



The Assembly of First Nations

Indigenous Laws Gathering

Recognition of Indigenous Laws in the Specific Claims Process

June 13th, 2023



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ACKNOWLEDGEMENTS

The Assembly of First Nations (AFN) gratefully acknowledges the x^wməθk^wəy'əḿ (Musqueam), Sḵw̓xwú7mesh (Squamish), and səlilwətał (Tsleil-Waututh) for allowing us to host the Indigenous Laws Gathering (the Gathering) on their territory. The AFN also expresses its gratitude to Madison Nahanee [Ta7talíya], Marissa Nahanee [Mík'achi7m], and Amanda Nahanee [Shamensut] for introducing us to the appropriate protocols and for providing an opening prayer and welcoming song. The AFN wishes to provide special thanks to Christie Lee [Sqeəyaʒ] who served as the protocols officer, advised the AFN on protocols, and for providing a closing song. These contributions allowed the Gathering to proceed respectfully in accordance with the appropriate protocols of the host First Nations.

The AFN also expresses its gratitude to Kory Wilson [Puglid] for facilitating the Gathering, AFN Regional Chief Paul Prosper, who provided opening and closing remarks, the Honourable Steven Point [Xwě lī qwěł tēl] for providing a keynote address on alternative dispute resolution, and Jim Kew [Kweskwestin], Dennis Thomas [Wonnock], and Amanda Nahanee [Shamensut] for their participation on the panel discussion on the Indigenous Laws of this Territory.

The AFN is deeply grateful to the members of the Council of Experts in Indigenous Laws (CEIL) for taking part in a panel discussion on the recognition of Indigenous laws in the specific claims process and providing a closing keynote address. The continued support and guidance of the CEIL enables the AFN to advocate effectively for the full recognition of Indigenous laws in the specific claims process.

Finally, the AFN would like to thank the Union of British Columbia Indian Chiefs (UBCIC) and staff for hosting the Gathering and providing invaluable support throughout the event and the AFN Chiefs Committee on Lands, Territories, and Resources for its participation. This Gathering would not have been possible without your dedicated and tireless support.



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EXECUTIVE SUMMARY

As part of the ongoing AFN-Canada Specific Claims Co-Development Process, which aims to develop a consensus-based proposal for the establishment of an Independent Centre for the Resolution of Specific Claims, the AFN initiated a Gathering on June 13th, 2023, in unceded Musqueam, Squamish, and Tsleil-Waututh territory [Vancouver, British Columbia], which was hosted and supported by the Union of British Columbia Indian Chiefs (UBCIC). The Gathering brought together local Knowledge Keepers, First Nations leaders, community members, claims practitioners, and academics to discuss the recognition of Indigenous laws, legal orders, and systems of land tenure in the specific claims process.

The Gathering provided an opportunity for the Council of Experts in Indigenous Laws (CEIL), established in 2023, to share perspectives on Indigenous laws and their application to the resolution of specific claims.

The Gathering was hosted in a unique space at 312 Main St. in downtown Vancouver. Rather than using a typical set-up with tables and chairs, the Gathering space featured couches and shared seating. Nature was brought inside with local floral arrangements and cedar boughs. Candles and other forms of soft lighting were used to create a calming atmosphere. The Gathering's unique space created a positive environment for sharing and discussions between attendees.

Musqueam, Squamish, and Tsleil-Waututh Knowledge Keepers and community members facilitated the observance of protocols and provided opening and closing prayers. A panel of local Knowledge Keepers provided remarks on the traditional laws of their lands and territories. This panel facilitated a witnessing ceremony, a protocol of the Coast Salish families that enables designated participants to serve as record-keepers for important events and gatherings. Witnessing ceremonies are used to pass down information orally and to build and strengthen existing relationships. While specific witnesses are identified, all participants share the responsibility to recall and pass down information.

Senator Paul Prosper, former AFN Regional Chief, provided opening remarks to participants. The AFN then provided an overview of the ongoing AFN-Canada Specific Claims Co-Development Process. The Honourable Steven Point provided a keynote address on the use of Indigenous laws in alternative dispute resolution. Members of the CEIL then shared introductory comments and held a panel discussion on the recognition of Indigenous laws in the resolution of specific claims. This was followed by an open discussion forum, a keynote presentation by CEIL members Sarah Morales and Darcy Lindberg, and closing remarks from Senator Prosper. Alec Dan and Christie Lee [Sqe q ya] closed the Gathering by providing closing protocols and prayer.

