THE TRC REPORT, 10 YEARS LATER: A CONVERSATION WITH CHIEF LITTLECHILD

— MCGILL LAW JOURNAL ANNUAL LECTURE —

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INTRODUCTION

GOOD evening. I just bring you greetings in my language and to also first of all thank the great Words Before All that was shared with us this evening to begin this journey together. I also want to thank the ancestral owners of the streets and territories—Mohawk, Haudenosaunee—really be blessed to allow me into your territories. I also said to you my Cree spirit name is Walking Wolf, and my chief's name is Golden Eagle. I also said to you that my other name was Number 65 in residential school. And my borrowed name is, as you heard, Willie Littlechild. I'm really honored to be here and thank you for that kind introduction. I have a very brief one actually. Willie is a doctor, lawyer, Indian chief. That's it.

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I. AWARENESS AND UNDERSTANDING HISTORICAL TRAUMA

I want to begin with a quote from Chief Justice Beverley McLachlin, when she spoke at a conference in Oklahoma at the University of Oklahoma, and she said that you'll see, "The most glaring blemish on a Canadian historic record relates to our treatment of the First Nations that lived here at the time of colonization. ... Starvation and disease were rampant. Indians were denied the right to vote. Religious and social traditions, like the Potlatch and the Sun Dance, were outlawed."[1] And with that, I wanted to jump into four topics I was asked to share with you this evening. But first, you need to know that we hear many times what life was like pre-contact from our elders, who keep the sacred stories, the Long Story, as some call it, and also what life was like, not only pre-treaty era, but pre–residential school era, and that was really about a peaceful coexistence, which has now recently been embodied in our treaties. Then we talk about legislation and confinement was a real disruption in our lives, a disruption, a big part of which was the *Indian Act*.[2] And I am really, really honoured to be here this evening with a friend from many moons ago, I'll say, because she was the first person to really build that study on the history of the *Indian Act*. Thank you very much for that academic contribution that really revealed the history behind the development of the *Indian Act*, and I know that you're in trouble for giving that historical truth about the *Indian Act*, because it was really a point that directed us to disturbance in our lives.

But now we're talking about dismantling the *Indian Act*, which is good, and I think that dismantling will allow us to recognize it as an act of reconciliation; an opportunity, actually, to move to an era of treaty enforcement for us, and also reintroduce our own laws back into our nations. And we need to move from the legal duty to consult to actually a more important part of law, which is three-part informed consent of our peoples. And I single those out because they're currently in discussion and also being mischaracterized. And of course, the other big disruptive

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1 The Right Honorable Beverley McLachlin, "Reconciling Unity and Diversity in the Modern Era: Tolerance and Intolerance" (Global Centre for Pluralism Annual Pluralism Lecture delivered at the Aga Khan Museum, Toronto, 28 May 2015), online (pdf): <theglobeandmail.com> [perma.cc/J68M-3BY6].

2 RSC 1985, c I-5.

system, that was the reservation system. You heard earlier in the great works that were introduced about the Sixties Scoop, and it's important that we hear those from a survivor of the Sixties Scoop, and also the histories of the schools and missing children. I'll share more of that with you as we move along.

The building you see here, I want to show you this building because I'm concerned right now that there's already a movement to deny the existence of residential schools, people saying in front of audiences like this in universities that residential schools didn't exist in Canada. While this building was built in 1894 as a residential school, it grew to be a compound.[3] I'll say that you see there it was twice the size of the first picture, I'll show you. In the back, you'll see, of course, the church that was drawn into the nation in, I believe it was 1874. But you'll see the residents, the residential school. It was called the Ermineskin Indian Residential School. At one time in the history of Canada, it was the largest Indian residential school.[4] It was called a catchment school because other children from other territories were brought in here. But you'll see beside that a large building, by the way, at the very top level of the building was where the sisters lived. The nuns lived on the top floor below that. And sometimes I get in trouble and I get asked, well, how do you know this floor below that was the girls' dorm. The reason I know that is seven of my sisters lived there at the same time. The floor below that was the classroom level. Then in the basement floor was the dining area. The building beside it in the middle was the boys' dorm. There's big boys, medium boys, and little boys in those categories in that school. You don't see on the right-hand side of the photo, there was a black patch of dirt, which was actually a garden where the children grew their own food. In the back, you'll see, there's a horse barn, there's a cow barn, there's a chicken coop, and there's a pig pen, and I point those out really because children here were actually taking care of themselves as children. But if you were to look at a different angle of the school, you see in the background, from my perspective, you don't see the fence in front of the building. People say "Ah get over it, so what?" when I say that it was a barbed wire fence, but I'm here to tell you that was an electric fence. I lived behind that electric fence for eleven years

3 National Centre for Truth and Reconciliation, "Ermineskin Residential School" (2026), online: <nctr.ca> [perma.cc/8X2K-NECT].

