias, the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous laws, Aboriginal-Crown relations and basic cultural protocols for:
  - Law Society staff and benchers
  - Lawyer and paralegal licensees
  - Licensees who engage directly with the Indigenous peoples
- Support training for students in law schools and paralegal education programs
- Offer CPD programs and legal education sessions

# 1. Enhancing Cultural Competency

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## Recommendations (cont.)

### Working with Partners

- Work with the Federation of Law Societies of Canada and other law societies on changes to the national standards and other requirements for licensing candidates to enhance knowledge.
- Partner with the Indigenous Bar Association to promote reconciliation and culturally competent provision of legal services.
- Engage with other legal associations, advocates and professional entities to educate, consult and inform.

# 1. Enhancing Cultural Competency

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## Recommendations (cont.)

### Developing Skills-Based Training and Other Supports

- Develop and support training in inter-cultural competency, conflict resolution, human rights and anti-racism.
- Support the introduction of training in Ontario law schools and paralegal education programs.
- Support the Law Society's Equity Legal Education programs.

## 2. Improving Access to Justice

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### Recommendations

- Engage stakeholders and the public with responsive communications.
- Improve the Law Society's hearing and regulatory process in every interaction with Indigenous peoples.
- Improve mentorship and networking programs for Indigenous students.
- Provide support for the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG).

## 2. Improving Access to Justice

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### Recommendations (cont.)

- Develop communication materials to promote awareness and access to justice, published in English, French and Indigenous languages.
- Contribute to the elimination of the overrepresentation of Indigenous peoples in legal proceedings, care and incarceration.

# 3. Promoting Indigenous Legal Systems

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## Recommendations

- Promote and support the knowledge of Indigenous legal systems:
  - Establish Indigenous Law Institutes for the development, use and understanding of Indigenous laws and access to justice.
  - CPD programs and legal education on Indigenous legal systems.
  - Enhance practice supports and resources for licensees on Indigenous justice issues.

# 3. Promoting Indigenous Legal Systems

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## Recommendations (cont.)

- Promote and support the knowledge of Indigenous legal systems:
  - Enhance lawyer referral program and mentorship to provide support and guidance on Indigenous justice issues.
  - Enhance the Member Assistance Program to support Indigenous traditional healing methods.
  - Enhance supports for small and solo firm practices in Indigenous communities.

## 4. Taking Action on Reconciliation

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### Recommendations

- Take actions related to reconciliation outlined in the TRC Calls to Action:
  - Support the adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation.
  - Commit to actively support the work of legal and professional entities in Ontario to advance reconciliation.
  - Consider changes to the Rules of Professional Conduct in order to promote reconciliation and culturally competent service delivery.



# Implementation of Framework Recommendations



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# 1. Enhancing Cultural Competency

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## Implementation

### Law Society Staff and Benchers

- Enhanced Indigenous cultural training and learning opportunities for all Law Society staff and benchers.
  - Division specific training for staff
  - Specialized training for Law Society Tribunal adjudicators
  - Annual Truth and Reconciliation Day learning event for staff
  - Indigenous teachings from Elders at EIAC meetings
- Equity events to enhance awareness of Indigenous culture and legal issues.
- Development of a strategy to deliver enhanced Indigenous cultural training for staff and benchers.
- Expanded use of land acknowledgments to open meetings and Law Society events.

# 1. Enhancing Cultural Competency

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## Implementation (cont.)

### Initiatives for Licensees

- Annual equity legal education series events for licensees and the public (e.g. Louis Riel Day and Indigenous Solidarity Day celebrations)
- Indigenous programming at the annual Access to Justice Week
- Enhanced CPD offerings, including two half-day Indigenous CPD programs per year
- Free EDI programs focused on Indigenous justice and enhancing knowledge of the crisis of MMIWG
- Three hour module on Equality, Diversity and Inclusion in the Legal Profession that includes education on cultural competence.

# 1. Enhancing Cultural Competency

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## Implementation (cont.)