Several teachings emerged during the Gathering which are applicable to the recognition of Indigenous laws in the specific claims process. These teachings include:

- **Maintain Flexibility:** The resolution of specific claims must be flexible in recognizing Indigenous protocols, practices, ceremonies, and forms of evidence that have been historically excluded from Canadian legal processes.



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- **Respect Diversity:** The specific claims process must respect the wide diversity of Indigenous laws, legal orders, and systems of land tenure.
- **Recognize Indigenous Law Throughout Claims Resolution:** Indigenous Laws must be recognized in all aspects of claims resolution, including procedural and substantive elements of the process.
- **Honour Protocols and Ceremonies:** The specific claims process must appropriately honour and observe the protocols of participating First Nations and recognize the centrality of ceremony in the resolution of disputes.
- **Restore Kinship and Harmony:** Recognition of Indigenous laws in the specific claims process will help repair and strengthen the relationship between the Crown and First Nations and facilitate addressing past wrongs.
- **Support the Restoration of Indigenous Laws:** First Nations must be provided with adequate and appropriate resources to support the restoration of Indigenous laws and the articulation of Indigenous laws in claims resolution.



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GATHERING SEQUENCE OF EVENTS

Ceremonial Opening and Introduction

Madison Nahanee [Ta7taliya] opened the Gathering by providing a territorial welcome and an opening prayer. Marissa Nahanee [Mikw'achi7m] and Amanda Nahanee [Shamensut] then sang a Greeting of the Day song to welcome participants to the Gathering. Puglid, the Executive Director of Indigenous Initiatives and Partnerships at the British Columbia Institute of Technology and Chair of the BC First Nations Justice Council, provided introductory remarks to participants and reviewed the Gathering agenda.

Puglid explained that the purpose of the Gathering is to begin discussing how Indigenous laws can be recognized in the specific claims process. Puglid reminded participants of Article 27 of the *United Nations Declaration on the Rights of Indigenous Peoples* (the UN Declaration), which provides that States shall:

establish and implement, in conjunction with Indigenous Peoples concerned, **a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous Peoples' laws, traditions, customs and land tenure systems**, to recognize and adjudicate the rights of Indigenous Peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.¹

Puglid noted that the systemic racism which exists across Canada continues to adversely impact Indigenous Peoples in all aspects of life. Puglid called on participants to translate the discussions which take place during the Gathering into concrete action to create meaningful and tangible change — to move beyond performative actions.

Panel Discussion & Introductions - *Indigenous Laws of this Territory*

A panel of local Knowledge Keepers provided remarks on the traditional laws of their lands and territories. This panel was moderated by Christie Lee [Sqeqəyaʃ]. The panel included Jim Kew [Kweskwestin], Dennis Thomas [Wonnock], and Amanda Nahanee [Shamensut]. The panel conducted a witnessing ceremony and explained that it is an unwritten form of law that verifies what was said and done at a meeting or gathering. The panel called Chief Dalton Silver, Chief Mark Point, Judy Wilson, and Sarah Hunt as witnesses.

The panel explained that Indigenous laws are grounded in particular territories. It is necessary to respect the laws of the host First Nations during this Gathering and follow appropriate protocols. The panel discussed the responsibilities on individuals to help pass down laws to future generations. Indigenous laws and legal orders continue to be passed down intergenerationally through ceremonies, protocols, and oral history. Despite systematic oppression by the Government of Canada, Indigenous laws and legal orders remain intact and applicable to the resolution of disputes today.

¹ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295 at Article 27 [UN Declaration] [Emphasis added].



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Kweskwestin began the panel discussion by describing the role and importance of ceremonies. He explained that ceremonies are used to mark moments of transition. Ceremonies allow participants to be aware of transition and control growth and change. Kweskwestin then explained how laws are passed down inter-generationally as 'chains of law.' These chains enable Indigenous laws to be sustained and passed down through families over generations.

Sqeqəyaᓅ explained that the panel discussion led by members of the host First Nations is a continuation of protocols which have taken place since time immemorial; this practice enables introductions and territorial acknowledgements to take place in an appropriate and respectful way. This also recognizes that Indigenous laws are grounded in place and develop through intergenerational relationships with the land.