4 Ermineskin Cree Nation, "History & Culture" (2026), online: <ermineskin.ca> [perma.cc/SG85-RDYU].

in that school. So I'm kind of disappointed when people are invited to universities like this. By the way, I should apologize to you at the beginning too, we didn't mean to beat the Redmen [McGill sports teams] in hockey and football. So, thankfully, they allowed me into this faculty of law.

II. ESTABLISHMENT AND ROLE OF THE *UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES*

But if you go back in history, in 1923, Chief Deskaheh went to the League of Nations in Geneva, where, again, probably have ancestry here in the room. Chief Deskaheh was Cayuga. They wouldn't let him into the League of Nations. Fortunately, the mayor of the city of Geneva invited him to come and tell his story of concerns he had for his peoples. At the same time, Ratana, who was a Māori spiritual leader, he tried to get to the League of Nations, now called the United Nations, and he was also not allowed. A couple of years later, Chief Latasse, from the *Douglas Treaties*, in 1925 tried to get into the League of Nations, and he was also denied. So we had this first wave of leadership to try to come to the League of Nations, to tell the story of Indigenous peoples' violations of their rights. They couldn't do it. And we drove in from 1923, 1925, to 1948 when the United Nations *Universal Declaration of Human Rights* was passed and adopted. The sad part of that era, though, is we were excluded. We being Indigenous peoples. We weren't included. We weren't represented. So the violations, including killings of our people, continued because we weren't considered to be human beings. Yes, that was 1948, but then we move on to the second wave of Indigenous leaders, who in 1977, in August of 1977, knowing the history of our three chiefs who couldn't get in, we actually asked four elders, spiritual leaders with their sacred pipes, to walk in front of us, and we walked through the gates into the UN. We literally marched in because we weren't allowed either. But with the sacredness of the pipes, we made it into the United Nations. And that's a picture of the four spiritual leaders that led us into the UN. You'll see a reference to the inherent rights of Indigenous peoples in the declaration.[5] But a few years later, we came back for the twenty-year anniversary, I

5 *United Nations Declaration on the Rights of Indigenous Peoples*, UNGA, 61st Sess, UN Doc A/61/53 (2007) Annex ("[r]ecognizing the urgent need to respect and promote the inherent rights of indigenous peoples ...", Preamble) [*UNDRIP*].

believe it was, of that day. Of over 150 leaders that were there in August of 1977, only 21, 5 of us were still alive to come back and commemorate that day. So you will see a smiling face there in the middle of a Union Jack. The reason I was carrying that Union Jack was because I was sent to the UN because of treaty violations, and our treaty was with Her Majesty Queen Victoria of Great Britain and Northern Ireland. So in recognition of that treaty relationship, I brought one of the original treaty flags with me when I went to the UN, and you'll see in the middle, one of our warriors carrying a buffalo skull, a sacred item.

So we finally got into the UN, and I've been asked to talk a little bit about the establishment and role of the declaration. As I said, we weren't included in the *Universal Declaration*. So we went to the UN initially to make the UN aware of treaty violations. My treaty was *Treaty Number 6*. And as you heard in the introduction, I was appointed as an international chief. And I recall one time I was being introduced in National Congress, the American Indians Conference, and the young person who introduced me said, "We're very honored to have a chief here from Canada. His name is Willie Littlechild, and he's Chief of Treaties Number 678." They're just reading from notes. So when I got up, I said, "Thank you, and all of them have been broken." So the role of the UN declaration is really important for us, because there is an article. I chaired all the meetings on the treaty article at the UN. But I was asked to look at the role of the declaration today in Canada and it's interesting because it took us twenty-seven years to do the UN declaration. Twenty-seven years, and I was there every single year of that journey. Indeed, I introduced every single UN declaration article at the UN which is now here in front of us. So I go back to that time in trying to respond to the question, "What is its role today?" Well, we were looking back at some of the testimony I gave way back in 2021 at the Senate committee to talk about a UN declaration implementation act, which I co-chaired as well in this country.[6] So it has a very, very important role, I think, but the legislation I'm talking about, if you look at it, you'll see that it's very solution-focused. Yes, we know our problems. You'll hear about our problems. Problems are always shared in arenas like the United Nations, but what we need is solutions. So a historic solution, I think, was made here in Canada, because right now it doesn't exist anywhere else.

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6 Senate, Standing Committee on Aboriginal Peoples, *Evidence*, 43-2, (10 May 2021).