### Initiatives for Licensees

- Practice supports for licensees working with Indigenous peoples:
  - Guidelines for Lawyers Working with Indigenous Peoples, developed in collaboration with the Indigenous Advisory Group
  - Guide for Lawyers Working with Indigenous Peoples, developed in partnership with The Advocates' Society and the Indigenous Bar Association
  - Resources on the Sixties Scoop Settlement
  - Communicating Effectively with Indigenous Clients, developed in collaboration with Aboriginal Legal Services

# 1. Enhancing Cultural Competency

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## Implementation (cont.)

### Law Schools and Paralegal Education Programs

- Collaboration with the Federation of Law Societies of Canada and other law societies to move forward to implement the TRC Call to Action 28 (education about Indigenous law in law schools).
- Engagement with law schools and paralegal education programs on ways to enhance student knowledge and awareness of Indigenous culture and laws.
- Development of competencies related to Indigenous culture and law in consultation with the IAG for the 2022 licensing exams.
- Collaboration with the Indigenous Bar Association on learning and mentorship opportunities for students.

# 1. Enhancing Cultural Competency

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## Implementation (cont.)

### Other Initiatives

- Collaboration with the Federation of Law Societies of Canada other law societies to implement the TRC Call to Action 27 (competency of legal professionals in serving Indigenous peoples).
- Annual eagle feather polishing ceremony at Convocation. This is just one of many ceremonies and teachings that have been introduced at Convocation and EIAC.
- Consulting and partnering with legal associations, organizations and advocates to promote reconciliation:
  - Indigenous Bar Association
  - Métis Nation of Ontario
  - Indigenous Justice Division
  - Aboriginal Legal Services
  - The Advocates Society

## 2. Improving Access to Justice

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### Implementation

- Mentoring and networking program in support in Indigenous law students in Ontario.
- Supports for Indigenous licensing candidates engaged in the licensing process, such as mentoring.
- Changes to the good character assessment process to improve transparency, clarity of the process, and remove barriers to entry for Indigenous and racialized licensing candidates.
- Improved engagement and communications with Indigenous complainants.
- Launch of plain-language information sheet for First Nations, Métis and Inuit complainants.
- Collaboration with legal associations, organizations and advocates to identify and address access to justice challenges in Indigenous communities.

## 2. Improving Access to Justice

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### Implementation (cont.)

- Submissions provided to the Department of Justice in 2018 with respect to Bill C-75 (amendments to the *Criminal Code* and *Youth Criminal Justice Act*)
- Access to Justice strategies aimed at addressing the over representation of Indigenous peoples in the criminal justice system.
- Identified strategies to address overrepresentation in the criminal justice system, including:
  - Alternatives to community sanctions
  - Mandatory minimum sentences
  - Bail procedurals
  - Supporting culturally appropriate services to reduce domestic violence



# 3. Promoting Indigenous Legal Systems

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## Implementation

- Practice supports and resources for licensees on Indigenous justice issues.
- Creation of a certified specialist program in Indigenous legal issues.
- Developing competencies on Indigenous culture and legal systems in consultation with the IAG for the 2022 lawyer and paralegal licensing exams.

## 4. Taking Action on Reconciliation

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### Implementation

- Organization-wide commitment to establishing and maintaining a culturally competent regulatory process.
- Continued support of the work of the Federation of Law Societies of Canada on developing recommendations on the TRC Calls to Action 27 and 28 through engagement in the TRC Advisory Committee.
- Improved communications regarding the Law Society Referral Service.
- Ongoing work to facilitate the integration of Indigenous legal and cultural principles at the Law Society.

# Review Panel Report

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- In June 2017, the Review Panel examined the way in which the Law Society and the Law Society Tribunal address regulatory matters involving Indigenous peoples, complaints, and issues.
- The review was prompted by the Law Society's experience in *Law Society of Upper Canada v. Keshen* which raised questions about the Law Society's regulatory and hearing processes in relation to Indigenous peoples.
- The Law Society's work was carried out alongside an Independent Reviewer, First Nations National Chief Ovide Mercredi.
- In 2018, Convocation adopted the recommendations of the Review Panel to improve the Law Society's regulatory and hearing processes for Indigenous peoples.