Whonnock referenced the Coast Salish blankets that were exhibited at the Indigenous Laws Gathering. He explained that the intricate, woven blankets display features of x^wməθk^wəy'əm (Musqueam), Skwx-wú7mesh (Squamish), and səlilwətał (Tseil-Waututh) territory. These design elements—which include mountains, landscapes, waters, fish nets, and plants—articulate First Nations' laws about sharing, kinship, and the negotiation of agreements.

Shamensut expanded on the role of art as an expression of Indigenous laws. She described how her family members gathered the Coast Salish blankets and the cedar boughs that were displayed at the Gathering. This enabled her to teach her children about the importance of respecting Indigenous laws and protocols in events like the Gathering. Through this experience, Shamensut emphasized the role of families in passing down Indigenous laws.

Introductory Remarks

AFN Regional Chief for Nova Scotia Paul Prosper² provided a welcome and introduction on behalf of the AFN Chiefs Committee on Lands, Territories & Resources (CCoLTR). Regional Chief Prosper, who was appointed to the Senate of Canada in July 2023, was the AFN Portfolio Holder for Lands, Territories and Resources, and served as Chief of Paqtnek Mi'kmaw First Nation from 2013-2020.

Regional Chief Prosper began by noting that First Nations have been calling for the elimination of the Government of Canada's conflict of interest in specific claims process for generations. While there has been considerable improvement, including the establishment of the Specific Claims Tribunal, more must be done to ensure that specific claims are resolved in a fair and timely manner. Regional Chief Prosper then introduced the key role of Article 27 of the UN Declaration in supporting First Nations' generational calls for a fully independent specific claims process.

Regional Chief Prosper then described the Specific Claims Implementation Working Group (SCIWG), which was established through a public ceremony with Minister of Crown-Indigenous Relations Marc Miller in Halifax on November 3rd, 2022. The SCIWG is mandated to jointly develop a consensus-based proposal for a fully Independent Centre for the Resolution of Specific Claims.

² At the time of the gathering, Senator Prosper was still serving as Regional Chief for Nova Scotia.



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Regional Chief Prosper then introduced the Council of Experts in Indigenous Laws (CEIL), which was formed by the AFN in the Spring of 2023. The CEIL is made up of a group of six prominent Indigenous legal scholars and includes Chief Wilton Littlechild, Sakej Henderson, Sarah Morales, John Borrows, Darcy Lindberg, and Heidi Stark. The CEIL is tasked with providing the SCIWG with guidance and expert advice on the recognition of Indigenous laws in claims resolution.

Regional Chief Prosper concluded his remarks by acknowledging the contributions of the Knowledge Keepers and knowledge holders and the importance of ceremony, prayer, and song in the intergenerational transmission of Indigenous laws. Finally, Regional Chief Prosper underscored the centrality of territory in supporting Indigenous laws.

Specific Claims Reform Initiative

Jesse Donovan, Associate Director of the AFN Lands Sector and Kathleen Lickers, External Legal Advisor to the AFN, provided a high-level overview of the ongoing AFN-Canada specific claims co-development process. AFN began by providing a background on the generational efforts to improve the specific claims process. The AFN reiterated that the Government of Canada's conflict of interest in the specific claims process remains an unacceptable barrier to justice. The specific claims process must also be reformed to ensure due recognition and inclusion of Indigenous laws.

AFN provided an overview of its recent advocacy efforts on specific claims reform. In 2019, the AFN conducted robust, nationwide engagement with First Nations across the country on what a reformed specific claims process must look like. Based on this engagement, the AFN developed a draft reform proposal, which was then subject to rigorous peer review and public comment. The AFN finalized its reform proposal and published it in 2022.

AFN reviewed Resolution 09/2020, *Jointly Develop a Fully Independent Specific Claims Process*, which sets out the four core principles that must underpin any new specific claims process:

1. **The Honour of the Crown:** the specific claims process must be consistent with the Honour of the Crown.
2. **Independence of all Aspects of Claims Resolution:** specifically including funding and oversight of claims and their resolution that must be handled independent of Canada.
3. **Recognition of Indigenous Laws:** support the recognition of the laws, legal orders, and dispute resolution mechanisms as articulated by participating First Nations. The recognition of First Nations' laws may impact the conduct of adjudication, dispute resolution and negotiation.
4. **No Arbitrary Limits on Compensation:** there will be no arbitrary financial constraints, such as the cap on the jurisdiction of the Tribunal or the Commission. First Nations should have access to a fair process of redress that fits their needs and priorities.



