

# Pathway to Canada Target 1

## Indigenous Circle of Experts (ICE) Regional Gatherings Reports

MARCH 2018



Front Cover Photograph:  
 The Indigenous Circle of Experts and participants of the Central Regional Gathering on Indigenous Protected and Conserved Areas, Winnipeg, MB  
 Photographer: Jeremy Williams, River Voices Productions

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## ACRONYMS

AFN	Assembly of First Nations
CBD	Convention on Biological Diversity
COP 21	21 <sup>st</sup> Convention of the Parties
ETT	Expert Task Team
FPIC	Free, Prior and Informed Consent
FSC	Forest Stewardship Council
ICE	Indigenous Circle of Experts
ICL	Indigenous Cultural Landscapes
IFL	Intact Forest Landscape
ILI	Indigenous Leadership Initiative
IPCA	Indigenous Protected and Conserved Area
IUCN	International Union on the Conservation of Nature
MNC	Metis National Council
NAP	National Advisory Panel
NGO	Non-Governmental Organization
NSC	National Steering Committee
RELAW	Revitalizing Indigenous Law for Land, Air and Water
SARA	Species at Risk Act
SSN	Stk'emlupsemc Te Secwepemc Nation
TRC	Truth and Reconciliation Commission of Canada
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization

# INTRODUCTION

## OVERVIEW

The Indigenous Circle of Experts (ICE) has developed a report describing the concept of Indigenous Protected and Conserved Areas (IPCAs) in Canada with recommendations on how IPCAs can contribute to Target 1 while advancing the conservation and other community priorities of Indigenous governments to care for the land and water for generations to come. These regional gathering reports are meant to be read in conjunction with the Report and Recommendations produced by the ICE.

To develop its recommendations, ICE hosted four Regional Gatherings across Canada between May and September 2017, according to the four directions: West (Tofino, BC), East (Digby, NS), North (Yellowknife, NWT) and Central/South (Winnipeg, MB). These gatherings were instrumental in the work of the ICE and created the opportunity for ICE to gather perspectives from Elders, regional and community Indigenous government representatives, and a range of protected area and land use planning practitioners on Indigenous Protected and Conserved Areas (IPCAs). IPCAs are lands and waters where Indigenous governments have the *primary role* in protecting and conserving ecosystems through *Indigenous laws, governance* and knowledge systems. Culture and language are the heart and soul of an IPCA.

## REGIONAL GATHERING REPORTS

An output from each of the four Regional Gatherings was a report that documented the presentations and voices of participants during each of the gathering sessions. These reports were prepared by The Polis Foundation, with assistance from the POLIS Project on Ecological Governance (University of Victoria).

This summary report is an edited compilation of the Regional Gathering reports that documents participants' engagement in group discussions, break-out group discussions, and site visits used as an opportunity to learn about the history of the land they were on.

Each of the Regional Gatherings began with opening remarks from Elders who welcomed participants to the ancestral lands they were on. Co-chairs of ICE also welcomed participants and provided an overview of ICE's process, mandate and deliverables. Co-chairs of NSC provided an overview of Pathway to Canada Target 1. ICE also undertook ceremonies and left prayer flags behind to honour and commemorate the important work they had just accomplished and the work that still lay ahead.

Two key components of the ICE work includes the Four Moose Narrative and the concept of Ethical Space. These were discussed and advanced upon at each of the gatherings as participants contributed their own perspectives and stories. Please see the detailed Four Moose Narrative and Ethical Space sections in the ICE Report.

## REGIONAL GATHERING VIDEOS

Short videos of the Regional Gatherings were filmed and produced by Jeremy Williams (River Voices Productions):

- Western Regional Gathering: <https://m.youtube.com/watch?v=zvw5djVRjE0>
- Eastern Regional Gathering: [https://m.youtube.com/watch?v=R3lO\\_xSRJK0](https://m.youtube.com/watch?v=R3lO_xSRJK0)

- Northern Regional Gathering: <https://www.youtube.com/watch?v=Ci-RF5k-Fs>
- Central Regional Gathering: <https://www.youtube.com/watch?v=PyG0BI7wzC8>

## REPORT 1: WESTERN REGIONAL GATHERING ON INDIGENOUS PROTECTED AND CONSERVED AREAS (IPCAs)

### INTRODUCTION AND WELCOME

The first Regional Gathering was held at the Tin Wis Resort in Tofino, BC and on Tla-o-qui-aht Territory from May 6-8, 2017. En route to Tofino, participants took a bus tour with three site visits, including a welcome to Tla-o-qui-aht territory at the entry to the Ha'uukmin Tribal Park. Participants were given a tour of the Snaw-Naw-As Garden of Spiritual Healing in Mount Arrowsmith United Nations Educational, Scientific and Cultural Organization (UNESCO) Biosphere Region and welcomed to Qualicum First Nation Traditional Territory at Little Qualicum Falls Provincial Park. Tla-o-qui-aht master carver Joe Martin and ICE co-chair Eli Enns welcomed participants to Tla-o-qui-aht territory at the entry to the Ha'uukmin Tribal Park and provided the group with local cultural, ecological and economic background for the gathering.

### OPENING REMARKS

May 6, 2017

The first plenary began with opening words by Joe Martin (Tla-o-qui-aht). Eli Enns stated the workshop objectives, and Terry Seitcher (Tla-o-qui-aht Tribal Parks Manager) shared the Tla-o-qui-aht Tribal Parks experience. Nadine Crookes provided an overview of the Pathway to Target 1. Then Eli presented the “Four Moose Narrative” and outlined the relevant international conventions for the Pathway process. Several participants shared comments after the presentations, and Joe Martin shared a teaching to close the session.

### OPENING WORDS

Joe Martin shared teachings about the crest on a tapestry that was displayed in the meeting room. The teachings – respect, fear, interconnection, living together, boundaries, and responsibilities – are based in natural law.

*“The crest is about the Land – that Mother Nature will provide for our need not our greed. When one person messes with Mother Nature, we all pay.”*

### WORKSHOP OBJECTIVES

Eli Enns described the intent of the Regional Gathering as about gathering in the spirit of reconciliation to discuss how we can create a new kind of Indigenous-led conservation area (e.g., Tribal Parks), and how to support the Canadian government to achieve the targets committed to under the Convention on Biological Diversity (CBD). He noted that having these conversations are “an exercise in reconciliation”.

### TLA-O-QUI-AHT TRIBAL PARKS

Terry Seitcher noted that the Tribal Parks journey began in 1984 with a march to Victoria by Tla-o-qui-aht people. Tribal Parks haven been taken to different levels of jurisdiction; current desire is to take them to the national level. It involves building local relationships and responding to conflicts (e.g., with industry). Terry says “we have a great responsibility to look after the people and the environment - that’s our natural

laws.” Tribal Parks are about incorporating old ideas into new ways of doing business and part of the decolonization process.

Eli highlighted that the Tla-o-qui-aht envision a robust, sustainable livelihoods program through Tribal Parks. We don’t just have to theorize about ideas like Tribal Parks, we can touch them, and they’re real projects.

#### PARTICIPANT COMMENTS (UNATTRIBUTED SUMMARIES)

- Landscape of opportunity exists, but we don’t want to inherit a landscape of regret. What assurance can Indigenous Peoples have that potential IPCA lands won’t get wrecked before they are put in conservation status? There’s a need for “interim measures” for Indigenous Peoples with lands under severe development pressure.
- There is a responsibility to identify a path forward that doesn’t require a First Nation to go to court to protect lands before they can consider participating in IPCAs. We need interim measures to protect lands from development in the meantime and we need government to support these interim measures. We could add a fifth moose: “interim measures” for protecting lands that could be designated as IPCAs.
- What role does the Province play in Tribal Parks? We need “restoration parks,” not Tribal Parks.
- Moving forward, how do we work together as people to overcome boundary issues imposed by divide and conquer colonialism? The Pathway process is part of overcoming those barriers. It’s about the good of all, not just Indigenous Peoples. We take care of our lands for everyone.

#### RESPONSES FROM ELI ENNS:

- The mandates for Canada Target 1 are an exercise in reconciliation. This process brings the provinces and territorial governments together, but industry (especially energy and mines) likely doesn’t want to engage in this process. We participate in this process but we do not give power away to this process.
- The word “Canada” is from a Haudenosaunee word “Kanata” that means village or settlement, *a “place of people living together.”* John Raulston Saul says *“we are all Treaty people”*; even non-Indigenous Peoples have Treaty obligations. Crown sovereignty is with the peoples of Canada not the Queen or the Attorney General. Canada Target 1 is one exercise, not an all-encompassing solution.
- We need to be like water: become fixated on the vision and how we get there; be creative and relentless. A recommendation for the Pathway process is to have a series of “cooling off periods” from being at the table or from the Province issuing periods, particularly in “hot” areas (e.g., Doig River).

#### CONCLUDING COMMENT

Joe Martin said that for years after the blockades it wasn’t safe for him to walk around the town of Tofino, BC because he took a stand. He urged that despite the challenges, we need to take a stand, to practice sustainability for future generations. We need to all live in this world together and plan together.

Joe shared a teaching to close the session: *“You pay respect, you earn respect. But if you ever have to demand it, it’s not there. If you base your decisions on respect then nothing can go wrong.”*

#### BACKGROUND AND INSTRUCTIONS TO PARTICIPANTS

May 7, 2017

The second plenary began with opening words from Eli Enns and a presentation on peaceful commerce, bioregional economics and jurisdictional layering on the land in Canada. Eli outlined ICE’s deliverables in the Pathway to Canada Target 1 process and Danika Littlechild clarified the scope of the input desired from participants.

### OPENING WORDS

Eli Enns opened the session by noting that Elders teach us that rights and responsibilities are intertwined, two sides of the same coin. Our Regional Gatherings are opened with a prayer, reminding us of our shared humanity.

### PEACEFUL COMMERCE AND BIOREGIONAL ECONOMICS

The “cultural logic” is the “original Treaty” between the Creator and the People of this Land. Eli described how the Nuu-chah-nulth Peoples interpret and honor this relationship in three promises of reciprocity between the People of the Land and *Iisaak*, the sun, and the Creator, *Naas*. The promises are: give thanks and be grateful; treat what has been provided with respect (the plants and animals); and a lateral promise to wherever possible be generous with others and emulate the generosity of the Creator. In practice, these promises are about bioregional economics. Rather than take from others by violence, we meet halfway with people from the other valley, coming together in the spirit of our original Treaty with the Creator to share with one another.

Arguably, Eli says it is less expensive to give away wealth to an enemy than to create war, an expensive endeavor. Ingenious ways of maintaining peaceful commerce across bioregions are sophisticated forms of social contracts and ecological governance.

Eli provided an overview of the 1700s as the time of first contact in Canada and the point in which King George entered into a military alliance with the Iroquois against the French (7 Years’ War). The Great Law of Peace came from this Treaty: access to commerce, fur trade, and collective security, which is the idea that if one of us is attacked then we are all attacked; thus ensuring commitment to a collective response. The Iroquois Confederacy and the idea of collective security inspired international innovations like the League of Nations, the first attempt to create the UN.

Peaceful commerce and bioregional economics have to complement each other. That was the wisdom of the Great Law of Peace in the Iroquois Confederacy.

The *British North America Act* (1867) is where the relationship started to go wrong with the creation of federal and provincial jurisdiction. Consecutive populations have not been educated about the original Treaty and their obligations to it. We all have Treaty responsibilities.

### JURISDICTIONAL LAYERING

Eli offered a metaphor and diagram to explain how jurisdiction is layered on the land, using the example of Tla-o-qui-aht jurisdiction. The foundational layer is the abundance of land, created by *Naas*. Indigenous Peoples and their relationship to the land form the first layer – people learn the land patterns and observe, appreciate, and act accordingly; this creates a “grandmother’s responsibility”. Resting on top of Indigenous laws are layers of Crown jurisdictions: federal, provincial, territorial, and municipal.

When we say we’re creating a Tribal Park we’re not saying that the provincial and federal government “layers” don’t exist. They are our children; we are responsible for them.



*“We [first layer] are like grandparents, these [second and third layers] are our grandchildren, our precious ones. We have responsibilities for them.”*

*“We can help you, let’s do it together, [and] create a good way of living. That’s an opportunity for you. That is the opportunity of reconciliation.”*

Eli concluded that if we honour those old Treaties, that’s the spirit of the Pathway to Canada Target 1.

Danika Littlechild noted how this model is consistent with the “family model” in Cree. If our children are losing sight, the grandmother needs to intervene and correct the children and ensure no irreparable harm occurs to them. Indigenous law doesn’t have to be scary, we can wrap them [the children] in a blanket. The land decides who stays; there is something about the spirit of place that tells us.

### **ICE DELIVERABLES**

Eli acknowledged that ICE is charged to advise and make recommendations on:

1. How to meet Canada Target 1 in the spirit and practice of reconciliation, noting that “IPCA” or “Tribal Parks” are being used as generic phrases.
2. Laying a foundation for going beyond 2020.

Deliverables include:

1. A definition of IPCAs
2. Proposed categories
3. Values and Principles
4. Implementation guidelines
5. Indicators

### **PARTICIPANT FEEDBACK**

Danika Littlechild clarified the type of feedback that ICE hopes to glean from participants in the Pathway to Canada Target 1 process. They are not looking to create a laundry list of issues. Rather, they want to infer what is the desired state and how do we get there? Going beyond issue spotting, they are seeking deep, critical thought and aim to collect resources (e.g. documents, books) for ICE to use in its report drafting process.

### **CONCURRENT BREAKOUT SESSIONS**

Participants spent the remainder of the day in three concurrent breakout sessions:

1. Definitions (led by Eli Enns)
2. Principles and Values (led by Kelly Bannister)
3. Indicators (led by Danika Littlechild)

Highlights shared from the reporting back to plenary are included in the following section.

### **BREAKOUT SESSION SUMMARY REPORTS**

Josie Osborne (District of Tofino Mayor) opened the session. Then leads of the three concurrent breakout sessions presented on the key points shared in their respective discussions. The session ended with a few additional comments from participants.

### **OPENING WORDS**

Josie Osborne provided opening comments. Examples were shared of how the District of Tofino and Tla-o-qui-aht have jointly worked together in land use planning and education about the long-standing history

of this area. With one million visitors each year to Tofino, there is an opportunity to help people transform and to see things in a different way.

*“I am proud to be mayor of a municipality that is entirely ensconced by a Tribal Park – this is part of the identity of district of Tofino and a symbol of the way of the people who live here today. Regardless of culture/origin/place – we are choosing to co-create the future. None of us is going away, so we better sit down and have those tough conversations and learn how to be here together.”*

Eli Enns recognized that Tofino was engaging in reconciliation before it was a ‘buzz word.’ Tla-o-qui-aht and the District of Tofino worked together through tension and politics: “the key thing was we were all there to act in the best interest of the biosphere at large.”

### **BREAKOUT 1: DEFINITIONS**

Eli reported on the “Definitions” breakout group:

#### **General points:**

- What does this look like in an urban vs. rural context? What is different about IPCAs is that we see human beings as a part of the system as opposed to “fences and fines”; cultural education for urban Indigenous and non-Indigenous Peoples.
- “I come from more than place”.
- “I want to learn about this place, be connected, and learn about the people here”.
- Ecosystem services (fees? Creative ways of creating revenue fees for Indigenous conservation – for acknowledging monetarily the efforts/funds put in – natural assets is what makes tourism so strong).
- Protected vs. respected: Different cultures have different understandings about what constitutes ‘respecting’.
- Education about Indigenous laws, internalizing them.
- Reconciliation between Indigenous Peoples/settlers; with land; also internal reconciliation within nations, identities.
- Repatriating the word “economy”: Allow the land to lead.
- Let’s not fall short in talking about Indigenous knowledge.
- Using not abusing the land.
- “Beacons of teachings” of how to live well, respect each other and the land and water.
- IPCAs strategically located throughout country.
- “Restoration parks” and need for “cooling off periods” in some of the hottest spots where people are dealing with so many referrals/death by 1000 cuts etc. Allow communities and land to heal.
- “Biocultural conservation”.
- Define “who gets the power to define that”. It behooves all of us to come up with our own definitions. Purpose is not to create one definition and homogenize diversity or self-determination. Idea is to set out some broad markers/elements – but not to be prohibitive.
- Different cultural understandings of “respect”.
- Where Indigenous knowledge systems take precedent – need cultural translation to accompany.
- Need for spectrum and flexibility in the definitions.
- Nature/culture nexus – educate how we are integral to that. Part of, not apart from.