We have an implementation act in Canada, a UN declaration implementation act, because the problem with many of the legislation prior is the lack of implementation. So we wanted to make sure that this one doesn't suffer the same fate as previous attempts, but it's very focused on solutions and healing. So, I'm really grateful that we have here legislation that was adopted, and we're currently seeing it unravel in terms of implementation right across the country. So there's an important role that the declaration has. One such importance is that for eight years, you can imagine eight years, we fought at the UN over one letter, not one word, one letter. It was the letter *s*. States around the world would deny the inclusion of the letter *s* on the word "people."[7] And you wonder why. Well, I'll tell you why. They didn't want to recognize us as human beings. So, for eight years, go back to 1948, this is just a short time ago, we fought over one letter for eight years so that we will be recognized as human beings. There's two international covenants that the world has adopted, including Canada, the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*, both of which have the same opening line and sentence: All peoples, with an *s*, have a right to self-determination.[8] And that's what has been denied to us all those twenty-seven years until we secured that letter. So it's recent history, but now when you look at it today, because we have a new UN declaration implementation act, the minister of justice has to report back to Parliament every year on the status of the implementation of the declaration.[9] Recently, the third report was just filed in Parliament.[10] So it's important that we look at this role from where we started, and how we had to keep fighting, even for one letter, keep fighting for us to be recognized, not only as human beings, but human beings with the right to self-

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7 Senate, Standing Committee on Aboriginal Peoples, *Evidence*, 44-1, (22 May 2024) at 86:9.

8 *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171, art 1(1) (entered into force 23 March 1976, accession by Canada 19 May 1976); *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 UNTS 3, art 1(1) (entered into force 3 January 1976, accession by Canada 19 May 1976).

9 *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, ss 7–8 [*UNDRIPA*].

10 Department of Justice Canada, *Third Annual Progress Report on Implementation of the* United Nations Declaration on the Rights of Indigenous Peoples Act, Catalogue No J1-31E-PDF (Ottawa: DOJ, June 2024).

determination. In our language, in our territory, in our language, we say Kik Pakitinkôsôwin, and Oyotamasowin. We have an inherent right to self-determination, in English. So I'm happy that there's a very important role gaining importance in Canada because of the legislation. The Government of Canada is currently reviewing all the federal laws. All the federal laws are being reviewed as we sit here tonight, to make sure that they comply with the UN declaration.[11] That's really unheard of in any country around the world. So I applaud Canada for doing that.

III. OVERVIEW OF THE TRC CALLS TO ACTION

Now we look at the Calls to Action from the Truth and Reconciliation Commission, focusing on justice, because as future lawyers and current lawyers, current judges and professors, a big part of the TRC, the Truth and Reconciliation Commission, is solution-focused through justice. That's where your role and your contributions will be important. You'll notice that we focused on areas of, themes I'll call them, after listening to over seven thousand of the most horrific, horrific stories of abuse, physical abuse, mental abuse, emotional abuse, cultural abuse, spiritual abuse, and the worst of all, sexual abuse. That was behind the saddest, darkest, most unknown chapter of Canadian history. So we decided to take those stories and focus on education, because you heard us say before, it was education that got us into this mess, but it's also education that will get us out of that mess. We look at culture and language as a solution, because culture and language were both prohibited.

I was blessed to be raised by my grandparents, so when I was taken to residential school at six years of age, the building I just showed you, the only language I knew was Cree. And many students told us if they had any cultural manifestation, like if they had braids on the first day of school, they were cut off. That's a very disastrous spiritual assault on a person's identity, the spiritual aspect of having braids as an Indigenous person. Anyway, they were cut first day of school. Your name was taken. My identity was taken from me and it became Number 65. So what happens to a child when you do that about their own self-identity, their culture, and you prohibit them from speaking their language? As I said, the only language I knew was Cree, but if you remember the purpose of the

11 *UNDRIPA*, *supra* note 9, s 5.

era of residential schools was to kill the Indian in the child. That's the stated purpose, to kill the Indian in the child. So how do you do that? You punish them when they speak their language. You punish them when they wear their traditional clothing. You punish them whenever they want to sing their songs. So we thought that this was a direct assault on our culture, our languages, and our spirituality.