# Review Panel Report: Implementation

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- Acknowledgement of the special status of First Nation, Métis and Inuit peoples and their unique access to justice challenges.
- Development of culturally-informed policies across all Law Society regulatory processes.
- Appointment of Indigenous adjudicators to the Law Society Tribunal.
- Review of Law Society Tribunal decisions to identify policy issues affecting Indigenous peoples.
- Reconstitution of the First Nation, Métis and Inuit (FNMI) Team with cross-division representation to assist Indigenous complainants and licensees.
- Designated staff to handle cases involving Indigenous peoples.

# Review Panel Report: Implementation

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- Updated FNMI Fact Sheet outlining the Law Society's complaints and discipline process for Indigenous complainants to be easily understandable and culturally appropriate.
- Special protocol for receiving and responding to complaints from Indigenous peoples, including a dedicated telephone line.
- Specialized training and supports for Investigators and staff engaging with members of the Indigenous communities.
- Making available accommodations known early in the regulatory process to all Indigenous complainants, witnesses and licensees.
- Development of a new protocol for the investigation of “major cases”.

# Other Law Society Initiatives

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- Amplifying Indigenous voices at Convocation.
- Creation of a Certified Specialist program in Indigenous Law.
- Recommendation of Indigenous licensees for appointment to external committees to ensure there is Indigenous representation across the justice sector.
- Indigenous licensees recognized through the LSO awards and honours.
  - 2021 Law Society Medal awarded to Candace Metallic
  - 2021 Laura Legge Award awarded to Dr. Beverly Jacobs

**Thank you.**

**Miigwech.**



### **Indigenous Initiatives - Resources:**

- [Law Society Indigenous Framework \(Convocation, June 29, 2017\)](#), pages 279 to 289
- [Regulatory and Hearing Processes Affecting Indigenous Peoples](#) (Review Panel Report)
- [Working Together for Change: Strategies to Address Issues of Systemic Racism in the Legal Professions](#) (Challenges Report, May 2018)
- [Law Society Equity Initiatives](#)
- [Law Society Indigenous Advisory Group](#)
- [Law Society Indigenous Initiatives](#)
- [Guide for Working with Indigenous Peoples](#) (2018)
- [Guidelines for Lawyers Working with Indigenous Peoples](#) (2018)
- [Law Society's Sixties Scoop Communications Bulletin](#)
- [LSO CPD - Advancing Equality, Diversity, and Inclusion in the Legal Professions](#)
- [Law Society of Ontario's Public Statement on Truth and Reconciliation Commission of Canada's Executive Summary of Final Report](#)
- [Aboriginal Bar Consultation Final Report](#) (January 2009)
- [Communicating Effectively with Indigenous Clients Handbook](#) (Aboriginal Legal Services)
- [Federation of Law Societies of Canada's Report of the Truth and Reconciliation Calls to Action Advisory Committee](#) (June 2020)
- [Truth and Reconciliation Commission of Canada Final Report and Calls to Action](#)
- [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#)
- [United Nations Declaration on the Rights of Indigenous Peoples](#)
- [Report of the Royal Commission on Aboriginal Peoples](#)
- [Indian Residential Schools Settlement Agreement, May 8, 2006](#)
- [Legacy of Hope - Residential School Survivor Stories](#)
- [Gladue Primer \(Legal Aid, British Columbia\)](#)





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**TAB 3**

# **Equity, Diversity, and Inclusion for Indigenous Peoples**

The Impact of Inequality and the Journey to EDI  
(PowerPoint)

**Nicole Richmond**  
Barrister & Solicitor

November 22, 2021





# Equity, Diversion and Inclusion for Indigenous Peoples

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The Impact of Inequality and the Journey to EDI

Nicole Richmond, November 22, 2021

[www.nicolerichmond.com](http://www.nicolerichmond.com)

# Thunder Bay



**MACLEAN'S**

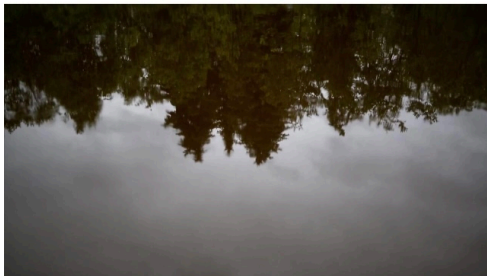
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## **A river of tears**