### **What could creating an IPCA look like?**

- Create a “policy-free” zone and “clean off jurisdiction,” just look at biophysical characteristics;
- Then ask what does it look like 100 years from now to be successful? And then put back in jurisdiction.

### **Recommendations:**

- Stop switching up staff all the time – challenge of revolving door of staff;
- Don’t rely on verbal assurances;
- Succession planning.

### **Final points:**

- IPCAs are old ways of doing things in a modern context.
- They are Section 35 of the *Constitution Act* innovations instead of going to court all the time.
- It’s not Indigenous Peoples that committed to those the international conservation commitments – need for reciprocity.
- Reconciliation & decolonization – good for all.
- Indigenous watershed governance area – spatial application.
- Relationship to the land/Treaty rights and traditional use activities – focus on restoration and forward conservation with cooperative management.
- Indigenous Peoples need to “hold the pen”.

### **BREAKOUT 2: PRINCIPLES AND VALUES**

Kelly Bannister reported on the “Principles and Values” breakout group discussions

### **Repeating Themes:**

- Resilience, reciprocity, respect - these can be interpreted in many different ways.
- Nuances of language and words are “too easy” – we need to keep it edgier – to not be comfortable.
- Much of what was shared was influenced by Indigenous laws, natural law, people in place, and being guided by place and teachings.
- Beginning with the law of the land/lore of the land.
- The land is the University – Elders know about the land by learning throughout their lives.
- Everything is interconnected – and the water, plants and animals don’t know political or geographic boundaries.
- Responsibility of teaching children and visitors.
- Leaving our place in state of “abundability”; Abundance – not just surviving but thriving.
- Responsibility to put “relations” back into relationships.
- Respect and reciprocity for nature (kinship relationships) – for example, the Latin American concept of *buen vivir* of “good living” (incorporated into Ecuadorian constitution in 2008).
- Repurpose words like “conservation” or “parks”.
- Embodied – being fully present where you are.
- “We are the land, the land is us”.
- Supportive of communities’ land use visions.

- Integrate and work together across jurisdictions to counter fragmentation.
- Seasonality and ceremony in using all things.
- All-encompassing.
- Transformative power of being in place.
- How do we get those involved in decision-making into those transformational spaces? How can their minds/hearts be transformed? This should be a requirement (i.e., experiential planning).
- What about areas in conflict? How do these communities participate? (recognize role of interim measures – setting aside lands at risk)
- Not just a tool for governments to meet targets – but how to make IPCAs a tool for resolving land use conflicts? (bigger, longer term goal)
- Keeping perspective - Target 1 a small window of opportunity – keep sight of 100% goal – and those not in a position to participate fully at this time.
- Principle of co-existence – will need to co-exist with new neighbours, we are all going to have to learn to do that.

### BREAKOUT 3: INDICATORS

Danika Littlechild reported on the “Indicators” breakout group discussions:

#### General Points:

- Reconciliation indicators; Reciprocity indicators.
- Concept of a window.
- Frame that sets conversation includes: UNDRIP, TRC, the Canadian Constitution, Free, Prior and Informed Consent (FPIC), and human rights/health in relation to environment. If we are talking about indicators in the context of this frame, indicators should be informed by the frame:
  - E.g. UNDRIP – FPIC – is it being met in context of IPCAs?
  - Section 35 of the *Constitution Act* rights – could rights still be exercised in that conserved area?
  - TRC – reconciliation – what if value added of IPCA is how it contributes to broader education about Indigenous relationships to land, to land itself?
- Qualitative indicators:
  - e.g., from New Zealand – cultural index;
  - e.g., cultural freshwater index – scientific measures plus community capacity building.
- Reconciliation is about wellness – IPCAs as a healing landscape – not just for physical health but mental, emotional health. Healing zones; reconciliation zones.
- A spectrum of Indigenous/non-Indigenous relationships exist; everyone is starting from a different place. Indicator development is not going to be creating a singularity, but rather have to create indicators or a process for creating indicators that allows for the voice of that IPCA to emerge properly:
  - How do we do that and not be too prescriptive? Indicators can create constraints;
  - We may not be developing *the* indicators but based on definitions, values/principles;
  - Try to describe a process for creating indicators that allows for IPCAs to develop their own indicators;
  - Standard approach to indicators is not something that will work.

#### Desired state of an IPCA:

- Right to participate in decision-making;
- Right to exercise self-determination;
- Ability to create a space within which Indigenous knowledge is not subservient to other knowledge systems, without having to translate itself or prove it is worthy;
- Think about measuring success vis-à-vis environment/ecosystem services – but maybe a measure of success is whether we are supporting Indigenous Peoples in revitalization of language, cultural practices, protocol, ceremony;
- Would bolstering cultural diversity bolster biodiversity?
- Reciprocity – places that enable knowledge, cultures, and authority of Indigenous Peoples to stand strongly – benefits that can bring to broader communities.

#### **Participant comments (unattributed summaries):**

- Indicators need to be viewed as a living document with caveats on items;
- At the end of the day it's always about going back to the basics, the teachings... and leaving berries, medicines, and salmon for future generations. Use for what we need, not for our greed;
- The Pathway process has a short timeline; it was given a tight timeline to do great things with little resources.

### **WRAP-UP PANEL, PRESENTATIONS & DISCUSSION**

Eli provided opening remarks for this plenary. The session unfolded as a panel discussion and touched on various themes: opportunities and challenges via the Pathway to Canada Target 1 initiative, Indigenous rights, re-interpreting historic Treaties, and UNDRIP and the international context. Commentary came from panel members Danika Littlechild, Eli Enns, Tonio Sadik (Member of the NSC for Pathway to Canada Target 1 and Director of Environment at the Assembly of First Nations), Nadine Crookes, and Scott Jones.

#### **OPENING WORDS**

Eli provided opening context for the plenary by explaining the duality in the goals of ICE:

1. Respond to the CBD Aichi Target 11<sup>1</sup>/Canada Target 1: to help ensure 17% of Canada's terrestrial land base conserved by 2020;
2. Respond to the larger context of urgency within Indigenous communities to practice teachings of the Ancestors and maintain healthy relationships with each other and traditional territories.

Eli noted that as part of the Pathway to Canada Target 1 process the federal and provincial governments also created the NSC. Government used an open process to involve Indigenous Peoples in ICE; there was a realization that without Indigenous Peoples on board it would be very difficult to meet Canada Target 1. The space created for ICE, which includes representatives from Indigenous nations across provinces and territories, is itself a vehicle for reconciliation.

#### **INDIGENOUS RIGHTS AND RECONCILIATION**

Danika Littlechild reflected on the paradigm-shifting opportunities offered by the Pathway initiative. We have the opportunity to weave Indigenous knowledge systems into conservation. Without getting into baggage of the past, this initiative presents a major opportunity to do something completely different regarding how we choose to define the relationship between Indigenous and non-Indigenous knowledge

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<sup>1</sup> <https://www.cbd.int/sp/targets/rationale/target-11/>

systems. There is an important need to create frameworks and relationships for Indigenous knowledge systems to keep their own integrity, so they are not broken up and fed into the mainstream system. It is not possible to just get pieces of Indigenous knowledge systems, because they are complete systems.

There is a trajectory where the mainstream thought they were becoming more liberal and inclusive by creating a “rhetoric” of traditional knowledge, or categorizing Indigenous Peoples as “vulnerable populations”. These approaches have created inherent constraints in how we are able to engage with the mainstream because Indigenous Peoples are being prescribed a model in which they have to fit themselves in order to participate or enter into the dialogue.

Danika explained that there is a societal shift in thinking about Indigenous Peoples and rights. We have an opportunity to think about ourselves differently and think about each other differently. The TRC and UNDRIP have played a significant role in this shift. There will be tough conversations – reconciliation will not feel good all the time – there will be anger, anger has its place. It does not always have to be positive – we have to work through some tough stuff to get there – and it can be scary. We need to be brave and bold. And the internal work, our “unconscious bias” is the hardest part.

This initiative is about land and water and our relationships to those things - it has the potential for *reconciliation in action*. There is not a finish line for reconciliation. This is a process, an ongoing negotiation.

Danika noted that there is no finish line for Treaties – our Ancestors knew that Treaties were not the end; we are not done in terms of how we relate to settler societies. Treaties are living, sacred documents about living in relationship. That relationship has to continually develop, be dynamic and responsive, and potentially change because of changing circumstances, shifting relationships (Treaty renewal). But the tenets of those agreements have to continue. This is relevant to reconciliation.

Scott Jones stated that the provinces and territories are passionate about idea of IPCAs, and that it’s not a new idea. IPCAs are a respect and recognition of very old ideas but in a current context. It might be new places on old maps or old places on new maps. Currently established parks can benefit from having Indigenous Peoples involved. It’s an opportunity for cooperative management and to foster Indigenous leadership in this area.

Nadine Crookes shared that in her heart and soul she knows that the gift of knowledge from Elders is part of the answer and that she trusts in the people involved in this initiative. The promise of the future is through bringing back Indigenous governance structures in a modern way. Engaging with jurisdiction on the landscape; is a journey of co-creation, and is iterative. “If we’re not doing something that makes us uncomfortable, then we are not going to go far enough.”

#### TIME CONSTRAINTS AND OUTSIDE PRESSURES

Tonio Sadik reminded that the initiative is limited by time. At the beginning it’s easy to put out the “R” words and hold those up but at the back end, when the chips are down and the political imperatives kick in, often those principles and values are set aside for other imperatives. The Pathway work will require political will – conviction by the politicians and fortitude of ICE – to get through. That will be the challenge for the co-chairs.

We need to be looking where the problems are, where the challenges are, where we are going to get resistance or outright attempts to undermine/disengage this work. This message is not cynical – you don’t

get a good process if you don't start out with a good process. This is a new way of doing things in a way that helps set the bar higher than it has with other federal processes.

Eli expressed that we should focus on qualitative elements, not percentages. We are talking about laying a foundation to go “beyond 2020.” Wherever you are, the foundations for reconciliation could be different. What leadership do historic Treaties provide for having a healthy relationship going forward? Get rid of numbers in numbered Treaties and replace with Indigenous names.

### LEARNING FROM THE PAST

Eli proposed the idea of “philosophical archaeology” – digging into bedrock decisions, looking at what kind of leadership they can provide for us. Looking at the past, not getting stuck in the past, reconciling the past – those things are there as opportunities (as opposed to skeletons in the closet) – look at with new eyes. There's a lot of healing that needs to take place.

Traditional roles and responsibilities have been passed through teachings from the Elders and we still honour these. In Tla-o-qui-aht territory, the welcome traditionally happens at the beach by the Beach Keeper, a role that is handed down. We have adapted to be hospitable. We put signs up so people know where they are. There are still major challenges. But despite these challenges, when people come here they see what's been happening in the last 33 years. We've been able to restore a balance of what was.

### NEXT STEPS FOR THE PATHWAY WORK

Nadine Crookes noted that an outcome of the Pathway work could be new regulations or legislation. It depends on what are the desires of communities. The first phase of the Pathway is about developing collective understanding about where we want to go – in future phases we will reach out to communities who may not have capacity. The Northwest Territories are currently in the process of creating new legislation in a large area with a small population. The principles that were discussed here align with those communities very well. With a bit of tweaking, a lot of currently preserved areas can help to meet Canada Target 1. As part of phase 2 there is a definite need to look at capacity tools.

### TSÁ TUÉ BIOSPHERE RESERVE

Danika Littlechild shared the story of Tsá Tué Biosphere Reserve, which was the first time that Indigenous Peoples on their own have received a biosphere reserve. People of Tsá Tué had a prophet who lived many years ago. He had a prophecy that Great Bear Lake would one day be contaminated and ruined. A few years ago a permit was granted for a permanent road – people were concerned that the prophecy was coming to pass, and so were ready to do anything and everything needed to prevent it. Delegates came to Victoria for the UNESCO Annual General Meeting – two Elders attended. This was the first time that a nomination form was entirely written by Indigenous Peoples. Usually these nominations are bureaucratic but they started with who they are.

The Tsá Tué example shows that UNESCO and UN are ready for Indigenous knowledge systems. They did it the way they wanted to do it – retaining integrity of Indigenous knowledge systems.

### COOPERATIVE RELATIONSHIPS THROUGH TREATY

Steven Nitah explained that in the Northwest Territories legislation has been done collaboratively, and conservation legislation will follow same type of process. Indigenous groups come with inherent rights and/or authority through government or entities established through land claims. Legislation will be used to protect lands in the way that Indigenous governments view that land should be protected. The purpose of the conservation legislation is to limit development and respect Indigenous and Treaty rights.

Steven reflected on the Treaty of 1900, made between his peoples and the British Crown. Treaty is a living and breathing document, not something that is fixed/rigid. It is a Treaty that you build relationships through, that respects your own jurisdiction and law-making abilities. It's a Treaty where you agree to share the lands.

Working out with governments how lands will be managed – the community has never signed anything with government that describes what that means. The mandate of the Chief Negotiator to engage with Canada (about the conservation legislation) was: 1) Respect Treaty; 2) Don't give up jurisdiction; and 3) Make sure our rights/responsibilities are enshrined in that agreement. His people put down the blanket of our law that we inherently have – now his community is negotiating with Canada and the Government of the Northwest Territories about their laws that respect Section 35 of the *Constitution Act* rights and responsibilities, and moving forward with that understanding.

Steven explained that Thaidene Nene Tribal Park was also a joint venture, where they identified a law, then negotiated how they would work together in the implementation of that agreement and any future plans in the spirit of cooperative relationships.

The pathway to the Pathway is self-determination of the nation itself – it is not up to governments to ask if a nation “wants a Tribal Park.” Indigenous Peoples need to re-interpret the Treaties and translate them in accordance with an understanding of Treaties as taught by the Elders.

#### UNDRIP AND THE INTERNATIONAL CONTEXT

Eli observed that there is something special about Canada, a nation co-founded by Indigenous Nations and the State. Nations that remember who they are – their histories, traditional knowledge and governance systems – have an opportunity to work with the UN on projects like this. How do we get it right and show leadership globally? How can the Pathway to Target 1 work benefit the international community?

Danika Littlechild thinks we might be able to shift Canada's position internationally. Canada has opposed FPIC in substantial ways – one of the things we have to do is reverse the position on FPIC. Canada has an abysmal history of suppressing Indigenous rights in international fora.

The first time that Indigenous representatives at a UN meeting were welcomed and promoted by Canada was the Convention of the Parties (COP) 21 in Paris in 2015 – just after Trudeau took office. This was the first time in over 20+ years that Canada publically stated support for Indigenous rights at the UN and included Indigenous rights in human rights. We are at an inaugural place internationally in terms of getting Indigenous Peoples elevated by the state.

Tonio Sadik questioned how important is it for Indigenous Peoples to be represented in the international context. There's a lack of connection between political direction set by Ministers and international negotiating positions, and a discrepancy between political levels and bureaucrats.

Nadine Crookes observed that it takes time to figure out “what it means” for Canada to actually adopt UNDRIP, and so on. The IPCA opportunity helps demonstrate what this means in real and concrete ways to land it – to create space within organizations that take the mystery out.