So we should put those in the Calls to Action for solutions, health, and the area you're going to be involved with mostly, probably, hopefully, is justice, governance, poverty as an issue, but also importantly, we made a call to action for the missing and murdered Indigenous women and girls.[12] I introduced that topic in 2008 at the United Nations.[13] At the time, I shouldn't say only, because one is bad enough, but there were only eight hundred women that were missing, murdered in Canada. But now it's over three thousand and it's growing. Some say it's five thousand missing Indigenous, murdered Indigenous women and girls, but compared to that also, is the missing and murdered Indigenous men and boys. So now the focus needs to be the missing and murdered Indigenous peoples, so that we can bring everyone together. The last one we talked about as a theme is child welfare. And when we look today to our ninety-four Calls to Action as a snapshot, fourteen of the calls have been completed, according to a report that's being monitored daily. There's sixteen that have not even started, of the ninety-four Calls to Action.[14] Twenty-two are stalled for one reason or another, sometimes mainly financial.[15] Forty-two are in progress.[16]

So my biggest fear going into this was two things. First of all, I didn't want to do it, and I didn't know why I didn't want to do it until the second year. The reason I kind of hesitated to be on the commission was, I was going to be hearing my own story in front of me, over and over and over

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12 Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action*, Catalogue No IR4-8/2015E-PDF (Winnipeg: TRC, 2015) at paras 18–25, 41.

13 Wilton Litlechild, "Representatives from Civil Society" (Commemoration of Human Rights Day at the Palais des Nations, Geneva, Switzerland, 12 December 2008) [unpublished].

14 Indigenous Watchdog, "TRC Calls to Action Status: September 1, 2026" (1 September 2026), online: <indigenouswatchdog.org> [perma.cc/3M7L-QVXM].

15 *Ibid*.

16 *Ibid*.

again. So now I'm really thankful I was able to serve as a commissioner, because we have always, actually, in Canadian, even political discourse, the word reconciliation is being used, but sometimes carefully, and we have to be careful, on guard, it's being misused and abused itself. But there's also been some progress. But for the commission, myself in particular, the highlight for me, because I was kind of not really keen, but when I said, you know, we should invite the pope to come to Canada to apologize for the Catholic Church's role in residential schools. Because, as you know, the government hired the United Church, the Baptist Church, the ... I'm sorry, the other church skips my mind right now, but the fourth one is the Catholic Church. The first three apologized at the end of the truth commission. They came forward and publicly apologized. The Catholic Church was kind of late. They didn't want to apologize. So when I said we should invite the pope, they said, "Oh, he'll never come." I said, "Well, one thing for sure, if you don't invite him, he won't come."

So I was at a meeting with an ambassador for the Winter Olympics, and I was at the IOC, the Olympic Committee meeting in Lausanne, Switzerland, and the president of the Olympic Committee, when I told him I was going to be meeting His Holiness, Pope Francis, he said, "Willie, tell him I say hi, because we're buddies, you know," he said. So, I said, "Okay." So when I had my audience with His Holiness, Pope Francis, I said, "I bring you greetings from President Bach of the Olympic Committee." He had a smile on his face. So I knew then we were going to have an interesting relationship. But I found out later that his passion was soccer, or football as some would call it, but soccer. Little did I know that Argentina was going to win the World Cup in soccer after that. That actually cemented our relationship even more. And one day I got a call that I should be ready, that the pope was coming to Canada. I thought, "Wow." He said, "Well, we can't tell you any details, but he's coming to Canada on a penitential pilgrimage to apologize for the Catholic Church's role in residential school history." I said, "Great," to have meetings at home preparing, because the school I was in that I showed you, being one of the largest—by the way, in Alberta, we had the most residential schools in Canada. But the surprising thing was, he decided to come to my reserve Maskwacis to actually apologize for the church's role in residential schools. So that was an interesting highlight for me.

IV. PRINCIPLES OF RECONCILIATION

When I look at the ten principles of reconciliation that we adopted as a commission, we asked ourselves, the three of us, what were the ten main teachings out of those seven thousand stories, those thematic areas, what can we pull out of those stories that could form ten principles for reconciliation in Canada, because the court ordered, mandated, the truth commission was first to find out the truth of what happened in residential schools, take those stories, and shape what reconciliation should look like. The first part we did, the second part was difficult with so many horrific stories, so we decided to choose ten principles, the first being the *United Nations Declaration on the Rights of Indigenous Peoples*. It's the framework for reconciliation that was picked up, by the way, by the Secretary-General of the United Nations immediately. He called it a road map. The UN declaration was the road map for reconciliation, not only in Canada, but globally, because, as we found out, there's residential schools in many other countries for Indigenous peoples with similar stories.

Also that First Nations, Métis, and Inuit have both constitutional and treaty rights that must be recognized and respected. Reconciliation is a process of healing relationships. From all the harms that were done to children, it's a process of healing those relationships, and that will require public truth sharing, as we have, even tonight, an apology should be given for the harms that were done. And when you heard the churches, the universities, the police, have all apologized, but it was equally, sometimes even more important is it provides you an opportunity to forgive. If someone apologizes to you, you have an opportunity to forgive. Many people say it's only at that point, when you forgive, that you can begin to heal. So it's important that we have those apologies and to commemorate and redress the past harms that were done, not only the harms that were identified by the commission. Reconciliation requires action to address these destructive impacts.