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The AFN then described the proposed five core functions of the Independent Centre for the Resolution of Specific Claims:

1. **Registrar:** to provide administrative infrastructure and management of specific claims.
2. **Funding Division:** to provide funding to First Nations for the research, development, and negotiation of specific claims independently from the government of Canada.
3. **Resource Hub:** to serve as a central repository for research materials, assist with access to information and offer support and capacity building for First Nations.
4. **Alternative Dispute Resolution Body:** to provide tools and mechanisms for the facilitated negotiation of specific claims.
5. **Specific Claims Tribunal:** to continue adjudicating specific claims, monitor non-facilitated negotiations, and enforce penalties where necessary.

The AFN provided an overview of the SCIWG, which is comprised of senior representatives from the AFN and the Specific Claims Branch. The SCIWG functions without prejudice to existing specific claims at all stages, including claims under review, claims under negotiation, and claims at the Specific Claims Tribunal. The AFN then provided an overview of the proposed timeline for specific claims co-development:

2024 (January) – Development of options for consideration by Cabinet, including a consensus-based Independent Specific Claims Resolution Centre model.

- Any options developed must go to First Nations-in-Assembly before moving forward.
- SCB will seek direction on options from Cabinet.

2024 (Summer)– Beginning of legislative drafting process.

2025 – Royal Assent for any legislation developed.

Kathleen Lickers then expanded on the introduction provided by the AFN, noting that the AFN proposal is meant to breathe life into Article 27 of the UN Declaration. Ms. Lickers recognized “our ignorance of Indigenous law,” explaining that this is a place that welcomes openness and learning, which takes strength and courage to do. She explained that the richness of diversity between First Nations means that it takes time to understand the complexity and layers of different laws and legal orders. Space must be created where disputes can be resolved using the diverse array of Indigenous laws across the country. This space must be respectful, reciprocal, balanced, and designed to create unity.

Ms. Lickers described the potential challenges of recognizing Indigenous laws in the specific claims process, including the tendency in Western legal processes to test credibility of participants. Putting First Nations



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Elders and Knowledge Keepers through rigorous examination and cross-examination risks doing further harm to Indigenous laws and legal orders. Ms. Lickers acknowledged the courage of the CEIL members who stepped forward to provide guidance on the recognition of Indigenous laws. She noted that the AFN reform proposal calls for an Advisory Committee on the Application of Indigenous Laws to support the continued implementation of Indigenous laws in the Independent Centre for the Resolution of Specific Claims. Knowledge Keepers and experts will provide guidance throughout the life of the Centre to ensure the integrity of recognition and help address challenges that arise.

Keynote Address – Justice Steven Point

The Honourable Steven Point [Xwě lī qwěł těł] provided a keynote address for the Gathering. Justice Point introduced the specific claims process and described the need for a different approach to the resolution of specific claims. He acknowledged the slow pace of resolution of specific claims and the backlog of unresolved claims. Justice Point also noted that the specific claims process is currently dominated by Western conceptions of conflict resolution then provided an overview of how Indigenous laws can inform alternative dispute resolution, including through the participation of Elders, respect for speakers, the objective of addressing conflict and restoring balance, and relaxed procedural rules.

Justice Point elaborated on the need for flexible procedural rules to enable the recognition of Indigenous laws in dispute resolution. This includes the admission of oral history evidence and relaxed procedural requirements related to documentary evidence. He explained that the use of alternative dispute resolution can facilitate timely resolution of disputes and reduce costs to parties. Justice Point concluded his presentation by explaining that the inclusion of Indigenous laws enables parties to achieve resolution that meets First Nations' views on justice.