In closing, Danika Littlechild provided background on the challenges around how Indigenous Peoples can engage with the UN. Since 1977, to participate at the UN, Indigenous Peoples had to create Non-Governmental Organizations (NGOs) to come as civil society, not as governments. Since 2014, the UN



started to reflect and recognize different ways Indigenous nations organize. But the UN has still not recognized Indigenous Peoples as “Nations,” as this is tied to land and resource rights.

## INDIGENOUS CULTURAL LANDSCAPES

Pamela Perreault (ICE member and Forest Stewardship Council (FSC), Aboriginal Coordinator) gave a presentation on the FSCs third party voluntary certification system, which was followed by a question and discussion period. The session concluded with comments on the importance of sustainable financial models.

## FOREST STEWARDSHIP COUNCIL PRINCIPLES

Pamela noted that before a forest owner or manager can certify their forest, they must meet the ten FSC principles for responsible forest management.<sup>2</sup> These rules apply to all forest types and are in place to ensure environmentally appropriate, socially beneficial, and economically viable forest management.

## INDIGENOUS CULTURAL LANDSCAPES (ICL)

As part of a new project on FPIC and cultural landscapes, a proposal was brought forward to go beyond an Intact Forest Landscape (IFL) based on conservation and protection values, and create a “cultural landscape” model that includes values and culture. A cultural landscapes model is not solely Indigenous or Canadian. An ICL meets the following criteria:

- Living landscapes to which Indigenous Peoples attribute environmental, social, cultural and economic value because of their enduring relationship with the land, water, fauna, flora, spirits and their present and future importance to their cultural identity;
- Characterized by features that have been maintained through long-term interactions based on long-care knowledge, and adaptive livelihood practices. They are landscapes over which Indigenous Peoples exercise responsibility for stewardship;
- One significant challenge is that it is a voluntary organization with no legislation to implement
- Voluntary but with real impact in market place (e.g., government is reaching out to FSC for info; very large companies looking for FPIC; part of proof is certification; FSC is highest level of forest certification);
- Some cultural landscapes more or less visible to visitors/outsideers;
- ICL is all about responsibilities that are attached to customary rights and stewardship. This is tied to livelihoods and identity.

## QUESTIONS AND DISCUSSION ON ICLS

1. Could the inverse be possible? Could an ICL become an IPCA that is recognized as part of Canada 2020 targets?

Pamela Perrault explained that an IFL may exist and there may be portions that are already under protected area status but in more developed areas. There may be ICLs that have IFLs embedded within them but the most important part of a cultural landscape is not protected by IFL. Working landscapes are still important for recognizing Indigenous rights/title/exercise of Treaty rights – they could be candidates for tribal protected areas that would be recognized as ICLs. There is a whole governance regime around co-management that will need to take form in terms of understanding each other’s rights and responsibilities. Also, it will need to provide a mechanism or model that certificate holders can benefit from because we need to maintain membership.

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<sup>2</sup> The ten FSC principles are available online: <https://ca.fsc.org/en-ca/certification/forest-management-certification/principles-criteria>

2. Is there a way to make Tribal Parks more recognizable across the land?

Eli Enns referred to the Nuu-chah-nulth concept of *Teechmis oóchin* - it's important that the integrity of the initiative is intact, no matter what it is called. How these manifest in relationships with other organizations is the interesting thing. There are different ways of achieving this – for example, use generic language with several different categories. Each category will have specific language and articulations that are meaningful and relevant to communities. The indicators, values, principles and definitions will determine how to place those articulations or manifestations by different communities.

It's on us to articulate our laws, give voice to them and bring them to the larger processes. We have to be relentless, endlessly creative and follow the teachings of our Ancestors.

3. Under FSC, is there any recognition of authority or jurisdiction? What more would a Tribal Park need to do?

Pamela Perrault noted that FSC certificate holders must recognize and abide by Indigenous authority and decision-making processes. FPIC is a stepping stone but not an answer. ICL is where communities want to go.

FSC cannot set up First Nations communities to bear all the burden of protecting the environment – we can help and provide support but the authority rests with First Nations on how it happens. Indigenous Peoples are not a tool for protection, we are decision-makers, and we always have been.

ICLs are about ensuring Indigenous Peoples are on the land, exercising their traditions to maintain biocultural diversity.

A rights-based discussion is very different than a reconciliation-based approach. These are two very different ways of seeing the world.

4. The provinces are obligated to think economically, but they are also obligated to protect these areas. Have there been conversations with the province on their role?

FSC goes beyond provincial mandates; however, governments have always been observers. Every time they discuss FPIC, the word “veto” comes up. We need to start engaging governments directly while keeping them out of internal business, and frame it in a way that we're helping the government meet their targets. We might have the same goal, but there are many different ways to get there. Even within the Indigenous world there are different viewpoints on how to do that. We should re-conceptualize FPIC as getting to “yes”, not “no”. Veto continually emerges when it's the opposite, so we should set the standard for how you get to agreement.

#### PARTICIPANT COMMENT

- One of the 4 moose is “financial solutions”. Conservation financing has mostly worked for the Great Bear Rainforest. It is sad to see commercial interests are the ones benefiting rather than communities. Revenue-sharing by local government is key so communities can thrive, not just survive. The work of ICE needs to include consideration of returning benefits to communities. For example, finding financial solutions through an “environmental service fee” model.

#### RESPONSE FROM ELI ENNS

- Eli affirmed the importance of financing models based on source service fees and asked to note this in the record.

## ART EXHIBIT

Participants enjoyed a weaving presentation and interactive discussion led by artist Meghann O'Brien.<sup>3</sup>

## CLOSING

The gathering was closed with a drum song led by Squamish Elder Shirley Lewis. Participants were thanked and wished safe travels on behalf of ICE by Eli Enns.

# REPORT 2: EASTERN REGIONAL GATHERING ON INDIGENOUS PROTECTED AND CONSERVED AREAS (IPCAs)

## INTRODUCTION AND WELCOME

The second Regional Gathering was held on Mi'kmaq territory at the Digby Pines Resort in Nova Scotia from June 11-13, 2017. En route to the gathering, participants visited the Grand-Pré National Historic Site for a welcome to the territory and guided tour of the site. Assembly of First Nations (AFN) Regional of Nova Scotia and Newfoundland, Chief Morley Googoo welcomed participants to Grand-Pré on Mi'kmaq territory. He provided a brief overview of priority issues facing Mi'kmaq communities in the region. He acknowledged the tension around Canada 150 and shared his perspective that Canada 150 was an opportunity for Mi'kmaq people to have a spotlight for telling their stories and to focus on positive change to improve Mi'kmaq quality of life.

Chief Morley spoke of the settlers and first contact, and the poverty that existed at that time. "We agreed to coexist in peace and friendship Treaties. At the end of the day, nobody is going away. We're going to all exist no matter what. What we've created is an abundance of wealth through the partnership." The challenge, he pointed out, is for Mi'kmaq to be able to share more equitably in that wealth. He acknowledged the Indigenous rights that have been recognized and indicated the next key steps as working towards nation-to-nation talks by organizing among Mi'kmaq, and taking the responsibility to articulate Mi'kmaq laws.

Chief Morley concluded by extending an invitation to attend a Peace and Friendship Gathering that will be held at Grande-Pré this summer, with art and story-telling to share Mi'kmaq culture.

## GRANDE-PRÉ NATIONAL HISTORIC SITE TOUR

Participants toured the Grand-Pré National Historic Site, which is located in Nova Scotia's Annapolis Valley within a UNESCO World Heritage Site. It is a monument to Acadian culture of the 17<sup>th</sup> and 18<sup>th</sup> centuries. The site contains a statue of Longfellow's famous heroine, Evangeline, a Memorial Church, and a reconstructed dyke and aboiteau created to explain how the Acadians reclaimed the salt marshes. Participants also visited the flag site that flies United Nations, Canadian, Nova Scotian, Acadian, and Mi'kmaq flags.

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<sup>3</sup> <https://meghannobrien.com/>

## OPENING WELCOME & OVERVIEW OF GATHERING

June 10, 2017

The first plenary began with opening words and a prayer by Elder Albert Marshall (Eskasoni First Nation), followed by a round of participant introductions and comments. Eli Enns presented the workshop objectives and an overview of the Pathway to Canada Target 1, followed by further participant comments.

### OPENING WORDS AND PRAYER

Elder Albert Marshall opened the gathering with a prayer in the Mi'kmaq language, repeated in English: *“Today we are gathered here. We thank the Creator for giving us this beautiful day to come here and to share with one another our words. And those words will hopefully be used to heal and to inform each other as to how we can begin these discussions and be instrumental in living out our responsibilities, not just to be the stewards of the present but for the next seven generations.”*

Elder Marshall shared the importance of the session to him personally. *“We have been saying for years that Nature has rights, humans have responsibilities. And in most cases, in our understanding, the laws of man have to be superseded by the laws of nature. This is the only way that I believe we can have a protected regime in operation like it's supposed to be. That's the closest thing that we'd be hoping for, in which all our creation will be able to manage herself, and take care of herself, and heal herself without the hands of man.”*

*“We are the problem. We are the ones that have deliberately exhausted her carrying capacity of the system. And it was the man that exhausted the cleansing capacity of her system. And if we're not too careful, we're the ones that will be on the wayside. I don't think you have to be a scientist to believe that we don't have to save the environment, the environment will save herself. We have to somehow save ourselves by coming together. And thinking as to how we can move forward in a way that we will sustain ourselves, and constantly be mindful.”*

*“How could I take that next step to be soft on Mother Earth? What can I do to fine tune my way of sustaining myself? What could I do to not compromise the ecological integrity of the area, upon which we are so dependent? Our future is looking at us, and what kind of a future will they have if we don't fulfill our responsibilities, to use our voices, our actions, of ensuring that she will be healthy so that we too can be healthy. Thank you very much.”*

### PARTICIPANT INTRODUCTIONS AND COMMENTS

After the space was opened by Elder Marshall, a moment of silence was observed for a recent tragedy in Northern Quebec. Eli Enns shared regrets from ICE co-chair, Danika Littlechild, and ICE and advisory members were introduced. Eli described ICE as “an example of reconciliation” in that they were engaging in good faith, putting their best effort forward, and expecting the government to do the same. Participants were invited to briefly introduce themselves in the clockwise direction. Participants also identified key issues and priorities, which helped shape the agenda for the subsequent days.

### WORKSHOP OBJECTIVES & OVERVIEW OF PATHWAY TO CANADA TARGET 1

Eli briefly explained that ICE and the broader Pathway to Canada Target 1 process has been opened and embraced by Elders Larry McDermott, a member of Shabot Obaadjiwan First Nation, and Dr. Reg Crowshoe from Blackfoot cultural and spiritual adviser and former chief of the Piikani Nation. Last week in Ottawa these two Elders led a pipe ceremony with all of the members of the NSC, most of the members

of ICE, and all members of the newly formed NAP. They came together in ceremony to ask for the responsibility to undertake the work that they are striving for. The pipe ceremony is now embracing the Pathway to Canada Target 1, including the work of ICE, NAP and NSC.

A set of four cloth prayer flags were included in the pipe ceremony. The prayer flags are endowed with good intentions that were expressed by the Elders and everyone standing in the circle in Ottawa the week before. The flags are being disseminated in the four regions of our country where the gatherings are taking place: Western Canada (Tofino, BC), Atlantic Canada (Digby, NS), and Northern Canada (Yellowknife, NWT) Central Canada (Winnipeg, MB). The flags will be hung in those four places across Canada to oversee the work that we're doing. Eli noted that the ceremony embracing the Pathway to Canada Target 1 work is available to everybody to continue to draw from when the going gets tough.

Eli clarified that the broader Canada Target 1 involves both a terrestrial element and a marine element; Pathway to Canada Target 1 is focused on the terrestrial side. Due to a variety of jurisdictional and bureaucratic realities faced by the federal government and various other governments, those two aspects are being treated as separate. The terrestrial is being led by Parks Canada and Environment and Climate Change Canada. The marine side is led by Fisheries and Oceans Canada.

Our gathering is about the terrestrial side and specifically about IPCAs are one tool to work towards achieving Canada Target 1. However, as Indigenous Peoples, we don't see a clear distinction between marine and terrestrial. They are interconnected. Anyone who works for Parks Canada, Environment and Climate Change Canada, Fisheries and Oceans Canada, also understand that everything is interconnected. The challenge with bureaucracies and federal and provincial jurisdictions is that they have boundaries where they can't talk together, or work together.

One of our messages is that, as Indigenous Peoples, we don't have to be stuck in those same bureaucratic distinctions. We can talk about these things together. And we can collectively lay our blanket of Indigenous law, whether it is Mi'kmaq law, or Nuu-chah-nulth law or Maliseet law, over both terrestrial and marine. Indigenous respected areas can be the connective tissue between these disconnected phenomena.

Another message is that we don't want to have our Canada Target 1 process (terrestrial) unduly compromised by another process (marine) that might not be engaging in a way of a post-Tsilhqot'in legal reality. If anyone is still talking about just consulting with Indigenous Peoples, they haven't learned the lessons of the last several Supreme Court decisions. UNDRIP, FPIC, the Supreme Court of Canada 2014 June 26th decision (consent). We're moving from consultation to consent; that's a principle agreed to in this process through the "ethical space" model<sup>4</sup> that is adopted by NAP, NSC and ICE. Everyone has agreed to UNDRIP, the TRC, Section 35 of the *Constitution Act*, and other international instruments such as the UN CBD. All of this is framed with our peace and friendship Treaties, which frame all of that ethical space.

#### JURISDICTIONAL LAYERING

Eli Enns used a metaphor and diagram to explain that the Creator's jurisdiction is the foundation of natural laws that can't be avoided. The next overlay is the Indigenous laws, such as Mi'kmaq laws. Indigenous laws exist whether or not they are respected or acknowledged by provincial or federal governments; they

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<sup>4</sup> "Ethical space" is a foundational concept in cross-cultural research ethics within Canada, first popularized by Cree philosopher and Educator Willie Ermine (2000) in his M. Ed. Thesis called "A critical examination of the ethics in research involving Indigenous Peoples." and again in Ermine (2007). *The Ethical Space of Engagement*. *Indigenous Law Journal*, 6:1, 193-203. Elder Dr. Reg Crowshoe has been instrumental in adapting the concept of ethical space for the purpose of the work of ICE.

exist and form the substructure underneath the state. And they apply to all of the areas under the Treaties that were made, not just the postage stamp Indian reserves. These are not cede and surrender Treaties, but Treaties of peace and friendship, to share what you've been cultivating, to share the wealth of your ancestors and what you're taking responsibility for, to share all that with the newcomers. The new jurisdictions that go on top of Indigenous laws are the federal and provincial jurisdictions.

When we create a Tribal Park, we're not saying that these jurisdictions have to go away. We're saying we're also here; we've been here since time immemorial. So these jurisdictions have to line up better so that they can work together, like connective tissue. Steven Nitah talks about enabling legislation and establishment agreements. In the Northwest Territories they've already launched a new legislative process to create legislation that will build on the peace and friendship Treaties, and will allow them to create these new Indigenous respected areas.

Our third Regional Gathering will be in the Northwest Territories in the Treaty of 1900 territory so information from our work will feed into that legislative process. And in turn we want to understand how enabling legislation works in their place and learn from what's happening there. A lot of our people who have peace and friendship Treaties and are saying "if you want to have biodiversity and if you want to do a favour for the environment, a good place to start is respecting the peace and friendship Treaties that we have here."