I remember, I was speaking at an audience like this, and I was trying to respect their time, as I'm going to now, I don't know how much time I have left. But I was saying to that group, "This is about *reconciliaction*." I was trying to say reconciliation and Calls to Action, but before that, because health was a topic as well, I was talking to the Faculty of Medicine. I was saying, you know, "The challenge we have among my people is *diabesity*." They said, "What? Diabesity?" I was trying to say diabetes and

obesity at the same time. So it's like this, reconciliaction. But also it must create a more equitable society, closing the gaps in all the social outcomes that you know about. An important notion is that all Canadians are treaty peoples. It takes two parties to a treaty, and we share the same responsibility as far as respecting and honouring treaties. And in a row of our elders, the traditional knowledge keepers, the wisdom keepers, as you heard the prayer just this evening that was shared with us, that we need to include those if we're going to have long-term reconciliation.

Also, cultural revitalization: Not only the revitalization in terms of our past, but included into the schools, like the knowledge systems that they have, oral histories, which are very important, laws and protocol in connection to land, very, very important. Those are all essential to our reconciliation and requires political will, and sometimes we fall back on that political will. And I dare say, today, right now, we're falling back on that political will. It's the current leadership that was just elected. They're nowhere near reconciliation, and they're nowhere near the UN declaration. So we have work to do as lawyers. I hope you delve into that. It's going to require public education, dialogue, and very importantly, youth engagement. I remember right in the city when we had hearings for truth and reconciliation. When we had a Q&A, all of a sudden, this young voice was out there somewhere in the audience, in about three thousand people. But anyway, there were microphones, microphones all over, and I heard this voice: "I'm very angry." I said, "Where is that?" "I'm very angry that I didn't learn this in school." There was a ten-year-old girl skulking there, right here in Montreal. But you know what happened after that, we started dedicating a whole day for children to come to the truth commission to tell their stories. "I heard about everybody else from outside of Canada, and I never heard this. I'm mad," she said, so thanks to Montreal, you raised that issue through a child here for the rest of Canada.

V. TRC CALLS TO ACTION: JUSTICE

But also they need to learn about not only the history and legacy of residential schools, but treaties and Aboriginal rights, the past and present contributions of Indigenous peoples to Canada. We hear about how we're always taking, taking. But we don't always do that. There's many, many, many gifts our people have given to Canada as Indigenous peoples. So when we talk about justice, and I'm going to fast forward to all of these justice Calls to Action, because there's several, and you'll have

time probably to study them yourself, if you're not doing that now, because one of the Calls to Action is for law schools to teach about the UN declaration, to teach about treaties, to teach about the Crown's relationship with Indigenous peoples, but it has to include not only the legacy of residential schools in the UN declaration, but it has to talk about competency, conflict resolution, human rights, and anti-racism. When you talk about human rights, I'm really grateful for the human rights agencies across our country that are teaching children about human rights, but the schools, like the Law Society of Alberta, also is making progress with implementing this call to action. Importantly, anti-racism. I was just at a Hockey Canada annual meeting where they're looking at the sport of hockey, and how can this power of sport be utilized to promote, advance reconciliation through the sport and deal with racism in that same activity?

So law schools, I know that some of you are teaching all the law students, as I said, they need to study about us and our laws, in the same way as the medical schools, for example.[17] Those that were not included in the residential school settlement,[18] that there needs to be an expedited area.[19] By the way, you'll see, some of these calls, as to the status, ones that were already completed, the ones that have not been started. At the end of the call, we'll see whether they're in progress, where they're stalled. We've done that for you through this PowerPoint. By the way, I apologize to you for having such a long PowerPoint, but I was giving one once and he said, "Willie, you need to do this." I said, "Why?" "Well, you don't have any power, and you have no point." So that's what I'm doing. So FASD [fetal alcohol spectrum disorder] was a big topic in our hearing, so there's Calls to Action on how to deal with that.[20] Sometimes it's mischaracterized. People are punished because of FASD, when they should be treated. So many of our people are behind bars, for example, because of that. So healing lodges, we're calling on governments to take their barriers down for the creation of more healing lodges.[21] We call upon all

17 Truth and Reconciliation Commission of Canada, *supra* note 12 at para 28.

18 *Indian Residential Schools Settlement Agreement*, 8 May 2006, online (pdf): <residentialschoolsettlement.ca> [perma.cc/N7SF-RDWR].

19 Truth and Reconciliation Commission of Canada, *supra* note 12 at para 29.

20 *Ibid* at para 34.