Council of Experts in Indigenous Laws (CEIL) – Introductions & Panel Discussion

Puglid introduced and mediated a panel of the members of the CEIL. Puglid introduced the members of the CEIL, including:

- Wilton Littlechild
- Sa'ke'j Henderson
- Sarah Morales
- Darcy Lindberg
- Heidi Stark
- John Borrows



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Sa'ke'j Henderson began the discussion and explained that Indigenous laws are recognized as part of Canadian constitutional law. Dr. Henderson noted that Indigenous laws emphasize the resolution of disputes and facilitate the manifestation of love and our care for each other. In contrast with Western conceptions of justice, he explained that using Indigenous laws in dispute resolution facilitates obtaining justice for all parties involved.

Darcy Lindberg identified the challenge of designing a process that creates space for the wide variety of distinct Indigenous laws and legal orders across Canada. Dr. Lindberg explained the importance of taking Indigenous laws seriously and understanding the importance of ceremonies in dispute resolution. Dr. Lindberg also stated that the recognition of Indigenous laws is an opportunity for the Government of Canada to develop stronger, healthier relationships with First Nations.

Dr. Heidi Stark also described the wide diversity of Indigenous laws and legal orders and explained that the best way to account for that diversity is for the specific claims process to remain flexible. We need to resist the urge to develop a uniform system that can meet the needs of all Indigenous laws. Instead, it is necessary to enable different legal orders to operate and flourish in the context of each claim.

Sarah Morales also commented on the need for the specific claims process to enable diverse Indigenous laws and legal orders. Dr. Morales noted that legal pluralism exists between and within First Nations and this must be recognized in any new process. Dr. Morales noted that recognition of Indigenous laws is not enough without institutions to uphold and support those laws. Dr. Morales described how First Nations have used dispute resolution to address conflicts and disputes since time immemorial and emphasized the relationship of Indigenous laws to First Nations' particular lands and territories.

Sa'ke'j Henderson spoke about the anticipated challenge of translating Indigenous laws stored within the distinct cultures and languages of First Nations to the specific claims process. Dr. Henderson stated that "this translation process is really going to be another language translation process as well as an idea and legal principal translation process. Because all the stories and all the knowledge and all the laws are built into the structure of our language." Dr. Henderson also emphasized that the recognition of Indigenous laws in the specific claims process is non-negotiable. The question is not whether Indigenous laws are legally valid and applicable, but rather how they will be recognized in tangible ways.

Sarah Morales emphasized the importance of protocols and ceremonies in Indigenous legal orders. Dr. Morales also noted that despite the wide diversity across First Nations, there are commonalities which allow for a flexible process to be created. Dr. Morales remarked that the recognition of Indigenous laws in the specific claims process will necessarily impact the remedies available to claimants. In particular, beyond lands and financial compensation, a potential remedy could be the recognition of First Nations' jurisdiction over their lands, territories, and resources.



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Open Discussion Forum

Puglid led an open discussion with Gathering participants. Participants noted that the reform of the specific claims process must be accompanied by a fundamental restructuring of the laws, policies, and programs that impact First Nations' lands, territories, and resources. Transformative change is required to ensure the Government of Canada prioritizes the return of land to First Nations and the full recognition of First Nations' sovereignty and self-determination. Several participants shared their perspective that historically recognized First Nations must have access to redress through the specific claims process. Representatives from the Government of Canada expressed an interest in discussing how Indigenous laws could inform remedies, the impact of recognition on the pace of resolution, and the need to consider related programs and policies.

Concluding Keynote and Protocols

CEIL members Sarah Morales and Darcy Lindberg provided a closing keynote address to the Gathering. Dr. Morales provided a summary of the ceremonies and discussions that took place at the Gathering and reflected on the transformative nature of the recognition of Indigenous laws. Dr. Lindberg provided closing thoughts on the potential for the recognition of Indigenous laws in claims resolution to create healthier relationships between the Crown and First Nations. Senator Prosper then provided closing remarks to the Gathering. Alec Dan and Sreqəyaᓗ [Christie Lee] closed the Gathering by providing closing protocols and prayer.



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TEACHINGS FROM THE GATHERING

The Gathering brought together First Nations leaders, Knowledge Keepers, community members, claims practitioners and experts on Indigenous laws who shared their perspectives on how Indigenous laws must be recognized in a reformed specific claims process. The panel presentations and open discussions focused on several teachings that are applicable to the recognition of Indigenous laws in the specific claims process.

1. Maintain Flexibility

The specific claims process must be flexible enough to recognize protocols, practices, ceremonies, and forms of evidence that have historically been excluded from Canadian legal processes. Participants observed the disconnect between Canadian legal institutions and

the laws, and legal processes of First Nations, and expressed the importance of overcoming that difference to create meaningful change.