#### PARTICIPANT COMMENTS

- Is there a legal prerogative of defining what constitutes a protected area? What is the process or criteria for designating an area as protected? How far apart are we when we have to rely on the definition of a protected area by someone else, such as Fisheries and Oceans Canada or Parks Canada?
- As we write our own scripts, we have to be mindful of challenges and hurdles, such as disconnection from our environment. Disconnecting has to somehow provide an opportunity for people to reconnect. But that's not possible if we look at our postage stamp communities in the Maritimes. Since we are so disconnected, we don't know what the ecological damage is. We need an ecological audit in these particular areas, to determine what, where and how remediation can take place, and what kind of remediation.
- We can create the foundational knowledge needed by applying the two sciences (Western science and Aboriginal science) in a "two-eyed seeing" approach to an intensive ecological audit of the land. If an audit indicates that this area is sensitive, that should constitute the definition of a protected area. The basis of information for decisions needs to flow from more than just western science. Aboriginal sciences need to play a role in determining why and how these areas need to be protected. If we're going to encourage collaboration or co-learning we have to start from an integrated Aboriginal perspective as western science alone would never be able to answer the question of "what are the ecological protections that need to be in order for each species not to be eradicated?" It's only through observation that you determine what the impacts of maintaining biodiversity are for each species, through an Aboriginal sciences perspective, along with the knowledge and relationships that come with it.
- We need to convey a message to the federal and provincial agencies that they should be compelled to communicate what each department is doing, and also how other departments can complement and help them.



- We need to convey a message to these government departments that they should be compelled to have an Elder or knowledge holder within their department, or at least have access to a knowledge holder. There needs to be some concerted effort to integrate western science and Aboriginal science. In the Mi'kmaq language, *Tetpaqo'tmnej* means "let's take care of it properly." Let's all take care of it together.
- We want to take responsibility for our territory, not just our postage stamp reserves, because we still acknowledge ourselves as being part and parcel of this territory, which encompasses part of Newfoundland, Quebec, and PEI. But you know, in so much of our territory we have no baseline knowledge of it. To get that baseline knowledge we have to rely on western science. And western science will hopefully help us do the kind of ecological audit that needs to be done, so that we can get a clear picture of what we're dealing with.
- Mother Earth is connected to everything on Mother Earth. And we can talk about protected areas, but protected or not, they affect each other. So the spirits are telling me that we need to respect all of Mother Earth, because if we look at one area or another area, they affect each other. If we keep one area clean and one area dirty, the dirt is going to go to the clean.
- Another contribution to the conversation is healing. The reconciliation process is a healing process – healing and relationship. This idea of working with the land and identifying areas of the land, not for the sake of the land, but for the sake of ourselves. If we can make that part of our nomenclature, it would be a good thing.

#### RESPONSES FROM ELI ENNS AND STEVEN NITAH:

- “Every department should have an Elder” could be a recommendation in itself that we could have in our report. That would go a long way to improving how these departments interact with each other as well.
- Yes, we can create our own laws to give life to Indigenous protected or respected areas. And we're not here to dictate what kind of acronyms to use, you can call it an IPA, an ICA, an IRA.
- “Let's all take care of it together” *Tetpaqo'tmnej*, we'll make a note of that.
- In the message that he gave the committees Elder Dr. Reg Crowshoe spoke about adding Indigenous knowledge to scientific knowledge. It's not about Indigenous Peoples or Mi'kmaq taking over another land. It's adding to what's there and possibly adding additional respected areas, using your laws and your ways of knowing and doing, and working with the Crowns so that those laws, and areas are created and respected.
- To date, most of the protected areas weren't even based on Western science but was on recreational use. The goal of ecological integrity is a relatively recent goal within the park system, post 2000, but even then, the majority is Western science. The point is well taken that Indigenous knowledge systems have to come into consideration and have to be engaged with western science even before we talk about jurisdiction.
- In the NWT, we're using our Indigenous laws to create an area within our Treaty area, and we're going to add federal legislation and territorial legislation to create a respected area through an establishment agreement; a relationship agreement that acknowledges the responsibilities of Wolf, my people, and the Crowns. This is a new paradigm that we're talking about. We did global research on best practices and the Elders are the ones that identified and drew the boundaries based on traditional knowledge. The area that they identified is a life-giver to our people. It's the watersheds, wetlands, culturally significant areas. It's based on our knowledge. And when we zoned in on Parks Canada and Parks Canada legislation as the best way to do what we wanted to do, we brought that

knowledge to the table. Going forward in this spirit, it's not about what Canada or the province is asking or pushing on you. It's how do you want to move forward? And under what conditions do you feel comfortable moving forward in identifying your lands that you want to manage in a respected way?

- In Nuu-chah-nulth, *Hishuk Ish Tsa'walk*, everything is one and interconnected. From a Nuu-chah-nulth perspective, 17% and 10% doesn't make sense. The number one thing we're working on here is reconciliation. We're not going to say "these pieces are respected and everything else is disrespected." There are areas that we're willing to cooperatively agree upon certain things in an exercise of reconciliation, but we're not going to let up our sights in any other square inch of our territory.
- We can create responsible economic practices where we're meeting our needs and we're creating more abundance in the system for our grandchildren and everyone is happy, that's the ultimate state that we want to achieve. We're in a fragile state of relationship; there are still trust issues. We realize that there are still mandates based on terms in office. That's why we're engaging in good faith and we're giving our best effort, but we're not putting all our eggs in one basket, we're going to continue to move forward in a variety of other fronts.

### CONCLUDING REMARKS

Chief Gordon Planes (T'Sou-ke Nation, ICE member) acknowledged Elder Albert Marshall for his words saying "they were very good for all of us to hear, and a huge part of who we are across the Eastern gate and Western gate." He added that this is going to be the foundation for us moving forward in the Target 1 work, with the Elders and the knowledge keepers who can pass on that information. We're at a place of crisis because our Elders are dying at a fast rate, so those knowledge systems are going to change. You're not going to have a "real Canada" unless it's the way the Elders foresee it. His Elders got taught that by their Elders; it goes back a long way.

One of his Elders said the environment correlates with the people in a strong way. The Elder said that we have 5% of our old-growth timberland and we have 5% of our language speakers because almost nobody knows how to speak the language. The Elder said "that is how we look at our nation, it'll tell you exactly what's wrong with us. We need to change that number." These are really strong words, and they say everything, because without our language, our identity is not connected enough.

### RESPONSES TO A REQUEST FOR CLARIFICATION ON LAND THAT IS ALREADY PROTECTED

- The 10.5% that's been protected is split between the provinces, the territories, and the federal government. This is the way that in the past we have counted what contributes towards biodiversity. Part of the process that we're going through in the Pathway to Target 1 is understanding, reflecting, and counting the contributions of areas beyond what federal, provincial and territorial governments are doing. An exact breakdown of the 10.5% between these jurisdictions was unknown, but most of the land is held by the feds, followed by territories and then the provinces.
- Pathway to Target 1 is a new way of thinking, a new paradigm for how to think about these areas. This 10.5% is a historical method of counting. A part of this conversation is about protecting additional lands in new ways so that we're better at conserving biodiversity. But it's also about reflecting on how are we doing that accounting and does it make sense in a current context? If it doesn't, those numbers will shift with the way that we think about what we think is conserved or protected or respected areas. It is imperative to think about how we're currently counting, and how might we advance on conserving and protecting areas. Are there gaps? We know for example that

there are private conservation lands that are conserved by land trusts that are currently not included in that number. We know that there are Indigenous conservation areas that are not in that number but should be, and municipal lands that should be in that number. This is something that the Pathway is looking at as well.

- Under IUCN classification of protected areas, there are six classifications and that's traditionally what has been counted. The 17% Aichi Target includes that, plus it also speaks to other effective conservation measures as being something that contributes to the 17%. The Pathway is looking to Indigenous protected and respected areas as a different entity. All of these things are in play.
- When parks and protected areas have been created, like the existing 10.5%, often the creation of those parks has been without the consent of Indigenous Peoples. That's the elephant in the room. We have examples of Riding Mountain, where peoples' houses were burned down, and people were kicked out of villages to make way for the creation of the park. It wasn't that long ago.
- In Tla-o-qui-aht where Eli is from, when the Pacific Rim National Park Reserve was created in 1970, it locked in the only road-accessible community. All of the other villages are water-only because they're on little islands. This created a hardship. The grandmothers who were going down to collect the medicines were all of a sudden getting harassed by park rangers, who made them put down the medicines saying "no you can't pick those things." It was a really bad situation in his territory when those parks were created.
- Regarding reconciliation, and in terms of ICE and process, what was said very clearly last week in Ottawa is that reconciliation is not assimilation. Reconciliation is about correcting the things that have not worked in the past and moving forward in a better way, in parallel sovereignty, in the spirit of peace and friendship. When we apply that idea of reconciliation to the existing parks, part of the conversation is about reconciling that past experience, looking at existing parks and finding ways for our peoples to come to terms with those things in a good way.
- One small example on the west coast: there was an Order in Council in 2006 or 2007 which took land out of national parks and returned it to Indigenous Peoples. Tla-o-qui-aht was one of them, for the Pacific Rim National Park Reserve that landlocked their only road-accessible community and stunted its growth. After negotiation, 86 hectares of land was returned so the community could be expanded. That was the first time in the history of Canada that land was taken out of parks and given to Indigenous communities. So there are precedents that have been set for that type of reconciliation to happen.
- Tla-o-qui-aht also took over the co-management of a park trail and the Esowista Ecological Integrity Mitigation Fund, which was essentially a two million dollar fund that was created. Now it is jointly decided that part of that money goes directly into the Tribal Parks program.
- ICE left the 17% target in the terms of reference to use as a goal post. In Canada we have huge territories and we all have our special places within our territories. What ICE wants to do as part of the new relationship building, is build a new relationship with the Crowns, based on the intent of those Treaties that were made hundreds of years ago – to give life to those original Treaties, which were relationship-based. We want to use those Treaties as we move forward and identify our special places, places where we know about the biological diversity, where we go for our medicines, our food, where we go for our spiritual exercises. To say that 17% is going to capture all of that is a stretch. If we build right relationships then we can go beyond the 17% and give all our communities the opportunity to protect those special places, in our own views, legislation, and our own laws.
- Also as part of reconciliation, we need to look back to the protected areas that are operating today and rebuild that relationship based on those original Treaties or new Treaties so we can start

collecting our medicines, and exercising our responsibility and our rights within those territories. Section 35 is the constitutional document, the National Parks Act, is an Act. Section 35 trumps the National Parks Act. This is part of reconciliation – relationship building between the federal, provincial and territorial Crowns. The reality is that we have rights and responsibilities within existing protected areas, and we should be able to go back in there and build new relationships with the Crowns and reassert our responsibility to add onto those protected areas. The goal is not to take away, but to add on our voices, our identity. By doing so we could start building the foundations.

- We hold the view of layered foundations:
  - The Creator laid the land.
  - As Indigenous Peoples, the Creator placed us on this land. Indigenous foundations are located right above the Creator’s foundations. We’re responsible for the creation. We have to speak for the animals, the plants. That’s the responsibility the Creator gave us.
  - Through Treaties we agreed to share the lands, the resources, the responsibility for the management of each other, and the benefits that we can create from these lands – which created a federal foundation.
  - The federal government created provinces and territories, which is another layer of jurisdiction.
  - Then the provinces and territories created municipalities, as another layer of jurisdiction.
- In going forward, reconciliation is about regaining those responsibilities that the Creator gave, and moving forward together, sharing the responsibilities. You can create the Indigenous laws and respected areas that the Crown laws respect. And if necessary you use Crown laws to manage non-Indigenous Peoples in the area and space that you create for yourselves.
- An example was shared from Steven Nitah’s territory of 280,000 square kilometers: In 24,000 km<sup>2</sup> they are going to use Dene law, Canadian law and territory law to manage each other in that area based on a relationship document called an “establishment agreement” that spells out their good work together in managing each other.
- We’ve created a space for ourselves to have this safe discussion within the Pathway to Canada Target 1 work. Within this window we want to make sure that UNDRIP is recognized. We want to make sure that the recommendations of the TRC are incorporated. We want to make sure that international agreements are recognized and respected and used in this space. And Section 35 of the *Constitution Act* encapsulates those Treaties mentioned, whether historical Treaties, the numbered Treaties, or the modern Treaties.

Todd Labrador shared a number issues that he has faced as a Mi’kmaq person from this area.

In the 1970s when he walked the land with his father, they had to walk carefully and silently in many cases because they weren’t welcome even though it was their traditional territory where his grandparents had lived. It had become a national park. His grandparents were nomadic peoples, travelling to the coast and returning to this area according to the season. They were told that the land was sold and there’s a piece of paper with an “x” on it as proof. The national park came and chased everybody away from the 386,000 hectares that his ancestors had lived on.

Over 60 archaeological sites were discovered and a large concentration of petroglyphs. In the 1980s when he first went through the national park, he wasn’t allowed to go to his ancestors own sacred sites because he wasn’t a park employee. The main site was where his great-great grandfather lived but he wasn’t allowed to go there. All across the country this is happening.

In the 1980s Todd wanted to get a piece of Ash wood to make a basket. But most of the Reservations are built on rock and swamp. So he went to Natural Resources, and at the time they said he'd have to pay eight dollars to get one chord of wood. Todd said he didn't want a whole tree. He wanted a specific piece of Ash that was just off the Reservation. After a long time, with lots of process, the government authorities wanted him to drive three hours and go back in the woods an hour to get a piece of Ash. He refused and he eventually did get a tree. But it was not a positive example of working together.

Todd later worked at the National Park to protect the sacred sites by giving guidance to the burial grounds. Most of the big stones had been taken away, the headstones picked for walkways etc. People were everywhere so he tried to guide about appropriate places to walk and to avoid. One year, a lady who was giving the guided tour got very sick and she couldn't walk. Todd kept saying "we're not supposed to walk on our Ancestors, they're buried here, and we're disrespecting our Ancestors." He fought a long time to get tour changed to respect the Ancestors.

Todd also spoke of how the petroglyphs were being defaced and destroyed on a daily basis. In 1994, he was going to protect the sites, with the Parks Canada Protection Act as a tool to assist. He would catch people marking their names, and it was part of his job to save the sacred places. To this day, nobody has been charged. He quit four or five times, because he couldn't protect the sacred sites for his nation, the province and future generations.

Todd is one of the only canoe builders in the nation and just a couple of years ago he wanted to get a tree to build a canoe but couldn't get a permit from Parks to get one in the national park. He was told a birch bark feasibility study was needed to make sure there are enough trees to make it sustainable. Todd explained how these things don't stop him but they create frustration.

He sees things changing and is hopeful. But he pointed out in this very area, just down the road from our meeting, there's a place where his great-grandparents would pull a wagon, they would walk on the mountain to get materials to make baskets. There are still poles up there where they lived, and trails on mountain. But that mountain is starting to be clear cut. It's a very important area that needs to be protected.

Todd expressed that he felt like an intruder on his own sacred lands for a long time. He pointed out that when we talk about building trust, and we talk about moving forward, we need to recognize that before we can go forward we have to go backward. He is 100% for talking about building trust and moving forward, but we also have to acknowledge the history, not only in the distant past but in the recent past.

Eli Enns thanked Todd for his words and acknowledged the damage of the far and recent past. He reminded participants that even the previous day when we were at the heritage site and our Parks guide was unable to speak about Mi'kmaq culture and history. "So it's even happening yesterday. And we know that we can improve and that's why we're here."

Steven Nitah suggested that one of the recommendations going forward should be to build on the "latest and greatest" agreements between Crowns and Indigenous governments, and to bring up the rest of the protected areas (whether provincial or federal) to that level.

The agreement currently in progress in his territory is a shared venture between his community and Parks Canada where the parties agree to share the lands, responsibility and the decision-making, the operations and management of it. Dene rights supersede the National Parks Act. "We're allowed to go into those parks and exercise our rights as we define them under Section 35 of the *Constitution Act*. They can't stop it. We even have a clause in there that's called the 'pause and reflect' clause. It's specifically designed for the

young park ranger that's come in not knowing the history of the agreement and the relationship. If he or she feels that somebody is contravening the national parks act, they have to pause and reflect. They have to look and observe but they can't do a thing about it. They go back to the community and they talk to the chief, and they'll ask the chief is that the right of your people?"

