

**Growing Canada's Social and Economic Prosperity through Reconciliation:
A Proposal for an Indigenous Legal Lodge**

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RECOMMENDATION : That the Government of Canada provide funding in the amount of \$18.29 million for construction of the Indigenous Legal Lodge, in alignment with the Truth and Reconciliation Report and Call to Action #50 and in keeping with the UN Declaration of Rights of Indigenous Peoples Article 15.

EXECUTIVE SUMMARY

The University of Victoria (UVic) is committed to meaningful reconciliation with our Indigenous partners. Our institution is a leader in collaborative efforts to answer the Truth and Reconciliation Commission's (TRC) Calls to Action and the United Nations' Declaration of the Rights of Indigenous People (UNDRIP).

The Indigenous Legal Lodge (referred to as the Lodge) directly responds to TRC Call to Action #50. This September 2018, UVic is launching the world's first dual degree program in Canadian common law and Indigenous Legal Orders. Students will acquire both a Juris Doctor (JD) and Indigenous Legal Orders (JID). The first intake of 25 students, from Indigenous and non-Indigenous backgrounds, hail from coast-to-coast and represent UVic's inclusive and diverse community.

By revitalizing and recognizing Indigenous law through the new JD/JID program, UVic is creating strong local and national institutions to educate and inform professionals about both Canadian law and Indigenous legal traditions. The respect and recognition of Indigenous Legal Orders will foster inclusion and will lead to transformative economic growth and increased social capacity and contribute to the overall competitiveness of Canada internationally.

The program must be supported by an Indigenous Legal Lodge, which serves as a foundation and a national forum for debate, learning, public education and partnership in reconstruction and refinement of Indigenous Legal Orders. The Lodge represents a significant step towards ensuring Indigenous peoples are in control of their own destinies.

GOVERNMENT OF CANADA'S ROLE

UVic is seeking a one-time investment from the Government of Canada to provide \$18.29 million dollars. This critical and urgent investment will fund the capital costs of the Lodge. Through supporting this legacy initiative, the Government of Canada is making substantive progress to fulfillment of TRC's Call to Action #50, *"in keeping with the United Nations Declaration on the Rights of Indigenous Peoples, we call upon the federal government, in collaboration with Aboriginal organizations, to fund 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"*; and also with respect to UNDRIP, in particular Article 15 which states, *"Indigenous peoples have the right to dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information"*.



JD/JID PROGRAM

This ground breaking program was conceived and developed over nearly two decades, by two of Canada's leading Indigenous legal experts; John Borrows, Canada Research Chair in Indigenous Law and Val Napoleon, Law Foundation Chair in Aboriginal Justice and Governance. The JD/JID furthers reconciliation by recognizing and supporting the legal orders on which self-governance depends. This program lays the foundation for a new relationship of mutual respect and the shared prosperity of all Canadians.

Through a four year program, UVic will produce legal scholars with both a JD and a JID. This innovative program is modeled on the McGill University degree program, which teaches common law concurrently with Quebec's Civil Code. Coursework is delivered through a classroom based component, and a required experiential field component based in Indigenous communities. Under academic supervision, students will spend two terms in the third and fourth years learning from community based experts about a particular legal order. These teachings will include observation of how Indigenous legal processes are being employed today and working with the community on law related projects.

Graduates will be equipped with experience in environmental protection, Indigenous governance, economic development, housing, child protection and education. These are areas our vast country is currently lacking in the Indigenous legal expertise needed to support Indigenous governance, the duty to consult, and inclusive economic growth.

This program is built on UVic's extensive experience teaching Indigenous law. From 2001 to 2005, UVic Law ran the very first Inuit law program known as the Akitsiraq program. Further, for the past 20+ years, UVic has run Aboriginal Awareness Camps on Vancouver Island. These camps introduce students to Indigenous peoples and their legal orders. We have collaborated on curriculum with Canadian universities and schools such as New Brunswick, McGill, Ottawa, Osgoode Hall, Shingwauk Kinoomaage Gamig, Manitoba, Alberta, Calgary and the University of British Columbia; Otago and Victoria University of Wellington in New Zealand/Aotearoa; and Chiang Mai University in Thailand.

Our first graduates in 2022 will be the answer to an emerging need as the landscape of relations between Indigenous and non-Indigenous peoples shifts to a nation-to-nation context. Through consultations with potential employers, UVic has identified that graduates will be in high demand to help businesses grow and meet emerging demands in Indigenous relations. Industry partners have identified that they seek these individuals due to the unique skillset offered in the JD/JID program.

THE INDIGENOUS LEGAL LODGE

The Indigenous Legal Lodge will be constructed in respectful relationship to the headwaters of Bowker Creek in Coast Salish Territory. The Lodge will gather input from the Songhees, Esquimalt and WSÁNEĆ locally as well as the Saulteau, Cree, Anishinaabe communities. The



JD/JID Program will be located in the Lodge, along with the Indigenous Law Research Unit (ILRU) where Dr. Napoleon is the director. The ILRU formed in 2012, as the result of a national partnership between the TRC, UVic and the Indigenous Bar Association. The ILRU continues its mandate of conducting research on Indigenous law and stimulating discussion and engagement with Indigenous legal orders. The unit has become the leader in the study and application of Indigenous Law. ILRU has established over 40 partnerships with Indigenous communities from coast-to-coast-to-coast. These partnerships have resulted in over 300 community members in various nations being trained to work with their local laws. Their work has helped co-create unique frameworks for developing healthy citizenry, inclusive and accountable government structures, conflict resolution and respectful deliberation and debate.

