

Rights, Reconciliation, or Relationships?

Municipal Engagement with Indigenous Communities

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Ratcliff

Municipal Duty to Consult and Accommodate

- What is a municipality's obligation to consult and accommodate Indigenous rights and interests?
- Neskonlith Indian Band v. Salmon Arm (City) 2012 BCCA 379
- Academic criticism of this decision



My Frame of Reference

- My personal growth and understanding
- Three realities
  - Objective, Subjective and Intersubjective
  - “Canada” and “law” are intersubjective realities
- We attribute human agency to intersubjective realities
- Understand difference between fault and responsibility
- We cannot change, nor apply today’s values to, the past
  - Mitigate the harm the past caused, to create a better future



Reconciliation – Why must we find it?

- Colonization stripped Indigenous people of their (1) lands and resources, (2) customs and traditions, (3) children and families, and (4) dignity and meaning
- 150,000+ children in Residential Schools, 1,200+ unmarked graves, sexual and physical abuse, destroyed lives and families
- Sixties Scoop, child welfare system, 1/3 Indigenous children
- 75% of arrests, 31% of inmates, but only 4.5% of population
- 100% more likely to be the victim of violent crime
- 25% urban Indigenous people in poverty, 13% non-indigenous

Reconciliation – What is it?

- Chief Justice Lamer *Delgamuukw* (quoting from *Van der Peet*)
  - "… a basic purpose of s. 35(1) – 'the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown'."
  - "Let us face it, we are all here to stay."

- "Reconciliation" (Oxford)
  - (1) The restoration of friendly relations;
  - (2) The action of making one view or belief compatible with another.
  - Action, restoring, meeting, combining (i.e., both are forever changed)

"Let us find a way to belong to this time and place together. Our future, and the well-being of all our children rests with the kind of relationships we build today."

– Chief Dr. Robert Joseph, OC, OBC

Reconciliation – What should it be?

Globally

United Nations Declaration on the Rights of Indigenous Peoples

Federally

Inherent Rights Policy

Bill C-15, UNDRIP Act (June 21, 2021)

Truth and Reconciliation Commission of Canada: Calls to Action

Provincially

Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples

DRIPA (November 28, 2019)

UNDRIP

- Adopted by the United Nations General Assembly on September 13, 2007
- United Nations Declaration on the Rights of Indigenous Peoples Act S.C 2021 c. 14 (June 21, 2021)
- Declaration on the Rights of Indigenous Peoples Act S.B.C. 2019 c. 44 (November 28, 2019)
- UBCM policy to implement relevant provisions of UNDRIP

TRC Calls to Action

CA#3
Jordan's Principle

CA#43
Adopt UNDRIP as framework for reconciliation

CA#57
Staff education on skills and Indigenous issues

CA#77
Municipal archival records relevant to residential schools for NCTR

CA#40
Indigenous-specific victim programs and services

CA#47
Repudiate Doctrine of Discovery and *terra nullius*

CA#69
Public education programming and materials

CA#79
Recognize contribution of Indigenous peoples to local history

Reconciliation – What will it be?

- Reconciliation/Coexistence
  - Moving beyond rights
  - Building relationship
- Core human needs
  - Seen
  - Heard (listened to)
  - Respected
- Relationship
  - Present
  - Participate
  - Honoured



Thank You