Steven explained that his community built on the experience of the Haida Nation negotiation of Gwaii Haanas National Park Reserve and Haida Heritage Site. But he noted there have been 6-7 national parks created since Gwaii Haanas that are weaker in relationship with Indigenous partners.

"Part of the recommendation going forward should be that Canada should not go with one group, one nation and try to get a weaker deal, or a stronger deal for the nation."

Steven encouraged participants to exchange amongst themselves on their experiences. "One reason we have these Regional Gatherings is to bring people who have current, real-life experience that they can share, and also to learn and listen and give advice and recommendations that we can take to the Pathway to Target 1. "

Eli Enns reiterated that a recommendation from this meeting could be that we bring the existing parks up to new standards. Once we have a new standard, we have to go above, to meet or exceed the new standards.

A participant raised a question about compensation for historical loss, building on the examples that Todd Labrador shared.

Eli Enns suggested compensation for historical loss be another "moose" or included as an element within interim measures. It is beyond immediate relief of harm, but might come into play with the "financial solutions" moose as a component. He noted in some cases money is not going to satisfy because "if we don't have birch bark trees left, we can't have cultural survival." Eli concluded that we should officially integrate compensation for historical loss as an element, as either as another moose by itself, or build it into the financial moose.

Steven Nitah suggested it could also fit in with reconciliation, which was agreed by others. A participant noted that we need the government to understand the depth of loss that has been felt over many generations.

Chief Gordon Planes indicated that these things are usually dictated by the court system. T'Sou-ke Nation has been in the Treaty process for 20 years, which has been a frustrating process. But he suggested the courts are the same, creating a financial hardship for the First Nation as it is not affordable.

His people, in talking to government and other groups, claim all of these village sites as their own, since they signed an agreement with the Crown 150 years ago. If that agreement was honoured, those places would have been protected a long time ago, but they are not. T'Sou-ke Nation has watched develop happen and all the resources be extracted from their territories.

Chief Planes noted that we have a lot of gray area across Canada and it is costly. "How much would it cost to give it all back to all the First Nations across Canada? It'd be an enormous amount." The T'Sou-ke Nation, even after being at the treat table for 20 years, has put themselves in a good position to win in court. "I think this is great but for every Nation it's their own thing. I just wanted to share our story."

Eli Enns suggested one of our breakout sessions today could be focused on resolving historical and present violations of Indigenous law.



“We were very blessed to have Chief Morley give a really great talk to us. One of the things that he really emphasized, which I think was a good tone-setter for our workshop today was the ‘just do it’ strategy. We can get stuck in negotiations, we can get stuck in litigation, or we can move forward in the spirit of peace and friendship. In the spirit and practice of reconciliation – true reconciliation not just talk reconciliation. And move forward in a ‘just do it’ strategy.”

“And then in the evening yesterday, we heard clearly the idea that nature has rights. We see there’s a lot of anger, and rightfully so. There’s a lot of fight, and that fight was important to have. The emphasis on rights has become a very important emphasis, to try to bring things back in balance a little bit.”

“But what I hear from our Elders, here and other places across Canada, is a very similar message – that nature is the one that has rights, we have responsibilities. Humans have responsibilities. And it’s a very powerful thing to take responsibility for something. Ultimately at the end of the day, authority and accountability are interlinked. You can’t claim ultimate authority and not be accountable for everything. So those things are linked.”

## INDIGENOUS LAW

June 12, 2017

Eli Enns opened the session with the following hypothetical example related to permitting, to show how Indigenous law can connect to IPCAs, or in this case, Mi’kmaq respected areas:

In terms of the permitting process, it is required to get a permit from Natural Resources or the designated authority. What if the Mi’kmaq had a law, and (for illustrative purposes) it was called the “Mi’kmaq Law of Birch bark”? Instead of paying the permit first to Natural Resources, the permit would be requested from the Elders or according to Mi’kmaq law. That Mi’kmaq law would have to be written by community experts, such as Todd Labrador. He could speak to the Elders about what kind of protocols have been described. Anyone who gathers birch bark would have to abide by these protocols. The idea is a permitting sequence where you first get permission from your Indigenous governance system, and once you have that permit you can go to Natural Resources with proof that you’ve already gone through a due diligence process. The Natural Resources permit is secondary to the Mi’kmaq permit, stapled to the back, acknowledging there’s a sequence of law and respect in this country.

Georgia Lloyd-Smith, West Coast Environmental Law gave a presentation on Indigenous law that demonstrated how the conversation in this room moves to something happening on the ground, that is having real impact on people’s lives. She provided a few examples from the west coast where her organization is doing similar things to the Law of Birch bark.

Georgia introduced her side-kick, Kookum, the raven. Kook-um means grandmother in Cree. The raven was dressed up to be a Supreme Court judge to working with the idea of raven as the trickster, and infiltrating the Canadian legal system with Indigenous law.<sup>5</sup>

When we hear the term law, most people think about court rooms, judges, laws written down, and legislation. Not too often do people think that Indigenous Peoples had their own fully functioning legal

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<sup>5</sup> The image was created by Georgia’s mentor Val Napoleon from the University of Victoria. Val is a Cree legal scholar, who has dedicated her life to bringing the message that Indigenous law is real and needs to be taken seriously.

systems before settlers came over to Turtle Island. Part of the reason that settlers have ignored Indigenous law, is that it's not written down.

Indigenous laws are passed on orally through stories, they live in artwork, and they live in practice. Some people like harvesting birch bark - that is an act of Indigenous law. They live in dances and songs, and they live in the hearts and the minds of Indigenous Peoples alive today. That as our grounding, our foundation - this idea that Indigenous laws exist. They existed at the time that settlers came to Turtle Island and they're still here.

Georgia shared a quote from an Elder from the Gitga'at First Nation, on the north coast of British Columbia. She says "Being Tsimshian is not simple. Being Tsimshian is complicated. We have laws for everything." The Elder described the laws around harvesting, laws around marriage, laws around death, laws around birth, laws around governance and decision-making, laws around taking care of the earth and taking care of the waters. There are such complex legal traditions that exist, which are often simplified by settler society. These legal traditions are the foundation for the work that can be done now and into the future.

Georgia shared a reminder from Mi'kmaq Elder Steven Augustine: "When we tip a canoe, we may lose some of our possessions... Eventually we will regain our possessions [but] they will not be the same as the old ones." So when we think about Indigenous law, we've seen through the process of colonization that deliberate attempt by the government to dismantle Indigenous legal traditions, through residential school, through laws banning the potlach, through dispossession of land.

It is important to recognize that we're in a place right now where all across Turtle Island, Indigenous legal traditions aren't exactly the same as they were in the past. There was some deliberate damage that was done. Now we need to rebuild. And this work of rebuilding Indigenous laws and Indigenous legal traditions is happening across Canada, it's a really exciting time. Just like Steven Augustine mentions, the laws that come back to life now are not going to look exactly the way they did in the past. That's just an acknowledgement of today's reality.

West Coast Environmental Law recently launched the Revitalizing Indigenous Law for Land, Air and Water (RELAW) project<sup>6</sup>. The project is working with different Indigenous nations within BC to deepen research and the articulation of Indigenous laws and ways of knowing, and then to use those laws to address some very real environmental problems on the ground today.

Like the birch bark example raised here, when there's a real example of something that's happening that people want to address, West Coast Environmental Law works with the community to identify their priorities. West Coast Environmental Law does research on the Indigenous laws, and then goes through a process of applying those laws, all with a lot of community engagement and dialogue. But the key question is enforcement. Once you have these laws articulated and you have your document or your policy, how do you get other governments or resource users, or even people within your own nation to respect those laws? It's a really live question right now, and West Coast Environmental Law is working with different nations to think through this question about how can we get people to respect and comply with these laws.

Georgia encouraged participants to think about how Indigenous law can inform the process and motivate and inspire the work involved in forming IPCAs.

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<sup>6</sup> See: <https://www.wcel.org/relaw>

An open discussion took place of on an upcoming marine protected areas workshop about Canada's Oceans Act and how to co-govern in the marine space:

- Canada does a poor job at addressing jurisdiction, such as protecting Indigenous constitutional rights compared with protecting oil and gas interests.
- Examples exist from other areas of the world where other governments have declared coastal acts – in recognition that the terrestrial and marine zones mix and that there's no point protecting the ocean if you're not protecting the terrestrial areas adjacent.
- The jurisdictional problem in Canada is that the provinces have jurisdiction up to the edge of the coastline and then the federal government takes over in the marine space; ways to work around this exist and need to be explored.
- Regarding oil and gas development in marine protected areas, we would never allow what's happening in our marine environments to happen on land. We would never allow large scale oil and gas development within a terrestrial park, but there's a double standard in the ocean.
- Local eels are being over harvested, they'll soon be on the state list because big ones are being taken, and hydro dams are impacting the fish through huge turbines in the Bay of Fundy that chop up fish everywhere.
- The International law of the sea provides a starting point to talk about matters of international waters with the US or others, in terms of the commons.
- We shouldn't be shy to go ahead and make an eel law, using whatever word in Mi'kmaq language is the word is for the eel. Make a Mi'kmaq Eel Law and then bring that to other stakeholders, starting with American relatives on the other side of the border.

Elder Albert Marshall raised a number of points:

- We can try to invoke a lot of our ways of managing humanity, but you can't manage the ocean. You can't manage the fish. How do we get around this hurdle?
- In the Atlantic Provinces, all of our Treaties were made in peace and friendship. But the interpretation of what peace and friendship really means does not come from us. It came from elsewhere. To us, peace and friendship means that since we are intimately connected to the environment, we have a responsibility for ensuring that nothing compromises the ecological integrity. The interpretation of the Treaty is that only the Mi'kmaq people and the government a peaceful and harmonious way. They're not including the natural world. There is a need to redefine, or reinterpret those Treaties as they were meant.
- It was different before. If anybody violated any part of the law, it was easy for us because in our language we have five tenses. The fourth tense is *healing*. And when that tense is used, the person has clearly recognized that they're ready to own up to the responsibilities of their actions. If you want to look up that concept of justice, go look at the beehive. The queen is only to maintain the population. One thing that you will clearly see is that there is no chief, there is no leader. Each and every one is hardwired to do what they do. This is how we tried to govern ourselves until recent times. But now we have to contend with the laws that have been defined ways that contravene our own understanding of what we want. How can we maneuver around these obstacles?
- The consciousness is not here. After 700 years of being exposed to the newcomers, a lot of our populations are not as well-grounded in those ideologies or that philosophy. We're in an era where we spend so much time trying to re-educate what it means to be Mi'kmaq and what those responsibilities are. How to reconcile oneself to the land he has been alienated from?

- Not much faith in the legal system; many court cases have raised awareness but didn't strengthen our rights to be stewards of the land as they intended.
- How do we reconcile those challenges? We need to be given the opportunity to get a group of knowledge holders together, across this nation to re-define the language of historic Treaties.
- It is impossible for any one individual to be knowledgeable about our territory. Ancestors in their wisdom subdivided territory into 17 ecological zones. Why was it important to subdivide the territory into ecological zones? Because each geographic area would have sustained 'x' number of harvesters. Each geographical area would provide enough resources for people in that area because of their intimate knowledge of that environment. With that diversity flows different concepts. The language comes from the land of which the people living there are intimately knowledgeable.
- The problem with managing behaviour is we are not too sure of the state of the environment of our territory. This is where we need western science. We now have to be very adamant and demanding, our territory needs an ecological audit so that we can get a clear picture of the status of our territory. From that basis we can plan what kind of actions we would need, so that we can remediate, reclaim, some of the things that we manage.
- Water - There's a lot of diversity and there's a lot of jurisdiction. Unfortunately the species that are in that system don't know or recognize a Treaty, don't recognize jurisdiction.
- If we're going to invoke our rightful jurisdiction, we can hold it in any courts of justice. We have to be in a position to take it to the international arena.
- If we are cognizant of all these challenges discussed and we've already agreed on the obstacles or hurdles, this is how we will collectively navigate around it to come up with the outcomes expected.
- As a Mi'kmaq person, I could say with some certainty that we need the western science. But I'm still waiting for the western science to tell me we need Mi'kmaq science as well. It is the same for justice. The Mi'kmaq word for "acknowledgement" means that an action won't be repeated. You forgive yourself and you forgive other actions. I'm still waiting for that. How can we reconcile this system that's been designed for something other than our intentions?
- This work needs to be a collective effort. All the peoples that are here aren't going anywhere. So it would be much more expedient to come together and learn from each other. We don't have any choice but to start working together.
- Traditional knowledge is not exclusive to Aboriginal people. Mi'kmaq and non-native Elders should be brought together to exchange ideas as to how they can better formulate an action that will be needed to find solutions.
- We have deliberately exhausted the carrying capacity and the cleansing capacity of the system. What will it take for people to begin to conceptualize those things? How do we move forward together, not just how can we move forward?

Eli Enns created a figure on "ecological zones and ecological audits" based on Elder Marshall's ideas and made the following points:

- Based on the idea of ecological zones and having ecological audits, on top of what is found through the audit of what's actually happening on the land is where your first overlay comes into place.
- The first overlay in this setting is the Mi'kmaq laws. Then your peace and friendship Treaties are already there to provide that "connective tissue" to allow the ecological audit, the ecological zone, and the Mi'kmaq laws, to start to interact with Crown governance.

- This could be to your reconciliation zones – areas where you have Crown and Mi’kmaq legal systems interacting within the context of ecological zones. This could be one approach that’s taken in Mi’kmaq country on how to establish an IPCA.
- Note that you don’t have to call it an IPCA. The reason why that language is so generic is because it’s non-prescriptive. Everyone in the country will pick up the language that makes the most sense to them.
- Where Eli comes from, the term used is “Tribal Parks.” But that should not be prescribed here or elsewhere. Up north they have different terms. The idea of the IPCAs is that you have these three broad categories and there is a spectrum of Indigenous-led and respected and protected areas.

Eli made the point that much is learned through stories. There are a lot of ‘aha’ moments in the moral of a story. A lot of the old stories where he is from contain Indigenous laws. He suggested keeping this in mind because a lot of the communities who he’s spoken with say they don’t have their laws written down, or they’ve lost a lot of things. But there are nuggets or gems in those stories that are still alive and found in the repetitive things that our Elders say to us. He encouraged us to start analyzing and pulling these things out of the stories.

Elder Albert Marshall offered the following words of thanks before lunch was shared:

*We can always be mindful of the gifts we have been given. We should show not just appreciation, but our dependency on those gifts. And be mindful that we have to be very thankful and express our appreciation for the ones that had to give up their lives so that we could be sustained. And to be very mindful that our dependency solely lies upon the substances that we need. Therefore it requires our compassion, respect and love for the Creator. Generously those gifts are given so that we can be sustained.*

## CONCURRENT BREAKOUT SESSIONS

June 12, 2017

Participants were divided into four breakout sessions to focus on the relevance and role that IPCAs can play in reconciliation, reconnecting and healing with the land, and Indigenous law, and identify what are the conditions for success of an IPCA in Atlantic Canada. Facilitators shared detailed reports from breakout groups with all participants.

## BREAKOUT SESSION SUMMARY REPORTS

### BREAKOUT 1: RECONCILIATION WITH THE LAND

Eli Enns opened with ecological integrity as a priority. He referred to the recent Target 1 meeting in Ottawa where the TRC was quoted [paraphrased]: “there can be no reconciliation in Canada until there is reconciliation with the environment.” This statement resonated with NAP, NSC, and ICE, and set the tone for the group breakout conversation.

- On protocols about accessing lands within parks, the group learned that the Labrador Inuit Association and the park that they have there doesn’t experience the same issues. This was an interesting insight. They had a conflict in the past, where the Inuit hunters were fined or jailed for practicing their traditional lifestyle, and that set off a course of negotiations and development over thirty years for land claims. Now that they have those land claims, there’s certainty; everybody

knows where they stand with one another. So our idea of reconciliation in modern times in that territory is not really applicable at this point.