21 *Ibid* at para 35.

governments, really, to do their best to provide culturally relevant services to inmates, inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.[22] I remember one story, and I'll share this with you, and I apologize if I offend anyone. We had a man talk about his friend who was arrested by police, and he was pushed against the wall, and he was told, "Put your hands up," so he did, "Feet apart," so he did put his feet apart. And when he did that, I guess he had a flashback, or something. So he turned around, and he grabbed that police officer and actually beat him to death. He was thrown in prison. But when he told us his story, he said to us, that's how I was treated as a young boy when I was being attacked, sexually assaulted, that's what triggered him to come out with an anger to kill someone.

So we also call on all governments, federal, provincial, territorial, Aboriginal governments, to commit to eliminating the over-representation of Aboriginal youth in custody over the next decade.[23] And I underline the next decade, because that was a time frame we gave governments to reduce that over-representation, but we haven't had an answer back yet. We're ten years past. Have we actually reduced the inmate population or the youth in detention centers? We don't know that, so I think we need to have a report card on that and have some data. [We call upon the federal government to develop] a national action plan to publish data on the criminal victimization of Aboriginal people, so that's going back to victimization.[24] That's in progress. [We call on] all levels of government to create adequately funded, accessible, Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.[25] Because sometimes we have these programs and services and processes, but they're not evaluated to look back at whether or not we're progressing. So it's important to have those checkpoints, to also be thankful that call 41 was allowed to happen.[26] So as I said, I raised this issue in 2008, brought it back as the commissioner, that we need to do adequately-funded, accessible Aboriginal victim programs, but also to a point of public inquiry

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22 *Ibid* at para 36.

23 *Ibid* at para 38.

24 *Ibid* at para 39.

25 *Ibid* at para 40.

26 *Ibid* at para 41.

into the causes, the remedies for the disproportionate victimization of Aboriginal women and girls. This was including the missing and murdered Aboriginal women and girls. So that was done. I'm glad that was done, because, as I said, when I introduced it the one time, three hundred women's organizations came to me saying that, in their country, the same thing was happening. So it's good that we now have examples of what can be accomplished with political will: the Justice Commission, or the Truth Commission, or an Inquiry on Violence Against Women. And lastly, [we call upon the federal, provincial, and territorial governments] to commit to the recognition and implementation of Aboriginal justice systems, because we have our own justice systems, as you know.[27]

VI. LORD DENNING AND PATRIATION OF THE CANADIAN CONSTITUTION

You heard in the Introduction that I was in court in London for eight months. They prohibited Canada from patriating the Canadian Constitution because there was nothing in there for Aboriginal treaty peoples. [...] And Lord Denning, you might have heard the name before if you're a law student, that was his last case. He decided to choose our case as his last case as a Judge to decide that, and he made a very important conclusion.

As a prelude to this, I was sitting in my room in London, and I had burned all my sweetgrass, so I phoned home and I asked my mom, "Can you lay some sweetgrass for me, because I've used all my sweetgrass up?" She said "Sure." And then my dad got on the phone, my late dad, and he said, "You look really worried." And I said, "I am worried." I guess he saw the news on the *CBC* or whatever about this court case, and he said I look worried. And I said, "I am worried because I'm looking for three principles to advance in court tomorrow." And he said, "Well, it's easy." "Easy?" I said. "Yeah. Just remember," he said in Cree, "Pisim, Nipîya ekwa Wîhkaskwa." That our treaties are to last so long as the sun shines, the grass grows, and the rivers flow. I said, "Thank you dad," and I went right to bed. I was happy.

Well, Lord Denning, at the end of his judgment has this particular paragraph:

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27 *Ibid* at para 42.

> There is nothing, so far as I can see, to warrant any distrust by the Indians of the Government of Canada. But, in case there should be, the discussion in this case will strengthen their hand so as to enable them to withstand any onslaught. They will be able to say that their rights and freedoms have been guaranteed to them by the Crown—originally by the Crown in respect of the United Kingdom—now by the Crown in respect of Canada—but, in any case, by the Crown. No Parliament should do anything to lessen the worth of these guarantees. They should be honoured by the Crown in respect of Canada "so long as the sun rises and the river flows." That promise must never be broken.[28]

And that's what Lord Denning said in the judgment. Little did I know from the rez in Maskwacis to the High Court in London, Lord Denning, I remember one of my law professors used to teach us in class, just as if he knew Lording Denning. Apparently he was never in front of Lord Denning. So I had a chance to talk about that in an annual meeting once at the law school.