Participants shared that trying to fit Indigenous laws into rigid and unyielding Canadian legal processes risks causing harm to Indigenous laws. Rather than transforming and potentially distorting First Nations' laws to fit into the Canadian legal system, the Canadian legal system must adapt and create space for the full expression of First Nations' laws. This challenges Canada to think differently and creatively about how it conceives of justice and legal processes.

The recognition of Indigenous laws allows claimants to not only rebel against the wrong and the lack of justice in specific claims, but it also allows them to rebel against Canada's lack of imagination in solving problems.

[Sakej Henderson]

Recognizing Indigenous laws in the specific claims process is about finding the right way to deliberate on and resolve harms to First Nations caused by the Crown. This facilitates a fundamental re-organizing of how Canada understands the concept of justice. Participants noted that it is not the fault of First Nations that Indigenous laws do not fit neatly into the current specific claims process. While Indigenous laws and legal orders have remained intact, they have been adversely impacted by generations of colonialism. It is incumbent on Canada to create space for the recognition of Indigenous laws.

It is essential that the specific claims process creates more than the bare minimum amount of space for Indigenous laws to function. The process must instead create space for First Nations to fully assert their laws and jurisdiction. In doing so, the resolution of claims will not only be fairer, but will also contribute to the flourishing of Indigenous laws.



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2. Respect Diversity

The specific claims process must recognize the wide diversity of First Nations' laws, legal orders, and systems of land tenure across Canada that are rooted in First Nations' particular territories, languages, and cultures. Participants noted the need to resist the urge to design a single framework to incorporate all Indigenous laws.

The best way to account for that diversity is to remain flexible and to not try to develop a uniform system that can meet the various needs of different legal traditions, but instead enable those different legal traditions to set the framework in the context of each claim.

[Heidi Kiiwetinepinesiik Stark]

Allowing diversity to flourish will enable the specific claims process to facilitate the ultimate goal of just, fair, and timely resolution of claims. Participants noted the need to recognize diversity between and within First Nations.

There has to be a recognition of the legal pluralism that exists within Indigenous nations if we're going to do this in the right way and in a way that stands up and makes space for the Indigenous laws of the people who are drawing on that process. That will necessarily mean that processes will have to vary between nations and sometimes even within nations.

[Sarah Morales]

Participants noted that despite the enormous diversity of Indigenous legal traditions, there are commonalities and shared values that can facilitate this work.

3. Recognize Indigenous Law Throughout Claims Resolution

The recognition of Indigenous laws in the reformed specific claims process must impact both the procedural and substantive elements of the claims resolution process. Participants noted that the recognition of Indigenous laws will impact the procedures through which claims are resolved in the Centre, but also substantively in the resolution of claims. Consistent with the principle of diversity, the procedures applicable to individuals' claims will vary depending on the particular legal processes of the claimant First Nation.

The first step is to understand that the core of Indigenous law always asks this perennial question of "what is the right action?" There is also a question that comes before that, and that is "What is the right way to deliberate or think about a situation?"

[Sakej Henderson]

The substantive recognition of Indigenous laws will ensure that it is not simply symbolic or performative in nature. Participants noted that the substantive recognition of Indigenous laws will impact the remedies available to First Nations. In particular, the recognition of Indigenous laws should impact the types of remedies available to First Nations. As an example, participants shared the perspective that, beyond lands and financial compensation, jurisdiction could be recognized as a remedy. Participants also noted that recognition of First Nations' jurisdiction will enable Indigenous laws to grow and flourish over time.



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4. Honour Protocols and Ceremonies

The specific claims process must recognize and honour the protocols of participating First Nations. Participants shared that protocols are grounded in Indigenous laws and must be observed even when this takes time to do right. Participants noted that while mistakes may be made, it is essential to endeavour to correct mistakes and make genuine efforts to observe protocols.

The witnessing ceremony held during the Gathering provided an example of how and why protocols must be observed. During this ceremony, witnesses were called, asked to introduce themselves, and identified as the holders of the record for the Gathering. This was an example of how the particular protocols of First Nations can be used to facilitate the sharing of perspectives and ensure accountability.