- Recommendation to honour Treaties. In the areas of the peace and friendship Treaties, a similar sort of enjoyment of certainty should be in place. Whether its Mi'kmaq country or Coast Salish territory where we have those historical Treaties, those historical Treaties are not dead, they're just not respected in many cases by Crown governments.
- Returning to this picture of Canada that shows all of the Treaties, which are constitutional building blocks of the country, if all of these Treaties were respected, we wouldn't have a crisis in nature, and we wouldn't have the same kind of crisis that we have in society, and the same sort of instability in our economy. If the spirit and intent of those Treaties were honoured, then our society would be flourishing with stable economies, diverse economies, happy people, less depression, on all sides of the fence.
- It's not just Indigenous Peoples who are suffering. It may be for different reasons, but in western society, many people living in cities are depressed, they're on some sort of pharmaceutical dependence to try and maintain their happiness, and they're disconnected.
- Bringing Elders and the youth onto the land, connecting the generations. Connecting the generations among themselves but also reconnecting people to the land. That's reconciliation.
- From a Metis perspective, there is complexity for reconciliation in the prairies as it's not always clear who speaks for the land. You've got the "Metis bread basket" which is a multi-national place because of several Treaties. There are all those different Indigenous elements, as well as the Metis element and the province of Manitoba.
- The image of the flags from yesterday was recalled – the Acadian flag, the Mi'kmaq flag, UNESCO flag, the provincial and the national flags. The conversation looped back to that space because in the lands here, the mixed-blood Acadians have more prominence in that site than the Mi'kmaq. But in some parts of the country the Metis are left out, and it's the Indigenous nations that are front and center. It is an interesting geopolitical difference between two different parts of the country.
- A conversation about reconciliation with and amongst various Indigenous Peoples, addressing the hierarchy of rights led to the question: *Is there a hierarchy of responsibility?* This was a paradigm shifting moment. If we're all sitting at the table together and we all start fighting about rights and who doesn't have rights or whose rights are more important – that's a very fractioning conversation to have. But if we say "I'll take responsibility for that", and she says "no I'll take responsibility", and he says "I want to help take responsibility." If we're all taking responsibility, then it totally changes the dynamic of that conversation. This has to be a key element of our thinking and our behaviour, but also the deliverables that we put forward, going from rights to responsibilities.
- The Law of the Hunt – Metis Indigenous law for how they governed themselves in relation to the bison hunt is a great example for the Indigenous law element. They modernized that older set of Metis laws into what they call the Metis Laws of the Harvest. It's self-regulating; when there is access to certain resources, there is respect for the reproductive cycles of those resources. This is an illustration of nature has rights and humans have responsibilities.
- Interspecies relationships - one perspective of hunting would be that a human animal is born in one space and lives his life out, and the deer is born in another space and lives a natural and free life. Then at some point when this hunter needs a deer to feed his family, they come into proximity with one another – that's when interspecies relationship happens. Previous to that moment, the animal had a free and natural life. Who are we to rob that animal of its liberty and freedom? We're asking

what the rights of nature are. It's giving more dignity to nature to let nature have a free and natural life, until that moment when we come into interspecies relationship.

- Reconciliation is not what we say but what we do. The word “our” is key. Not “the park” or “their park” but “our park.” Customization of layers, to make those parks our parks –that can be a hashtag for the reconciliation of all the existing parks in Canada (the 10.5%) – to transform those parks into our parks.
- Work together and create something that's positive, but recognize it's hard to jump fences. Many challenges exist in dealing under the unfair dynamics with the park boundaries.
- Leave it better than we found it. What if the ‘it’ is two things? What if the ‘it’ is the land but it's also the relationship. A fantastic insight because essentially we are all inheritors of a relationship. We weren't there to sign the Treaty in 1900, but all we inherit that. We inherit the responsibilities of that relationship. What if we adopt that same idea of leaving it better than we found it, not only about the land, but about the relationship that we inherit? We can all feel some control and certainty over that, because we can make improvements to that relationship just in the way that we treat each other with respect.
- Beyond sustainability, managing the natural resources isn't about just sustainability, it's about improving and making more abundance in the system.
- Humility. Being on the land, healing on the land, let us not forget those in the city who need to be connected, that's part of reconciliation.
- Recommendation that Parks adopt the TRC calls to action. It was revealed that in one area Parks had already adopted action items 79 and 54 (which pertain particularly to parks). There's a need to look at all the elements of the TRC calls to action, and see what we need to build on it and improve.

## **BREAKOUT 2: CONDITIONS FOR SUCCESS**

Steven Nitah reported on IPCA conditions for success, asking what is an ideal state in this region, what would be required in Atlantic Canada to be able to create IPCAs a good way, and what are the forward looking elements that would lead to success?

- Many correlations between reconciliation and conditions for success. “Looking forward” not only means the creation of new protected areas, it is also looking back and reconciling old parks.
- Recognition of jurisdiction. This goes right to Elder Albert Marshall's statement yesterday that if we have to prove, then there's no point in talking about anything else. So recognition is necessary. Where jurisdiction is recognized, exercise of jurisdiction is the next challenge.
- Recognition of responsibilities. Success and conditions for success in the reconciliation of existing parks and the creation of new parks has to include responsibilities by the Indigenous Peoples of Atlantic Canada. That's the challenge.
- Recognition of jurisdiction is needed at all levels of governance.
- Modernization of legislation and other tools. Let's bring it up to speed with the latest constitutions and Supreme Court cases. Let's modernize the laws that we have today and phase out the assimilationist policies that currently most of these laws and tools exist within today.
- Open access to a repository of best practices and examples of existing models. Let's not work in isolation or silos. Gather every decision, if you're going to explore a new protected area. Go out and find out the best practices. Find the latest, best agreements and build upon those so that you don't sign confidentiality agreements and then act in those silos. Learn from each other like we're doing today. There should be a Truth and Reconciliation type of a workshop within the group that's



going to be moving things forward. Identify all the assimilation policies and leave them at the door, kick them out, and move forward.

- Frame as a win-win for all parties (and society) so the benefits can be seen as a “gift to Canada.” This was a statement made in recognition that we are undertaking a massive initiative across our country. As part of the process, there needs to be a national dialogue happening on why things are moving forward, why Indigenous Peoples have constitutional rights within protected areas, existing or new ones, so that all Canadians understand and respect that today. It will make it easier for Crown governments to move these agendas forward.
- Need to foster/support sustainable and renewable economies. We don’t want to protect land and sterilize it just for the sake of protection. There needs to be an economy built around it so that you have a choice: you either build an economy around non-renewable resource development, or renewable resource activities. What we’re going to look at for protected areas is conditions for success, to look at creating an economy around that, a conservation economy – tourism, employment etc.
- Respect and implement the spirit of all of the Treaties. These are the constitutional foundations we have already. Let’s modernize the laws and other tools to respect that. We already have the constitutional foundations – we don’t have to go through a 30 year exercise to finalize land claims and self-government agreements, let’s just modernize laws at the federal and provincial level.
- Enable healthy relationships. We’re talking about creating winning conditions, we’re talking about building relationships. Whether it’s legal, contractual agreements or creating laws – it’s always about relationships.
- Involve safe spaces to share and leverage collective knowledge and capacity. It goes back to the idea of “let’s talk things out, let’s get comfortable with each other.” Let’s not forget what happened yesterday, but let’s not take that with us going forward.
- Work together on equal footing. Very important for our Mi’kmaq friends. We need to have equality if we’re going to work together.
- All communities coming together to speak for themselves. For Mi’kmaq, coming together, talking it out and coming to an agreement with one voice.
- Dedicated resources for human and financial capacities. Need complimentary resources, not redundancy. So as part of the planning – what’s needed? What kind of financial capacity is needed, what kind of people capacity is needed? Let’s build those capacities, let’s identify them in a partnership with the feds or the provinces. Let’s identify those capacities, let’s fill the gaps but let’s not duplicate each other.
- Societal level of understanding. The need for Canada to start a dialogue with citizens on understanding Indigenous rights, responsibilities and reconciliation. So that their citizens are not pushing back. You identify a right or a privilege of the Mi’kmaq, for example. The non-Mi’kmaq find out and they’re going to say “why them? Why not us?” For that reason Canada needs to do a better job of educating non-Mi’kmaq and you could apply that right across the country.
- Mandatory orientation program for entering a protected space. When we identify a space that’s going to be protected, all visitors that come to it have to go through an orientation process. These are the Dene, these are the Treaties they have, and these are the rights that come from those Treaties. Educate at a societal level but in a way that is focused on the local protected area.
- Weave capacities together. We don’t have to reinvent the wheel, but we can work with each other’s capacities to build comprehensive management plans. For example, the Mi’kmaq management plan

on moose of the federal government. And not only on moose but on other areas within our traditional territory.

### **BREAKOUT 3: RECONNECTING AND HEALING WITH THE LAND**

Chief Planes and Lisa Young outlined the key questions that guided the session:

- How can this area help reconnect people with the land?
- How can these places facilitate healing/reconciliation with the land?
- What approaches are needed to respect relationships with the land (strategies for management)?

#### **Key points included:**

- Recognizing the role of people in the ecosystem. How do we have relationship with the land? We all have our own way. We have our own laws and our own relationship with the environment, and that's going to reflect back where we live.
- Our role in the ecosystem begins with the responsibility role. We have laws that are attached to the land which have always been there. And our spirituality is connected to the land. If we need to get our language back, our Elders said go to the land, it'll give it back.
- Formal recognition is very important because we don't see eye to eye. Does the final word have to come from the Minister, or can that be changed? We have to open up those kinds of discussions because for us to have a connection with our territory where we live, we have to take those layers off and have more respect for the land. How do we do that? It's going to take some time but we can.
- Better communication between different jurisdictions: municipal, provincial, federal, and private lands.
- Acknowledging and respecting the knowledge base and laws with regard to reconnecting with the land. These include family kinship ties that go back centuries. Those laws are still there and important, they are built into our constitutions.
- No nations gave their territory away. All they did was let other people share it. This is in case law. What does that mean? It means that after hundreds and hundreds of years of having that territory, when somebody came in, it was shared use.
- Purpose for these lands: protected areas where we could bring Elders and youth to re-learn their traditional knowledge systems; not to be looked at as museums; they should facilitate use and have inclusion for the Mi'kmaq and facilitate hunting, fishing and gathering; places we can use to increase our cultural understanding, the connection and the responsibilities to that land, and understanding of the cyclical nature of resource management.
- Everything should be placed in our spirituality. This is the foundation to all of our Indigenous laws and protocols. They should govern our relationships not only with each other but with outside communities.
- Maybe we should maintain some of that responsibility and ability to say what Indigenous Peoples can come and share in our territory. There are protocols around coming into that territory and using that territory. Something on the same lines should be allowed for Indigenous protected areas.
- Its use has to be the basis of why is it protected. Is it a culturally significant area? Is it a spiritual area? For healing the land? Healing the land and healing ourselves is the same process.
- Language revitalization; total immersion into the land and with a language program.

- Open to working with other jurisdictions as long as they come in with knowledge that we have to do the management based on our initial core beliefs and laws and regulations.
- Regarding Indigenous law: going forward it will be difficult to re-establish that law until we learn another process, and how do you use that in another context?
- What are words we can use that reflect Indigenous relationships with the land, and roles that lie behind traditional teachings and ethics?
- Use of restorative justice as a tool.

#### BREAKOUT 4: INDIGENOUS LAW

Tom Soehl summarized discussions on Indigenous law that were aided by Elder Albert Marshall.

- Indigenous law and principles are reflected in the language, so it's important to keep the language alive and keep teaching the language. If the language dies, many aspects of law die.
- Recognition of challenges faced by guardians in enforcing Indigenous law. Non-compliance and lack of accountability by some individual communities are problems. Traditionally there would be processes for bringing people before the whole community to hold them accountable and talk about responsibilities; this is something not currently wide-spread on environment and natural resource issues.
- “Feeling like a prisoner of contemporary laws” and that the laws aren't reflective of the responsibility that people have. The laws are rigid and they don't have the flexibility that is necessary to relearn and fine tune our stewardship skills. A lot of learning can't happen when you're working in the context of very rigid laws.
- An analogy in Georgia's presentation about the flipped canoe: To some extent, Indigenous laws were one of the belongings that got lost, or partly lost, from the flipped canoe. And that's getting rebuilt now. That also brings up the conversation around traditional governance versus the current elected governance. Ongoing conversations are needed about how to reconcile that, how to bring that together.
- Concerns shared about the Pathway initiative in general:
  - A sense that Indigenous knowledge is always an afterthought; it should be the first thing.
  - Government should come to the table with a blank slate and allow Indigenous knowledge and Indigenous communities to help identify areas and bring their values to the table, as opposed to “here are the areas that government is interested in protecting, what's your layer of information you'd like to add?”
- Beyond the scope of this initiative, it's about sustainability for the entire land. Protecting 17% of the land base does not guarantee sustainability. There also needs to be discussion about what happens elsewhere. How do you make plans for the areas that are adjacent to protected areas? It's a bigger question. Adequate resources and the capacity issue is a constraint, is one of the moose.
- Some mistrust of the Pathway initiative was expressed. Questions were asked: now that Canada has a target of protecting 17%, is government going to be looking at counting a bunch of things that are already being done as opposed to doing new things? Private land conservation is not currently being accounted and they're already protected. Is it just going to be a change in an accounting exercise as opposed to a sincere initiative to actually improve protection?
- Another concern was that this initiative seems to be moving fast. We're just talking about Indigenous protected areas now. There are a whole bunch of other initiatives that seem to be

happening at the same time. There's a concern that the Indigenous protected areas might be too slow and might miss out.

- Idea that there shouldn't be a target, but maybe a commitment about what percentage as a minimum would be dedicated towards Indigenous protected areas; a hard commitment that there will be some significant areas added.
- We want to transform the whole area to be ecologically sustainable, so what needs to be done beyond the 17%?

## BEAR RIVER FIRST NATION CULTURAL EVENING

June 12, 2017

Participants were generously hosted for dinner and an evening of cultural sharing by the Bear River First Nation. Chief Carol Dee Potter, Council members and Elders welcomed the group and gave oral and video presentations about the Bear River First Nation's inspiring work with youth and Elders to support cultural revitalization. A highlight was learning about the 7 Paddles Project to re-establish traditional Mi'kmaq canoe routes (<http://bearriverfirstnation.ca/7-paddles/>). The evening included art and educational displays including canoe-building, drumming, and singing. A prayer flag was accepted as a marker of the Pathway to Canada Target 1 work and witnessed by participants.

## INDIGENOUS LAW REVISITED

June 13, 2017

Eli Enns reflected on some important elements of Indigenous law to IPCAs. He spoke of where IPCAs fit into Canada, and the overall development of the nation state.

### CANADA: A SOCIAL INNOVATION

We're celebrating the 150th birthday of Canada this year. Canada is an evolving phenomenon; it took time to mature. And because of that gradual development of the nation state, we can look at where IPCAs fit into the overall development and help to direct our thinking in terms of Canadian law as we think of it today, but also indigenous law.

### TREATY AND NATURAL LAWS

Treaty is primarily the Indigenous and European nations making relationship. But just like in a wedding ceremony, the idea of Creator is invoked in the Treaty-making process to bear witness to that relationship and to give solemn witness and validation. Validating that commitment to one another.

So from that validation and from that original relationship with Creator or Mother Earth, we can draw a natural law. Elder Albert Marshall was saying that he feels like in the world of manmade laws he feels like he's in a prison. He's in a prison of manmade laws. And part of that prison is that so often manmade laws are contrary and in conflict with natural law.

When you have a society that's based around natural law, and you have an economy that's based around natural law, that is working with the laws of nature instead of against them, then you have a higher chance of long term resiliency.