**Seven children, all of them Indigenous, have been pulled dead from Thunder Bay waterways since 2000, leaving a racially divided community searching for answers—and praying for change**

*By **Nancy Macdonald***

*July 7, 2017*



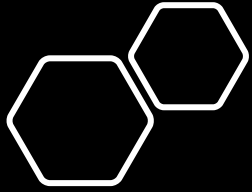
# On being the “other”

Having to constantly justify  
difference is fatiguing

- How much more do you need from me to recognize and affirm me?

Underlying premise is

- Why can't you get over it
- Why can't you just blend in
- Why don't you respect our laws / values / systems
- We are superior and you were conquered
- Your systems don't have any value



# Why is it difficult to retain Indigenous lawyers?

Our own cultural worldview enables us to see some of the challenges that exist in mainstream legal practices

- Hierarchies
- Competition
- Capitalism

We are tired of trying to fit in places that make us feel awkward





# Suddenly its cool to be Indigenous

Response to dis-ease with existing structures

Law as:

- Hierarchical
- Competitive
- Perfection
- Capitalistic
- Motivated by material gain

How sturdy is this system?

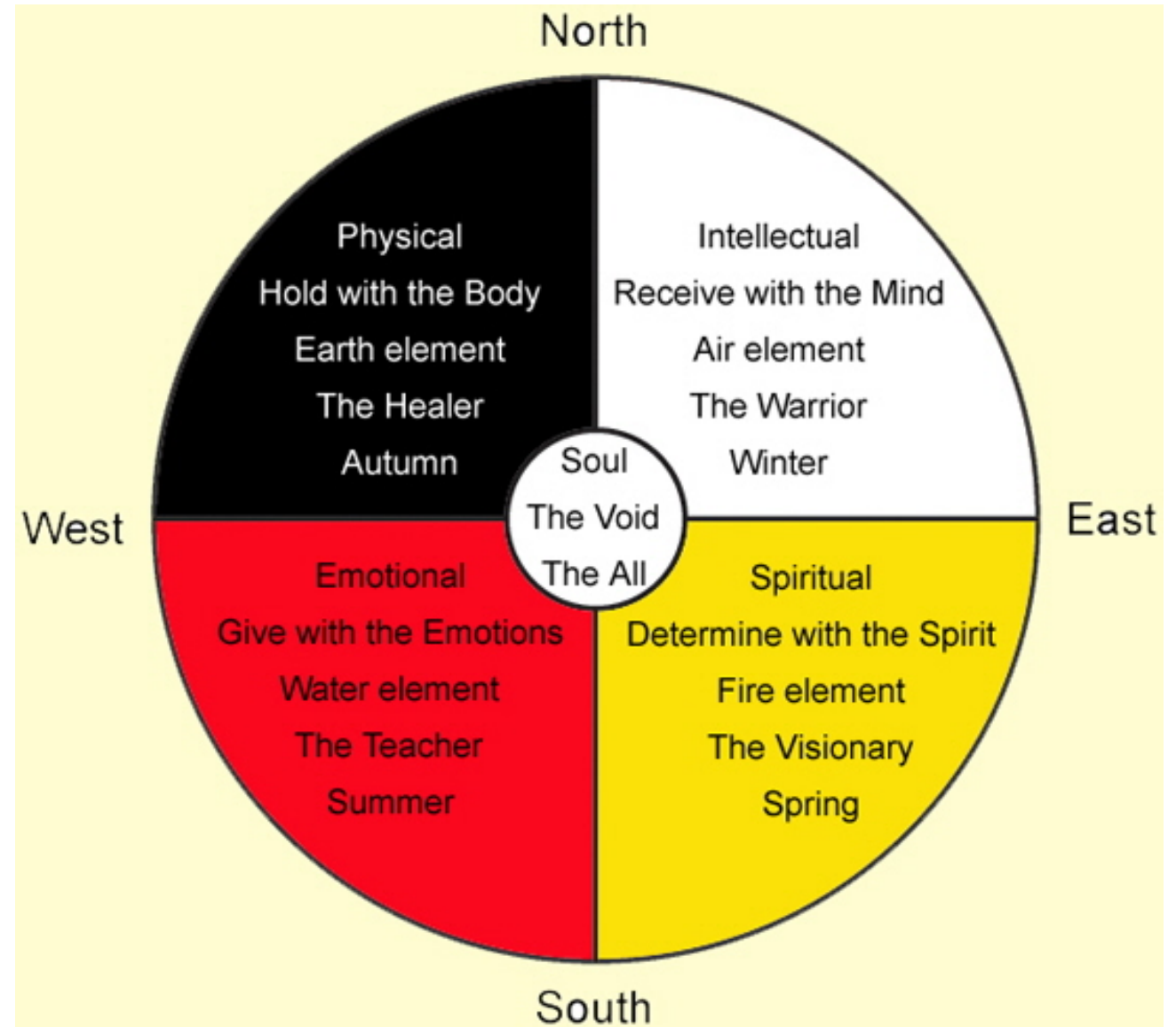
How real is your power?