VII. SUPREME COURT OF CANADA

The Supreme Court of Canada has picked up two of my life stories, the UN declaration[29] and the Truth and Reconciliation report.[30] Recently in a child welfare case the Supreme Court of Canada opens up with this paragraph: "In keeping with its commitments relating to the *United Nations Declaration of the Rights of Indigenous Peoples*, which has been incorporated into Canada's domestic positive law, and in response to the Calls to Action made by the Truth and Reconciliation Commission of Canada,"[31] they made that decision. So who was I to think I would someday be quoted, in a sense, because I didn't totally want references in that Supreme Court of Canada decision, to both the UN declaration and the TRC Calls to Action, way beyond my wildest dreams that that'd ever happen.

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28 *R v Secretary of State for Foreign and Commonwealth Affairs, ex parte Indian Association of Alberta*, [1982] EWCA Civ J0128-1 at 77, 1982 WL 221742.

29 *UNDRIP*, *supra* note 5.

30 Truth and Reconciliation Commission of Canada, *supra* note 12.

31 *Reference re* An Act respecting First Nations, Inuit and Métis children, youth and families, 2024 SCC 5 at headnote [italics in original].

VIII. ONTARIO FEDERAL COURT

Recently, there's another court case that talks about UN declaration articles on free, prior, and informed consent, because some people across the country are mischaracterizing that as a veto.[32] You won't find the word veto in any of the articles in the declaration, but the Ontario court picks it up in their judgment.[33] And it's really important, I'll say, progress that courts are making, but you, as students, here's your opportunity.

IX. INTERNATIONAL LEGAL FRAMEWORK

There's an international legal framework there now that's calling out for help for lawyers to work in these areas. Whether it's the Human Rights Council, or the economic, social, and cultural part of the United Nations, there's the covenants that I talked about, the *International Convention on the Elimination of All Forms of Racial Discrimination*, the ILO conventions, 107 and 169, two International Labour Organization legally binding conventions that deal with Indigenous peoples. There's special opportunities now. For example, there was a nine-year study on treaties. My whole purpose of going to the UN on the instructions of my elders was to ensure that treaties were not only—more awareness, either, but also to call for help in terms of their respect and honour. But if you look at article 37 of the UN declaration, there's one word there that's really important. It's not used anymore, too much. But I'd shared those meetings, and it wasn't easy. There's a word *enforcement* of treaties, agreements, and constructive arrangements, and the word enforcement is really important in that article, because it's backed up by the American declaration. It's also one of five factors of that American declaration. And I point those two out because we couldn't get, obviously, couldn't get everything we wanted in the UN, but I had a second chance with the American declaration. So article 24 of the American declaration improves on the UN declaration, on the treaty article. How? Not only is the word enforcement in both the declarations, but it calls on courts to recognize treaties as understood by Indigenous peoples. As understood by Indigenous peoples, and according to their original spirit and intent. Those are not in the UN declaration, but they're in the American declaration. What else

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[32] *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319.

[33] *Ibid*.

did the American declaration improve on at the UN? For the first time, Indigenous languages are recognized under international law in the American declaration. For the first time, the Indigenous family is recognized. Indigenous laws are recognized, and treaties are recognized, as I said, as understood by Indigenous peoples. There's now a permanent forum at the UN, and so I was reminded of a teaching: "Be careful what you say" because I talked about having a permanent place at the UN where we can bring our issues forward, international issues. Well, they established a UN Permanent Forum for the rights of Indigenous peoples, and I was so happy as well. Since you started it, you sit on it. You can only sit there for six years. I sat there for six years. Same thing at the expert mechanism. I made the resolution that an expert mechanism should be created at the UN on the rights of us as Indigenous peoples. *Convention on the Rights of the Child*. I gave the first address to the Committee on the Rights of the Child, and we were sitting around in a circle at the UN looking at each other, who's going to vote in the UN to speak on Indigenous children? They looked at me and they said, "You're the only one called Littlechild, so you go." I went to the UN!

Out of that was a new addition to the *Convention on the Rights of the Child*: [General] Comment Number 11 it's called. Every time a government goes through the UN to report on how they're dealing with children, they have to address Indigenous children, because before that, they would go there, and I was there and listen to them say, "Oh, there's no problem with their children, we're taking care of them okay," and they would go on to the next topic.[34] So that's important. So the OAS declaration, among others, these are calling you as future lawyers.[35] You need help in all of these areas, not to mention the conference right now in Brazil on climate change. That's a whole new area of law: climate change, environment, environmental protection. That's where traditional Indigenous law and knowledge is so valuable as well. But you as lawyers, it's wide open if you're interested in climate change, and clean air, clean water.

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34 *General Comment No. 11 (2009): Indigenous children and their rights under the Convention*, UNCRC, 50th Sess, UN Doc CRC/C/GC/11 (2009).

35 OAS, General Assembly, 46th Sess, *American Declaration on the Rights of Indigenous Peoples*, OEA/Ser.P/AG/RES.2888 (2016).