So many societies have come and gone on this earth. Indigenous societies it's very well documented that Indigenous societies are among the very few societies on earth that have a proven track record of sustainability over a long period of time. And the main reason why this longevity and resilience is possible

for Indigenous Peoples and societies is because our law systems are emulated from our observations of nature. There are many examples of how Indigenous societies have observed nature and emulated those principles within their own economic practices.

An example of natural law is something that Eli's grandmother Mary Hayes taught him in Nuu-chah-nulth. Anytime she would teach Eli something, she would start off by saying the teachings of our ancestors are simple but powerful. That was always the thing that she would say as she was getting ready to teach him something. Part of that was to prepare his mind for what she was going to say. If she said – it's very complex, it's very difficult, it's very tricky – and it's going to take you a long time to understand my grandson, then Eli's mind would be closed to what she's saying. It's simple but powerful. It's easy to understand. Because it's based on common sense and observations from the environment.

Eli's grandmother said the teachings of our ancestors are simple but powerful. The salmon runs – the schools of fish – they travel from our territory down out throughout our territory and they spend several years out in the Pacific Ocean. But they always come back to the same river, the same watershed to spawn and create the next generation. And she explained that every salmon run has a beginning – a head, a leadership, a middle and an end. The laws of the fish weir – this is getting into Indigenous law – the laws of the fish weir are simple yet powerful.

And she said that because in my territory we had a river that all the salmon came through that river into several lakes and other rivers, and we had a very large fish weir, a fish trap, made of wood and stones. Very simple but very effective technology. And we had the ability to close off all the gates of the fish weir, and prohibit any fish from going up to the spawning grounds. She said we leave the gates open. And we know that at a certain time of year we know that the fish will come into the inlet at the mouth of the river, and they wait at the mouth of the river. They're waiting for a signal for cold, fresh water that will be discharged from the mouth of the river. And when that cold water is discharged then they start moving up the river to the spawning grounds. And she said that we leave the gates open, and then we let the head of the run go through. So they're allowed to go through, and we never take from the head. We never take from the leadership fish. Let them go and spawn. And then we close the gates and we take from the middle. And we only take what we need to support our society.

The reason why we let the head of the salmon run go through is those are the strongest and the wisest fish. And we want those fish to procreate the next generation. So in a way we're giving them a head start; we're holding up the line here. We're utilizing what our needs are from the middle of the run. And she said never take from the end. And the reason why is just simply because when a salmon hits freshwater they start to – there's a chemical process that begins in the fish, which starts to impact the quality of the meat, it's kind of like it's decaying. So she said don't take from the end, take from the middle.

And so with these three simple rules, the simple laws of the fish weir and how to use that technology, our Nuu-chah-nulth ancestors successfully managed salmon resources for thousands of years. But our fish weirs were outlawed during a period of Canadian history.

And since that time when our traditional fishery was prohibited, the salmon resource has gone down drastically, in some places to extinction. And not to mince any words here today, that is thanks to the law and the policy of the Department of Fisheries and Oceans. A very young society and a very immature society in the true sense of the word.

Lakota people talk about how they cultivated at the ecosystem level. Indigenous law is about establishing the conditions for successful interspecies relationships. Treaties amongst various creatures in the environment is the essence of Indigenous law. And with these understandings our ancestors managed successful societies for at least 10,000 years if not longer.

### RECIPROCATING THE GIFT TO CANADA

Eli asked how we can utilize these natural laws, Indigenous laws to create a healthier, more successful Canadian society and Canadian economy moving forward into the future. That's the million dollar question. Actually it's the question of survival at this point in time. Whether it's the Metis law of the hunt, the Metis laws of the harvest, or the variety of other Indigenous laws systems. That is essentially the gift to Canada.

We talk about gift exchange. We started out with a great abundance. But when Europeans arrived in British Columbia, they nearly obliterated the resources. Within a lifetime, they've obliterated thousands and thousands of years of careful economic stewardship that our ancestors steward that land. Eli doesn't want to get stuck in the past and negativity, but part of reconciliation is realizing and identifying what has happened.

The original gift to Canada was part of an exchange. Indigenous Peoples had the abundance of resources and the newcomers had some knowledge and some different things. And now that gift exchange has become complicated. Now they're the ones that seem to have all the resources – the power and the money – and now they're realizing that they desperately need the wisdom of Indigenous societies to find a way forward.

Eli emphasized that Indigenous law stems from natural law and the principles of peaceful interspecies relationship with the rest of creation. And interestingly, and this is where we keep circling back on. If you want to talk about biodiversity conservation, climate change adaptation – you're richer than you think. Because there's this full body of law that's available to you. And not only that, you don't have to let the outsider in. Indigenous law is actually well established in Section 35 of the *Constitution Act*.

The Nuu-chah-nulth have asserted that one of their Aboriginal rights is to take responsibility for themselves and to provide for themselves. In Nuu-chah-nulth they say [Ind. phrase]: we're taking care of ourselves and were taking care of our precious ones. Our precious ones are our children and those younger than us, but the epitome of our precious ones are the unborn generations.

Section 35 of the *Constitution Act* rights includes responsibilities to be self-governing; this is where Indigenous law is introduced to Canadian constitutional law.

Eli's grandmother Mary Hayes would not mince words, she would say that the Fisheries and Oceans Canada laws of managing salmon on the west coast are illegal. Violating natural law and also violating the constitution. So it is possible in this country to make illegal laws.

The federal government cannot just make whatever laws they want. Those laws have to conform to the constitution. The opportunity that we have in the era of reconciliation, and the opportunity that we have in the work that were doing, is to bring into line those junior laws. The provincial laws, federal laws, and bring them into alignment with the constitution, and bring them into line with Indigenous and natural laws.

In closing, Eli thanked Elder Albert Marshall for the gift of his words and insights on Mi'kmaq laws. Eli then opened the floor to a conversation about natural law.

## RESPONSE TO PARTICIPANT COMMENT ON THE DISCONNECTION BETWEEN LEVELS OF GOVERNMENT

- Eli shared that a good metaphor for this is building a house. If you have a faulty foundation when you're building a house, that house is not going to have integrity over time. You're going to have water getting in, the ground shifting. We need a stable foundation to build a house. Treaties are part of the foundation. If the federal and provincial laws that are put on top of the Treaties don't conform, honour, or respect those bedrock jurisdictions, then it's like a faulty house.
- Steven Nitah observed that this conversation is really about how to convince the world today to go from the laws of the economies towards natural law. We likely don't have the time to convince the world that they should change in the next little while. But that's something to think about in this process as we go forward. Identifying spaces within our territories that we could protect. The discussion around Indigenous protected/respected/conserved areas might be viewed in that lens.
- Albert Marshall emphasized that with rights come responsibilities. He asked when are going to honor that special relationship that we had to our land and our and start exercising our responsibilities. When are we also going to invoke our inherent rights of protecting?

## RESPONSE TO PARTICIPANT COMMENT ABOUT CEDING POWER TO GOVERNMENT

- Eli reflected that we're not going to go to parliament hill with our hands out. When you go and ask the federal government for change, we're giving our power to that government.
- He shared an example of how setting Indigenous and natural laws into action can create peaceful resolutions to environmental conflicts. The Nuu-chah-nulth concept *isaak* is the highest law in the Nuu-chah-nulth constitution. It is about being respectful, about observing, appreciating, and acting accordingly.
- In the 1980s, the province of British Columbia issued a forestry licence to clear cut Meares Island in Nuu-chah-nulth territory. Eli's Uncle Moses meditated and prayed on *isaak* for many days. Then he got the news there was an employee of the forest company who stole privileged information. That employee shared engineered drawings and maps from the forest company with Eli's uncle Moses and the chief of Ahousaht at the time. Uncle Moses was upset, but he continued to meditate and pray until he realized what he needed to do.
- He built a cabin where the forestry company's landing craft would come ashore and he welcomed the loggers with a meal, showing them Nuu-chah-nulth hospitality. He recognized they were not evil people; they were misguided and they needed teachings. When they arrived, Moses invited the loggers to share a meal *if* they left their chainsaws on the boat. And they did. That was in April of 1984, and with Nuu-chah-nulth laws they were able to protect that island. The tens of thousands of dollars in forestry engineering and design were put aside when that Tribal Park was asserted into Canadian law.
- Eli concluded that rather than giving our power away to the federal government, we need to seize this as an opportunity to act. We have Treaties; let's act like we have Treaties. Let's act like governments. It's not about saying we're the boss, it's about saying we have a rightful place in this jurisdiction. And acknowledging that we're responsible for you, and what's in the best interests of your own grandchildren. We change the dynamic when we use Indigenous law.

## CLOSING: TWO-EYED SEEING

June 13, 2017

Elder Albert Marshall made a presentation on two-eyed seeing, a term that he was involved in coining. He encouraged everyone to consider three questions:



- Who am I?
- Where do I come from?
- Why am I here?

He explained that if there is a grey area in our responses, we need to think about how to include more of who we are. And we need to think about how to attach responsibilities to these answers, because once we evoke two-eyed seeing, we are going to be compelled to look inward.

*“What am I doing? What am I saying that is reflective of who I am as an Aboriginal person?”*

Elder Marshall acknowledged that there are many reasons that our language is not a part of many of us anymore. Only about 4% of Mi’kmaq people can speak their language. But looking at this era of technology, he said we should transform technology and use it to our advantage. He encouraged us to think collectively again, to pool limited Mi’kmaq resources to generate opportunities for learning and reconnecting with the land, reconnecting with who Mi’kmaq are, and with where they come from.

Under the concept of two-eyed seeing, we understand no one is going anywhere. So how do we take advantage of the situation on our own terms? We need to evoke the concept of co-learning. Elder Marshall spoke of the four colours, four directions, and four races:

- **Black** – Brings the creation of sounds of nature.
- **Red** – Have responsibility to maintain teachings, interconnection with nature and integrity of the environment.
- **Yellow** – Have expertise on interconnectivity between mind and spirit.
- **White** – Special gift is developing a way in which we can all communicate with one another.

We are all dependent on one another. It is our imperative to seek out what we can learn from one another. Under two-eyed seeing we can look at everything from another perspective. The icon for two-eyed seeing is two pieces of a jigsaw puzzle, which is a teaching in itself.

Elder Marshall acknowledged the work of Karlee Johnson (Eskasoni First Nation), a Mi’kmaq young woman who has shown how expedient how it can be to transform our communication if we use our own language. Videos were viewed of Karlee Johnson and her speech to the First Nation Special Chiefs Assembly in December 4, 2012.<sup>7</sup>

Elder Marshall concluded by saying: *“We need the English language and mainstream knowledge, but at the same time, we want the prerogative of determining for ourselves what we want from the mainstream. We already have the best of who we are from the Ancestors. Let’s decide how to put these together in a two-eyed seeing approach.”*

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<sup>7</sup> <https://www.youtube.com/watch?v=e9FgZ4Ej5bU>

## REPORT 3: NORTHERN REGIONAL GATHERING ON INDIGENOUS PROTECTED AND CONSERVED AREAS (IPCAs)

### WELCOME AND OPENING REMARKS

The third Regional Gathering was held on Yellowknives Dene First Nation territory in Yellowknife, NWT from August 29-31, 2017.

The Northern Gathering began with a welcome dinner at the Prince of Wales Northern Heritage Museum in Yellowknife. Local drummers opened the evening with a prayer and drum song.

Chief Edward Sangris (Yellowknives Dene First Nation) welcomed participants and shared some opening words, highlighting the challenge for leaders as they walk a fine line between economy and environment. He underscored the need to protect caribou in this territory and to consider how we can do this kind of work together to protect their way of life for future generations.

Eli Enns and Danika Littlechild spoke of how the journey to reconciliation is not an easy one, and emphasised the importance of ceremony in guiding the process. Under the leadership of Elder Dr. Reg Crowshoe and other Elders, they have integrated an important element of culture and ceremony to support the work of the Pathway to Canada Target 1. Danika introduced the concept of Ethical Space.

Steven Nitah spoke to the theme of “respect” that has underpinned all of the gatherings, and the spirit of reconciliation in which we are working together going forward in identifying areas that need protection, as well as seeking to understand how to address past mistakes made with existing protected areas. What is your responsibility to those areas? How do you want to exercise your responsibilities? Taking back responsibilities and taking back pride.

Steve Donelon (Alberta Parks and Pathway to Canada Target 1 ADM Co-Chair) offered tobacco and a blanket to Chief Sangris as a gesture of appreciation to be on Yellowknives Dene traditional lands. He underscored the importance of engagement with Indigenous Peoples across Canada on IPCAs and how doing the process well is more important than achieving the 17% target. He shared that his role in this gathering is to listen.

Rob Prosper (Parks Canada and Pathway to Canada Target 1 ADM Co-Chair) pointed out that it has taken 132 years to get 10.5% in conservation and we have been given 3 years to reach 17%. He said that Minister McKenna has indicated Indigenous conserved lands needs to be part of this target. He spoke highly of ICE-led process on IPCAs and pointed to the spectrum of opportunity through creating space and shedding preconceived notions about protected areas. He encouraged participants to have open minded discussions around conserving tradition and traditional economy, and maintaining cultural continuity and biological diversity.

Eli Enns thanked the speakers and opened the floor for a round of self-introductions by all participants. Chief Edward Sangris offered a prayer to end the evening session.

## SETTING THE STAGE

August 30, 2017

Aurora Village

Session goals were:

- To share oral narratives, ICE mandate and timelines, and insights from work to date
- To ensure common understanding amongst participants before informative dialogue is initiated.
- To summarize past Gatherings, respond to questions and initiate discussion

Eli Enns welcomed participants and Steven Nitah provided background on the Aurora Village where the sessions were taking place. One reason it was decided to have the gathering at this location is to illustrate the need to not just think about protected areas, but protected areas in the economy that's created around it. Aurora Village is an example of a renewable economy, based on a renewable resource, the Aurora borealis.

## ETHICAL SPACE

Elder Steven Kakfwi offered a prayer in his own language and in English and shared his comments on how ethical space has been practiced in the North. In academic circles, ethical space is about treating each other with respect. But creating space means asserting our nationhood and sovereignty because we are in a colonial situation. We have been made subject of a country we never agreed to, laws that we never had anything to do with. Our laws, our way of doing things, our ways about how we take care of ourselves, how we relate to one another, other people, our land, our wildlife, have been set aside. So you have to push back, not in the way of "please can you give me a little bit of room?" as that hasn't worked. Sitting back and waiting for it to happen isn't the way; we are in a constant struggle to stand up to assert who we are. We've been colonized but we are still standing strong.

*"Ethical space is great, I hope we reach it. Academics and especially government, because in government we need protocol, we need agreement by those of us that were beneficiaries of Treaties to say in its purest form, the fact that we signed Treaties means it was Nation to Nation. We need to bring it back to that way again. In everything we do, we need to always go back to that beginning."*

Danika Littlechild expressed her appreciation for the strength of Steven as an Indigenous leader who is telling truths about how relationships have been in the past, what the struggles have been, how it has been to assert identity, connection to land, and jurisdiction. She acknowledged that those are all lived realities of many Indigenous Peoples across the country. She elaborated on the concept of ethical space and the importance to go forward in a way that doesn't interfere with the integrity of Indigenous governments.

## WORDS FROM CHIEF ROY FABIAN

Chief Roy Fabian (K'atl'odeeche First Nation, NWT) expressed his initial surprise about the initiative's goals and objectives and also indicated his support. He offered his reflections on the gathering and IPCAs initiative and shared some words for consideration.

Roy was raised on the land by his Dene parents and grandparents, in the area that is now called Wood Buffalo National Park. He saw his people live in harmony with the land, never causing harm. He shared a story about how as a child he harvested duck eggs with his father, and that they never took more than they needed. In those days, the Dene didn't just survive. They thrived on the land, based on their traditional knowledge, beliefs, values and skills. Dene people lived in harmony with the land and their knowledge and belief system came from the land.