How real is your privilege?



# The limits of the law

- Law is primarily focused on the mental and physical
  - Physical: exchange of material / protection of physical / repair by paying money
  - Mental: outsmarting others, being strategic
- Indigenous legal principles care deeply about the emotional and spiritual quadrants





# How do we move forward?

Law forms a hard boundary

- I'll do this but I don't want to

“Performative action does not really equal change”

- Danika Bailey and Brianne Lavasseur

Law changes when the values that underlie the law change

- How do lawyers evolve to be more spiritual, emotional?
- Are these values even commensurate with the current system?

# Be brave.

“ Look closely at the present you are constructing: it should look like the future you are dreaming. ”

-Alice Walker







River of Hope

# River of Hope







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## **TAB 4**

# **Equity, Diversity, and Inclusion for Indigenous Peoples**

Promoting Justice, Equity, Diversity, and Inclusion  
in Law Firms

Promoting Justice, Equity, Diversity, and Inclusion  
in Law Firms (PowerPoint)

**Co-authored by:**

**Benjamin Brookwell**

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**Sara Mainville**

*Olthuis Kleer Townshend LLP*

**Presented by:**

**Benjamin Brookwell**

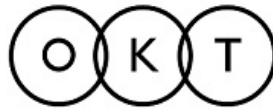
*Olthuis Kleer Townshend LLP*

**Randall Kahgee**

*Olthuis Kleer Townshend LLP*

November 22, 2021





## PROMOTING JUSTICE, EQUITY, DIVERSITY, AND INCLUSION IN LAW FIRMS

By Benjamin Brookwell and Sara Mainville

*White supremacy colonizes our minds, our bodies, our psyches, our spirits, our emotions ... as well as the land and the water and the sky and the air we breathe. White supremacy tells us who has value, who doesn't, what has value, what doesn't in ways that reinforce a racial hierarchy of power and control ....*

*White supremacy culture is constantly encouraging all of us in all our racial identities to cooperate and collude. Because we all live in this white supremacy culture, these characteristics have the potential to show up in the attitudes and behaviors of all of us, particularly as we strive to survive and gain a foothold in institutions and fields that either overtly or covertly adopt white supremacy culture values.*

**Tema Okun, *White Supremacy Culture – Still Here*<sup>1</sup>**

*Reconciliation in ... institutions means adapting to the needs, practices and approaches of the Indigenous staff whom you recruit. The idea of recruiting an Indigenous person for their expertise and then asking them to mould into a colonial structure undermines the goal.*

**Dr. Lisa Richardson, Vice-Chair, Culture and Inclusion, University of Toronto, Department of Medicine.<sup>2</sup>**

### WHY ARE WE TALKING ABOUT WHITE SUPREMACY AND COLONIALISM?

If we are going to have a meaningful conversation about justice, equity, diversity, and inclusion in Canadian law firms, then we need to talk about the culture in which law firms exist.