X. IMPLEMENTATION OF INDIGENOUS JUSTICE SYSTEMS

There's also our own justice systems, and there's Calls to Action on those to be more inclusive. Where we're not included now in terms of our own laws, our own teachings, our sacred teachings, create new legal space, and you as lawyers, future lawyers, have that opportunity to create that new legal space, because law isn't finished. Like they say, you know, there's no more room for new law; well, I think you have the opportunity to expand that.

So I wanted to, lastly, quickly share with you that we have our own. For example, there's a Cree court in Saskatchewan. There's a circle court. We have our own traditional courts that are now being included. But the best one I've seen is the grandmothers' court. They went to Chief and Council and they said, "What are you doing with that old, abandoned trailer out there?" They said, "Nothing, why?" "Oh," the grandmothers said, "can we have it?" They said, "Sure, go ahead." They didn't know what they were going to do with it. Those grandmothers took that old trailer; they renovated it, they repainted it, and they made a courtroom out of it. And in the courtroom, they put an Eagle Staff, and they had a sacred print on each wall, and in the middle they had a spice bowl with sweetgrass, and that's where they have the young offenders come. So the grandmothers, instead of the judge sitting up there, they're sitting on the floor with the youth in a circle, and that was what you call a grandmothers' court. But they were monitoring the youth violence in their community. It was going up and up and up, and when they created that new court, a court in their own community, their violence level in the youth started going down and down and down. And we asked the children why. They said (and please don't be offended), "We didn't know who that white woman was, but we know what that Eagle Staff is, and what it means. That means we have to obey our laws. We know what that sweetgrass means, the teaching behind that." So gangs were disrupted or diffused, however you want to say reduced, because of the new approach, cultural approach in court. Traditional policing service, right now, we're having serious challenges with policing. I heard about one today. But we have traditional practices policing, so we're going back to those, tribunals and arbitration according to our own international customary law. So I mentioned those because we need to start including more of those.

XI. PATHWAY TO RECONCILIATION

When the declaration was adopted by nations back home, we came up with our implementation plan, an eight-point implementation plan. We're just about finished. Everyone following this implementation plan plans for ourselves, for example, to teach the UN declaration in our schools, to bring our languages back into the schools, and to consider an implementation act,[36] which we completed: Bill C-15.[37] So, the opportunity for you is wide open to help in this area. So, become aware and understand what historical trauma is, as a lawyer, if you want. Get to learn the principles of reconciliation, because what the UN did is they took our TRC principles of reconciliation. They took them to the Human Rights Council. They're now global principles of reconciliation through the Human Rights Council at the UN.[38] It's amazing what you can do when nobody cares about who gets the credit. So, look at our Indigenous perspective with law, in health, and so on. There is an international legal framework to familiarize yourself with. It will require ongoing leadership and sustained efforts at all levels of government to get closer and closer to true reconciliation.

CONCLUSION

There's a town next to me, a city now, the most mispronounced city in Canada, I say. People say it's called Wetaskiwin. It's not Wetaskiwin, maybe in English, but in Cree it's Wîtaskêwin. Wîtaskêwin means hills of peace for having good relations. That's what reconciliation is about. So if you look at the Calls to Action, the UN declaration, the treaties, they're all solutions. They've been mischaracterized as problems. They're solutions. Embedded in all those calls, all those articles, the implementation act, they're all solutions-based. So the reason why we're doing all this?

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36 Department of Justice Canada, United Nations Declaration on the Rights of Indigenous Peoples Act *Action Plan*, Catalogue No J2-585/2023E-1-PDF (Ottawa: United Nations Declaration on the Rights of Indigenous Peoples Act Implementation Secretariat, 2023) at 47–49, online (pdf): <justice.gc.ca> [perma.cc/4TKV-GCUB].

37 See Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, 2nd Sess, 43rd Parl, 2020, cl 4 (assented to 21 June 2021), SC 2021, c 14.

38 See generally Department of Justice Canada, *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, Catalogue No J2-476/2018E-PDF (Ottawa: DOJ, 2018), online (pdf): <justice.gc.ca> [perma.cc/G92W-U84X].

For the child that was taken. And also for the parent that was left behind, because many times we've heard from parents, "I don't know what love is. I don't know what love is because a building can't teach you love." So they didn't go back to traditional parenting before, but now they are. What happens to a child when you say, "Pick up that pencil, stupid," or "Why did you do that, idiot?" "64, come here." "83, sit down." What does that do to the child's psyche, or self-esteem, or their pride, their cultural identity? What about the parents who are left behind? Because many told us, "I couldn't stand losing my children. I couldn't stop them from taking my child away. So I went into alcohol, I went to drugs, and into violence." So that's why we're doing all this, and you're going to be so helpful, and we need you. Thank you very much.