The Indigenous Legal Lodge will serve as a publically accessible engine for engagement and discussion of Indigenous reconciliation across all sectors of society. While Victoria is its home, the Lodge will be a national and international gathering place, to Indigenous law within Canada and beyond. The Lodge will be a state-of-the-art digital space for students to connect with their home territories, and allow communities to share their legal traditions with one and other. The virtual capabilities of the Lodge will allow us to host conferences, dialogues, research and partnerships for both students and visitors. Workshops, public education and professional development will be projected into communities from coast-to-coast-to-coast.

Investment in the Lodge ensures we all heed the words of Chief Justice Lance Finch and fulfill our *'duty to learn'* about Indigenous legal traditions *"This space creates a necessary area to walk together in apology, restitution and reconciliation."*

The Lodge not only benefits Canada domestically, but also supports Canada's leadership on the international stage. More important than ever before, the Lodge would serve as an international point of contact for law, Indigenous and non-Indigenous peoples to come together in a unique setting that is not possible anywhere else. The Lodge would serve as a global centre of excellence and help further Canada's reputation to as a leader in meaningful reconciliation.

UVIC'S ROLE IN RECONCILIATION

Indigenous learners are the fastest growing demographic seeking post-secondary education in Canada. UVic has a long history working with Indigenous communities across Canada and is committed institution-wide to breaking down barriers for Indigenous learners.

To meet this obligation, UVic launched its first ever Indigenous Plan in 2017. Drawing inspiration from the TRC, we reaffirmed our commitment to enhance educational opportunities for Indigenous students. We have also committed to further developing initiatives and programs of research, education, outreach and engagement with an Indigenous based focus. This has resulted in the development of many indigenous programs including Indigenous Nationhood, Social Work, Child and Youth Care, Education and Law. UVic is also a national leader in language revitalization programs.



Moreover, UVic has implemented many innovative student programs to increase Indigenous student recruitment and retention. Our most successful example is, LE/NONET, which provides mentoring, academic, experiential learning opportunities and bursaries to Indigenous students. This program has seen great success with a 100% term to term continuation rate, 20% increase in graduation rates and 67% reduction of withdrawal rates. Overall surveys have shown that 92% of students participating in the program say it contributed to their success.

UVic's institution-wide dedication to breaking down barriers has resulted in enrollment of Indigenous students tripling over the last decade from 250 to approximately 1,224. Indigenous enrollment continues to grow each year with 5% of our student body identifying as Indigenous. UVic Law has graduated over 200 Indigenous students JD and LLB students.

SUPPORT AND CONSULTATION FOR THE JD/JID AND INDIGENOUS LEGAL LODGE

The vision and program for the Lodge is made possible through strong and treasured relationships with the Songhees and Esquimalt peoples, on whose land UVic is located, the WSÁNEĆ people, who have longstanding connections to this land, and Indigenous peoples across Canada.

The development and now implementation (Fall 2018) of the JID/JD program is possible because of consultations across Canada with a wide range of stakeholders (Indigenous communities and organizations, municipalities, provincial government, law societies, members of the bench, industry and business, universities and their law schools and philanthropic partners)

Law schools at universities including Toronto, Lakehead, Thompson Rivers, UBC and the Windsor amongst others have expressed support for this program. These institutions foresee this program as being a catalyst for the legal profession and Indigenous communities to take engagement with Indigenous law to the next level. There has been a great deal of interest in collaboration on this endeavour. The JD/JID program is viewed as a way for institutions to expand and build their own programs through collaboration, student exchanges, and shared course offerings that benefit all universities. Our academic partners believe the JD/JID will have a lasting impact not only locally, but internationally.

Both the JD/JID and the Lodge received support from the Assembly of First Nations who passed an unopposed motion (July 2017) that had full consensus from the Chiefs-in-Assembly. This motion, called on the Government of Canada to, *“fund the establishment of the University of Victoria’s Indigenous Legal Lodge as a foundation for understanding, researching, and deliberating upon the nature of Indigenous legal systems and their continued use today.”*

Senator Murray Sinclair Chair of the TRC also stated that the JD/JID program and the Lodge are, *“... precisely what we had hoped would follow from the report of the Truth and Reconciliation Commission, and they promise to form the very best of legacies: a set of initiatives that reject*



and reverse the pattern of denigration and neglect identified in our report, and that establish the conditions for effective action long into the future.”

A VISION FOR THE FUTURE

By acknowledging Indigenous legal traditions, we are ensuring Indigenous peoples participate as full partners in the national fabric. This participation ensures a genuine partnership for the mutual benefit all Canadians and a positive effect on the growth of the Canadian economy.

An urgent need has been identified and a clear opportunity exists for the Government of Canada to invest in the world-first Indigenous Legal Lodge at the University of Victoria on the traditional lands of the Songhees and Esquimalt peoples. A capital investment in the Lodge demonstrates visible support for the Government of Canada’s Ten Principles by helping develop institutions for self-governance and self-determination. It is only through strong and demonstrated respect and recognition of Indigenous Legal Orders in Canada, and through a structure like the Lodge that Canada can truly embark on a new relationship of inclusion and collaboration for economic partnership and development for a shared future.