Law firms tend to approach their organizations in the same way they approach clients, believing their lawyers – especially junior lawyers – are lucky to work for them.<sup>3</sup> They fall victim to adopting a purely organizational – and production-focused view of their lawyers, often looking harder at the number of hours billed than the employee experience.<sup>4</sup> Rarely – if ever – do law firms stop to reflect on why they operate this way. Nor do they question what cultural values they overtly or covertly hold and how those values effect who they hire, who they retain, and who they promote.

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<sup>1</sup> Tema Okun, (May 2021), *White Supremacy Culture – Still Here*, p. 3-4. See: <http://www.whitesupremacyculture.info/>

<sup>2</sup> Dr. Lisa Richardson [@Richarlisa] (October 18, 2021), Twitter: <https://twitter.com/RicharLisa/status/1450113636874297345?s=20>.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

### Characteristics of White Supremacy and Colonial Culture<sup>5</sup>

Characteristic	How they manifest in our lives
<i>Fear</i>	Fear of not belonging, of not being enough.
<i>Perfectionism</i>	Mistakes are seen as personal, i.e., they reflect badly on the person, making the person the “mistake.”
<i>Urgency</i>	A constant sense of urgency is applied to our every-day lives, which sacrifices and erases the potential of other modes of knowing and wisdom that require more time (embodied, intuitive, spiritual).
<i>Quantity over Quality</i>	An emphasis on what we can "objectively" measure as more valuable than relationships, quality, the ability to constructively deal with conflict, morale, and mutual support.
<i>Individualism</i>	Failure to acknowledge any of the ways dominant identities – race, gender, class, sexuality, religion, able-bodiedness, age, education to name a few – are informed by belonging to a dominant group that shapes cultural norms and behavior.

The description of the characteristics above are meant to help you think about law firms in their cultural context. When you do, you may see how these characteristics are baked into your experiences working as a lawyer:

- The fear of being an imposter.
- The fear of making mistakes.
- Allowing mistakes to define your self-worth and the worth of others.
- Urgency ruling your practice and digging into your personal time.
- Valuing yourself and others in 1/10<sup>th</sup> of an hour increments.
- Worrying about whether you will be the right “fit”.

Fear, perfectionism, urgency, quantity over quality, and a belief in individualism are powerful forces in law firms. They are so strong that many of us internalize these characteristics into our own personalities.

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<sup>5</sup> Tema Okun, (May 2021), *White Supremacy Culture – Still Here*, pp. 7 ,8, 15, 16, 20 and 27. See: <http://www.whitesupremacyculture.info/>

These characteristics are toxic to all of us. For women, Indigenous people, people of color, and LGBTQ2+ people, however, they must adapt to these characteristics to survive, which can come at a cost of their relationship with their family, community, and self. Over time, that cost can become too great and lead to an early exit from legal practice.

## REASONS FOR CHANGE

The equity, diversity, and inclusion issues in the legal profession are well known:

- Lack of diversity across the profession.
- Lack of diversity in leadership roles.
- Low retention of diverse lawyers through associate positions and into partnership.

Lack of diversity is not just a social justice problem. It impairs the ability of law firms to relate to clients and their customers, deliver innovative solutions, and deliver creative arguments in the courtroom, or in business.<sup>6</sup>

Many law firms now identify diversity and inclusion as a key priority for their firm. Some have unconscious bias training programs, diversified screening and hiring teams, investments in racialized communities, and scholarships for racialized students. This is a good start. But, if there is going to be any meaningful change, then we, as lawyers, need to be brave. We need to re-evaluate our work culture and acknowledge that business-as-usual is unhealthy for all of us.

## SOLUTIONS

### Solution 1: Combat fear and perfectionism

- ☐ Develop a culture of appreciation. Take time to make sure that staff, associates, and partners work and efforts are appreciated.
- ☐ Develop a learning community where the stated expectation is that everyone will make mistakes and those mistakes offer opportunities for learning.
- ☐ Create a safe way for employees to come forward with mistakes and give feedback, and then acknowledge and act upon that feedback.