Participants shared that space must be created to enable safe and respectful discussions about Indigenous laws. Representatives of the Government of Canada have a responsibility to interact with Indigenous laws respectfully, in good faith, and with open minds. Participants also noted that First Nations have protocols which govern the sharing of information about Indigenous laws. The appropriate amount of time must be taken to ensure that protocols are properly and respectfully followed.

Participants noted that ceremonies are one means of transmitting and expressing Indigenous laws. It is essential that representatives of the Government of Canada participating in the specific claims process take part in these ceremonies in good faith. Participants shared that western legal traditions and processes can also accurately be viewed as ceremonies.

Appropriate safeguards must be put in place to ensure that Indigenous laws are not harmed by their inclusion in the specific claims process. The recognition of Indigenous laws is a generational opportunity for First Nations and the Government of Canada to ensure the specific claims process is able to facilitate just, fair, and timely redress for First Nations. Caution must be taken to ensure that the recognition of Indigenous laws in claims resolution does not cause further harm.

5. Restore Kinship and Harmony

By recognizing Indigenous laws in all aspects of claims resolution, the specific claims process can contribute to the maintenance of kinship and the restoration of harmony. Participants shared that Indigenous laws have been used since time immemorial to resolve disputes within and between First Nations.

Indigenous legal traditions are robust, nuanced, and living, our legal histories are diverse and pluralistic. They were relevant to issues our ancestors had to overcome and they are relevant to issues our future generations will have to overcome.

[Sarah Morales]

The specific claims process must be purposefully structured in a manner that contributes to the restoration of harmony. This involves building on the principles expressed in Indigenous laws to create a process that facilitates conflict resolution.



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Those principles of relationality around sharing, support, kinship, reciprocity, love, and trust need to form the foundation of how we think critically and how we examine or create a legal framework.

[Darcy Lindberg]

Participants shared the perspective that the resolution of claims can help First Nations not only achieve justice, but also restore and strengthen relations between First Nations and the Government of Canada.

When we're willing to take seriously Indigenous laws and Indigenous legal processes, these are processes that are aimed at justice for all parties involved.

[Heidi Stark]

6. Support the Restoration of Indigenous Laws

The specific claims process must create space for the recognition of Indigenous laws and actively support the restoration of Indigenous legal orders. The reform of the specific claims process provides an opportunity for concrete steps to be taken to counter the adverse impact of colonialism on Indigenous legal systems.

Participants noted that the imposition of the Indian Act, the residential school system, and the continued widespread removal of children from First Nations have disrupted the intergenerational transmission of Indigenous laws. Moreover, the Canadian legal system has systematically disregarded and denied the existence and legitimacy of Indigenous laws. Indigenous legal orders have remained intact and in force despite continued attempts at repression by the Government of Canada.

Participants shared that First Nations are currently doing the important work of revitalizing their legal orders and require support in doing so. In particular, First Nations must be provided adequate funding to support capacity building, translation, and the articulation of Indigenous laws in specific claims. More broadly, the Government of Canada must take concrete steps to ensure that institutions such as the Independent Centre for the Resolution of Specific Claims are adequately resourced and supported to recognize and uplift Indigenous laws.

Recognition on its own that Indigenous laws exist will not lead to transformative change or reconciliation if the institutions are not there to also support and stand up those laws.

[Sarah Morales]

Participants noted that the Independent Centre for the Resolution of Specific Claims must be supported by an advisory council and provide ample opportunities for education for participants in the claims resolution process.



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CONCLUSION AND NEXT STEPS

The June 13th Gathering provided an important initial opportunity for Knowledge Keepers, First Nations leaders, community members, academics, and representatives of the AFN and Government of Canada to actively consider the recognition of Indigenous laws in the specific claims process. The Gathering provided a space for wide-ranging discussions on the particular Indigenous laws, ceremonies, and protocols of the host First Nations. The Gathering also enabled participants to share perspectives on how the specific claims process must change in order to reflect the diverse array of Indigenous laws across the country.

The AFN will continue to rely on the guidance of the CEIL to determine how to effectively and responsibly ensure the recognition of Indigenous laws in the reformed specific claims process. In coordination with the Chiefs Committee on Lands, Territories, and Resources and the members of the CEIL, the AFN looks forward to continuing the important discussion on the recognition of Indigenous laws in future gatherings.