### Solution 2: Combat the constant sense of urgency

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<sup>6</sup> Laura Maehtlen, *How Design Thinking Can Improve Diversity in the Legal Industry*, Medium: March 2, 2016, available at: <https://medium.com/@maechtlen/how-design-thinking-can-improve-diversity-in-the-legal-industry-9869235a0f#4eysu4nhc>.

- ☐ Lead by example. End the practice of working to the point of burnout or at the sacrifice of time with family and community.
- ☐ Make realistic workplans that are based on lived experience and build in flexibility.
- ☐ Develop leadership styles that plan for and understand that everything takes longer than anyone expects.

#### Solution 3: Look beyond billable hours for value

- ☐ Set livable annual billable targets, which allow for vacation, childcare, illness, professional development, and cultural activities.
- ☐ Establish goals and evaluate performance holistically. For example, set both content and process goals (what you do and how you do it) aligned with the values of the firm.
- ☐ Recognize and reward the contributions and skills of those who have an ability to build relationships, support morale, mentor, resolve conflicts, and manage teams.

#### Solution 4: Make a long-term commitment to support equity, diversity, and inclusion

- ☐ Schedule periodic face-to-face meetings between firm leaders and diverse lawyers to talk about their careers and ways to achieve success.
- ☐ Communicate the importance the firm places on diversity, equity, and inclusion internally and externally.
- ☐ Include the firm's Managing Partner on the firm's Diversity, Equity, and Inclusion Committee.
- ☐ Establish transparent processes that fairly and equitably distribute work and training opportunities among all lawyers and staff.
- ☐ Count diversity, equity, and inclusion-related activities toward "firm commitment" or other qualified billable hours.
- ☐ Develop a process for approving the reduction of billable targets for cultural time without penalty to salary, bonuses, and advancement.



## **How about Decolonizing a Law Firm? Justice, Equity, Diversity and Inclusion (JEDI)**

Historically, law firms are systems that value white male privilege. Long hours, disincentives for taking parental leave, and working within a system that has disenfranchised and dispossessed Indigenous peoples of their cultures, languages and lands.

What does your law firm value? What do they reward?

How can your workplace become a safe place for Indigenous peoples and their cultural difference? An example, “Indigenous works training” and CCDI: <https://ccdi.ca/indigenous-works-partnership/indigenous-works-training/>

Some examples of JEDI policy that reflect Indigenous inclusion and justice work:

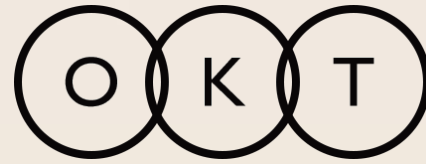
- “Develop an outreach strategy and engage with external stakeholders and educational institutions to attract a more diverse pool of candidates.”
- “We are working with law schools in Ontario to provide mentorship opportunities to Black and Indigenous law students, with several mentorships already in place.”
- “We hire through the Indigenous Law Student Summer Employment Program facilitated by the Law Society of Alberta that aims to provide work experience to Indigenous law students.”
- “Aboriginal individuals require equitable treatment in the justice system, access to the legal and related resources within the justice system, as well as understanding of the system and their options.”

LevelJustice.org: “Despite making up only 8% of the youth population in Canada, Indigenous youth aged 12-17 account for nearly half of all of admissions to correctional services in Canada at 46%. From a gender perspective, Indigenous boys account for 47% of male admissions to penal youth facilities. For Indigenous girls, the numbers are even more stark, making up 60% of all female youth in the correctional system (Statistics Canada, youth correctional statistics). Canada’s prisons have been referred to as the ‘new residential schools’.”

OKT has a vision for Indigenous self-determination to be consistently reflected in the work that we do and how we do our work. JEDI policies are important features of a healthy and inclusive workplace, to make the most of the gifts that various lawyers bring to a law firm.

Sara Mainville is proud to have hosted the first Spring Feast at OKT, and it was a day that was enjoyed by all Partners, Associates, staff and a few friends of the firm. Our Associates also have a travel budget to attend our client communities’ events in order to have firmer relationships of reciprocity and respect. We are also more determined to find Indigenous law students and have relationships with them, as mentors, colleagues, and future Associates.

Footnote: When will the inclusion index be published? LSO: “The Law Society is currently studying the data collected through the 2018 Annual Report Filings and working with consultants on the inclusion index and the information on the progress of the profession with respect to equality, diversity and inclusion that will be made public.”



# **PROMOTING JUSTICE, EQUITY, DIVERSITY, AND INCLUSION IN LAW FIRMS**

**By Benjamin Brookwell and Sara Mainville**



*White supremacy colonizes our minds, our bodies, our psyches, our spirits, our emotions ... as well as the land and the water and the sky and the air we breathe. White supremacy tells us who has value, who doesn't, what has value, what doesn't in ways that reinforce a racial hierarchy of power and control ....*

*White supremacy culture is constantly encouraging all of us in all our racial identities to cooperate and collude. Because we all live in this white supremacy culture, these characteristics have the potential to show up in the attitudes and behaviors of all of us, particularly as we strive to survive and gain a foothold in institutions and fields that either overtly or covertly adopt white supremacy culture values.*

**Tema Okun, *White Supremacy Culture – Still Here***

*Reconciliation in ... institutions means adapting to the needs, practices and approaches of the Indigenous staff whom you recruit. The idea of recruiting an Indigenous person for their expertise and then asking them to mould into a colonial structure undermines the goal.*

**Dr. Lisa Richardson, Vice-Chair, Culture and Inclusion, University of Toronto, Department of Medicine.**

# Characteristics of White Supremacy and Colonial Culture



Characteristics	How they manifest in our lives
<b>Fear</b>	Fear of not belonging, of not being enough.
<b>Perfectionism</b>	Mistakes are seen as personal, i.e., they reflect badly on the person, making the person the “mistake.”
<b>Urgency</b>	A constant sense of urgency is applied to our every-day lives, which sacrifices and erases the potential of other modes of knowing and wisdom that require more time (embodied, intuitive, spiritual).
<b>Quantity over Quality</b>	An emphasis on what we can "objectively" measure as more valuable than relationships, quality, the ability to constructively deal with conflict, morale, and mutual support.
<b>Individualism</b>	Failure to acknowledge any of the ways dominant identities – race, gender, class, sexuality, religion, able-bodiedness, age, education to name a few – are informed by belonging to a dominant group that shapes cultural norms and behavior.



The equity, diversity, and inclusion issues in the legal profession are well known:

- Lack of diversity across the profession.
- Lack of diversity in leadership roles.
- Low retention of diverse lawyers through associate positions and into partnership.

Lack of diversity is not just a social justice problem. It impairs the ability of law firms to relate to clients and their customers, deliver innovative solutions, and deliver creative arguments in the courtroom, or in business.

Many law firms now identify diversity and inclusion as a key priority for their firm. Some have unconscious bias training programs, diversified screening and hiring teams, investments in racialized communities, and scholarships for racialized students. This is a good start. But, if there is going to be any meaningful change, then we, as lawyers, need to be brave. We need to re-evaluate our work culture and acknowledge that business-as-usual is unhealthy for all of us.

## Solution 1: Combat fear and perfectionism

- Develop a culture of appreciation. Take time to make sure that staff, associates, and partners work and efforts are appreciated.
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## Solution 4: Make a long-term commitment to support equity, diversity, and inclusion



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- ☐ Communicate the importance the firm places on diversity, equity, and inclusion internally and externally.
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# JUSTICE is an important firm value



- OKT LLP has a vision towards Indigenous self-determination
- Reflect on this through both our relationships and how we serve our clients
- Having a healthy and diverse law firm serving our Indigenous clients is key
- Examples: OKT LLP's spring feast with Elder Dorothy Peters, all lawyers and staff, some friends of OKT – ceremony and sharing/support
- Cultural leave availability for our lawyers to attend community, ceremony, or important learning/way of life events
- Travel budget available to our Associates to attend clients' community events if welcomed, to have closer relationship and understanding of the communities that we serve.
- More determined plans regarding recruitment and retention of Indigenous lawyers, but also an understanding that Indigenous peoples as individuals have their own life plans (academic, back to community, etc.)



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