Roy shared a transformation story about the beaver that demonstrates the integrity of the Dene people, that they did everything on the land according to their beliefs, values, knowledge and skills. But in the last few generations, Aboriginal peoples across Canada have changed. The loss of traditional knowledge, language, and laws means that Aboriginal peoples have to fit themselves into the new world.

Canada is talking about reconciliation. This makes Roy smile, wondering what it means. Things have changed too much for Aboriginal peoples to go back to living off the land. He has lost faith in attempts to use protected and conserved areas. Since Europeans came onto Dene lands, they took over land management. And now the caribou and moose are disappearing.

As a boy, Roy and his uncle would paddle through the forest in springtime after the heavy snowpack melted. This experience, and many others, taught Roy how to have a good relationship with the land. But the water table in the north has changed. The Bennett Dam, built in 1968, has significantly dropped the water table in the Mackenzie Valley. Glaciers are disappearing – the ones that feed the Peace River, Slave River and Mackenzie River. Roy predicts there will be a desert in the Northwest Territories unless changes are made.

Roy feels that the management of the land has been pitiful. In his territory, the muskrat have disappeared completely. Muskrat trapping was formerly a large economy. In the spring, people in northern Alberta and the Mackenzie Valley hunted and trapped muskrat. They ate the meat and sold the pelts, subsisting off that money through the summer. But when the Bennett Dam was built, and the water table dropped, the muskrat weren't able to access their food. The muskrat died off, along with the trapping economy.

Roy lamented that his people don't know the land anymore, and that they can't access the land to hunt and trap the way their Ancestors did. They can't survive by themselves anymore; they need help. Roy asked government for solutions. What is government going to do to help Aboriginal people regain what they've lost? What are they going to do to help them live off the land again? What are they going to do about the lost caribou herds? Roy shared his desire to find a new way forward with government:

*“In order to make things work, help us to become Dene again. Help us to become the original people that we were prior to your coming. Help our children to learn our language. Help our children so that they can go out on the land and be able to eat muskrat, be able to eat fish [...] whatever food is out there. Because today the kids live off potato chips, pizza and hamburgers. So we've got to change that. So if you're willing to do that and help us do that, let's do it.”*

Roy circled back to what it means to have the integrity of being Dene. He noted that he drove to the meeting all the way from Hay River in a Ford truck. He asked, what do you and I need to change? How can you ask people to change if we don't know what to change in ourselves? You have to change yourself. You're the one that has to say, what am I willing to do to make a difference for the environment? That's a task for everyone. We need to educate children as part of this exercise. They can't learn their culture on their own. We need to show them how to do things the right way so it becomes a value for them.

Roy offered his support for the IPCA initiative and asserted that he wasn't going to give up in his fight for the future generations. In this struggle, it's important to ask how uncomfortable you are willing to be. Roy believes we can do it if we work together and start changing our values. Rather than exploding our economy, how can we harmonize with it? How can we harmonize with the world and produce things so that we are comfortable? We might need to give up some things. It's a challenge, but we can do it.

Eli Enns thanked Chief Fabian for his words. A blessing for the food was provided before lunch.

## LUNCH PRESENTATION

Steve Ellis (Tides Canada) gave a presentation entitled “NWT On The Land Collaborative” that advocated for supporting Indigenous Peoples to revitalize their cultural practices in the North and across the country as a fundamental element of making IPCAs real in Canada.

## THE NORTHERN CONTEXT AND INNOVATIONS

August 30, 2017

Presentations highlighted regional Northern perspectives, examples of local governance and conservation contexts including modern Treaties, historic Treaties and other innovations.

### TSÁ TUÉ BIOSPHERE RESERVE

Presentation by Danika Littlechild and Gina Bayha

Danika Littlechild provided background on UNESCO and Biosphere Reserves and the Tsá Tué Biosphere Reserve nomination, which was an unprecedented submission and the first proposal to take an Indigenous approach. The goal was protection and it was written in their own voice, beginning with the words of their prophets and Elders. Their submission did not fit the system, it “made the system fit them.”

Gina Bayha shared some details on the long and fulfilling journey of being involved in developing the nomination. She highlighted the many challenges related to translation of Dene stories into English and the limits of the English language. Key teachings were to take care of the lake, the land, the animals and each other and in turn they will provide and nourish her people; to respect always; and to maintain relationships with all. Their vision was simple – the waters of Great Bear Lake will remain clean and bountiful for all time. Their plan was unique in that it was centered on the story of Tsá Tsé, the heart of Great Bear Lake. As they move forward to implement their plans for their biosphere reserve, they will establish research and monitoring, education, capacity building, and culture and tourism programs. They are also starting a guardian program. Gina showed a video “Tsá Tsé Elders Speak” as part of her presentation.<sup>8</sup>

### NWT CASE STUDY/STORY OF THAIDENE NENE

Presentation by Addie Jonason and Steven Nitah

Addie Jonason (Lutsel K'e Dene First Nations, NWT) shared some history on Thaidene Nene “Land of the Ancestors”. They have Elders guiding their process and vision to make sure they protect their traditional area. One of her teachings as a girl was to respect the land, “watch the land, keep the land.” The spirituality of the teachings was always strong in regard to the land and creation, the animals and water.

Steven Nitah shared a detailed history and chronology of the Thaidene Nene Initiative and Thaidene Nene governance through PowerPoint presentations. He began with the creation of the Thelon Wildlife Sanctuary in the 1920s through to recent negotiation of the proposed Thaidene Nene National Park Reserve. He emphasized Thaidene Nene governance is government-government relationship based on Treaty and that

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<sup>8</sup> For more information see: <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/europe-north-america/canada/tsa-tue/>

reconciliation is seen as moving forward as equal partners. To be able to do what they do as Dene is the goal.

### DENE WORLDVIEW

Presentation by Chief Gladys Norwegian

Chief Gladys Norwegian (Jean Marie River First Nation, NWT) acknowledged that each First Nations worldview is different and shared what the Dene worldview looks like. Many of the values and principles speak to relationships. She described Mother Earth (water, plants, animals), Spiritual world (a force or power stronger than us that gets compared to religion but has a different meaning), and Human Beings.

She explained that everything else will continue without humans. Because of that, we need to be respectful at all times. Accept what is out there, try to rule with the natural laws. Because nothing really depends on us, when we go to new territory that's when we pay the land, we pay respect for thanking wherever we are for the experience that were going to have. We have that kind of worldview, that kind of a look on the world.

*“With the Dene, it's a relationship that we're talking about, relationship with the land, relationship with the spiritual world, however that looks for each and every one of you, that's what we're talking about. The underpinning is always relationships - relationships with yourself, with others, with animals, with your environment. It would be helpful to keep that in the back of your planning and your work when you're on Dene territory.”*

### NUNAVUT CASE STUDY/STORY: NATIONAL WILDLIFE AREA CO-MANAGEMENT COMMITTEES

Presentation by Susanne Emond and Linda Vaillancourt

Susanne Emond and Linda Vaillancourt gave detailed PowerPoint presentations on the framework, structure and legislative context for federal and territorial parks and protected areas. The presentations elicited much interest in co-management and details were further explored by participants.

### KEYNOTE PRESENTATIONS: VAL COURTOIS AND MILES RICHARDSON

Chief Drygeese Centre, Dettah

August 30, 2017

Dinner was hosted by the Yellowknives Dene First Nations at the Chief Drygeese Centre, Dettah.

Participants were treated to a throat singing performance. Keynote addresses with PowerPoint presentations were made by Val Courtois on the “Indigenous Leadership Initiative (ILI), Guardian Program” and by Miles Richardson on “Haida Nationhood.” Highly engaged discussions with participants ensued. The local youth drum group shared a drum song prayer.

### PRAYER SONG BY CHIEF ROY FABIAN

August 31, 2017

Chief Roy Fabian opened morning with a moment of silence and a prayer song to support and guide ICE in their Pathway to Canada Target 1 work.

Before sharing his song, he underscored that Dene people have been living on this land since time immemorial and over the years have developed a relationship with the land, with Mother Earth and with the Creator. Dene stories and legends contain many stories about great spiritual leaders that work with the Dene people to provide guidance in spiritual processes.

Chief Fabian start drumming in 1988 when he first became the chief. The community encouraged him to pick up a drum. As a leader, you can't work in this world without some spiritual beliefs, and the drum seemed like it would be a good way for him. They started a drum group that included small children who are starting to show their leadership today. The drum is a very important process. It just gave him a chance to reflect on life and see what this world is all about.

Chief Fabian spoke of integrity, saying it is hard to come by. Even though you may have good, sometimes integrity is not strong enough. You fall down quite a bit. But the Elders always said that you get up, dust yourself off and keep going. There's always going to be times when things are difficult and there's going to be times you're going to struggle. In the end it will always come out the way the Creator wants it. This is something he slowly learned over the years.

Chief Fabian shared his personal story of being humbled and doing his healing process before becoming chief. It is through the spiritual process that he has worked through many issues, and continues to strive for integrity, with humility.

In gatherings like this, he always has to reflect on himself. "I always have to look at me and say okay what are you doing to contribute to this process that's going to make a difference?"

He explained how the song that he wanted share today came into being. It came out of him in his early days of drumming when he was asked to sing a prayer song at a sweat but he couldn't remember the song.

*"I struggled and I couldn't start singing. And the Elders said 'Roy, just sing.' I searched my mind and I couldn't remember the truth that I wanted to sing. So I started drumming and all of a sudden a song came out of me. This is the song that I'm going to sing for you today. It's a sweat song, which I don't share very often. But I think I'll share it here today in the spirit of what you're doing, I think the spirit of what you're doing is really important. And were going to need all the spiritual guidance that you can get, because you can't do this without spiritual guidance. If you're going to do it with the head, let the scientists do it. If you want to bring traditional knowledge into it, you need to go here, you need to go into the heart and spirit. With that I'll sing this song for you."*

## **BACKGROUND AND BREAKOUT INSTRUCTIONS**

August 31, 2017

Eli thanked Chief Roy Fabian for sharing his song noting it was the heart and soul of the work we are doing – watching the land and watchers of the land. All of the management regimes, and acronyms and processes are about managing one another culturally and spiritually; it's about watching the land and the Creator's jurisdiction. How to put this into language that can be understood by managers and government – we have all of our jurisdictions which we can put onto the land with lines, but we have to always be aware of the Creator's jurisdiction, Mother Nature's jurisdiction, the land's natural self, and what it's explaining to us about how to take care of it.



Danika Littlechild expressed interest on behalf of ICE in hearing from participants as this is the real source of richness in the gathering. Breakout session will allow us to dive deep together into some of these topics in a smaller group setting to make sure ICE can leave the north with a record of participant voices and ideas.

The concept of IPCAs is unique in the context of the international stage as well as in the context of Canada, to date. Participants were encouraged to share ideas, models, concepts or examples of what they thought criteria for success would be for a well-functioning IPCAs. In other words, if you could have your wish list of what an IPCA would be comprised of, what would be the criteria for success on that list?

Participants were asked to consider this question in the context of the following more discrete topics that were identified from previous gatherings:

- Reconciliation
- Values and principles – what are the values and principles we need to have in place in order to build a successful IPCA?
- Governance – thinking about criteria for success of an IPCA drawing on self-government agreements, self-determination, Treaties, MOUs, etc.
- Capacity – capacity is a major issue so what can we learn from experiences in the north on the issue of capacity, and what are the lessons learned about good criteria for success to build an IPCA.

## LUNCH PRESENTATIONS: THE ROLE OF INDIGENOUS LAW IN IPCAS

By Larry Innes, Georgia Lloyd-Smith and John B. Zoe

The session explored how Indigenous laws interact with the Canadian legal system, through presentations from three legal experts: Larry Innes (Olthuis Kleer Townshend LLP), Georgia Lloyd-Smith (West Coast Environmental Law), and John B. Zoe (Tłı̨chʔ Government).

### LEGAL FOUNDATIONS

Larry Innes provided some background on the legal foundations of Canada and shared examples of how things are changing for the better.

### KEY POINTS:

- Instability and tensions between pillars of Crown law, Indigenous law, international law
- Time to move beyond colonial law and create space for Indigenous jurisdictions (in protected areas and in general operation/management of lands and resources)
- Cannot be peace and harmony unless there is justice
- Faulty legal foundation; Crown pillar privileged to exclusion or denial of others
- Founding myth: unwelcome imposition of Crown laws and sovereignty with arrival of Europeans
  - Indigenous Peoples refused Vikings assertions of jurisdiction in 1000 AD
  - Europeans came back in force within 500 years
    - Created nation to nation agreements with Indigenous sovereignties
    - Peace and friendship Treaties: reciprocal relationship and shared understanding
- Last 300 years, imposition of Canadian laws and policies for purpose of assimilating Aboriginal peoples
  - Residential schools and establishment of parks and protected areas on Aboriginal lands as tools for assimilation

- E.g. Wood Buffalo National Park case (2005): First Nations community not consulted on federal government’s decision to build road through their territory
- Mikisew Cree case (2005): Supreme Court of Canada trying to understand what historic Treaties intended. Recognized that fundamental objective is to reconcile Aboriginal peoples with non-Aboriginal peoples, against shadow of dark history
- Deeply flawed approach: Canadian law (with its European antecedents) based on notion of land as something to trade or give up. Fundamental disconnect with Indigenous law
- Legal proposition: back to intent of historic Treaties, sharing of land, not alienation of land
- International foundations: UNDRIP requires free, prior, informed consent
  - A normative principle of international law – needs to be applied in Canada
  - Conveys intent to rebuild relationships and ensure past is not repeated
- TRC: need to “repudiate the concepts that were used to justify European sovereignty.” Move past colonial law, implement UNDRIP, renew historic Treaty relationships (mutual recognition, mutual respect, shared responsibility)
- Things are beginning to change and improve:
  - Story of the chief who formed the national Indian brotherhood, which led to the Assembly of First Nations
  - Clearer case law from the Supreme Court of Canada
  - Federal commitment to implement UNDRIP
  - Canada to recognize Indigenous self-government as part of cooperative federalism – recognizing Indigenous law as a distinct tradition, not under provincial or federal law
  - Canada says it will rethink how Indigenous governments can manage own jurisdictions, laws, authorities
- IPCAs as an exercise of Indigenous jurisdiction, recognized by Crown as part of cooperative federalism, is the only way to fully recognize UNDRIP and the founding concepts of nation to nation relationships and s.35 of the Canada Act

### HOW TO USE INDIGENOUS LAW

Georgia Lloyd-Smith explained the general process followed by her organization, West Coast Environmental Law, to use Indigenous laws to address environmental issues.

#### KEY POINTS:

- Acknowledge that Indigenous law comes from many sources: creation stories, narratives, songs, the land, and language
- Review the sources of law that the community feels comfortable sharing and talk to knowledge holders
- Consider how the laws can be used so that Crown and industry could recognize and understand their significance, to affect the way that decisions are made about lands and waters
  - Brings up an ongoing issue: loss of meaning in translation for Crown/industry. Prevents some communities from engaging in this work
- Implementation and enforcement (e.g. declare an IPCA)
- Complex process, very nascent. Needs to come from the nation, Crown cannot dictate the process, need space for nations to bring own ideas of governance/declaration to the table

### PATH FORWARD FOR INDIGENOUS-SETTLER RELATIONS

John B. Zoe shared some reflections on how Indigenous and settler societies can better relate to one another.

## KEY POINTS:

- Since Europeans arrived to Canada, they have asserted their jurisdiction and authority over the land
- Indigenous Peoples and Europeans need to reconcile on this history of “drawdowns” and give Indigenous Peoples the recognition they deserve
- Reconciliation begins with revisiting historic Treaties and nation to nation relationships
- Negotiations with government create an opening to take Indigenous authority back

## REPORT BACK FROM BREAKOUTS

Participants were divided into the four breakout sessions and sessions were repeated twice so participants could contribute to more than one topic. Facilitators gave detailed report backs from breakout groups to all participants.

### BREAKOUT 1: CAPACITY BUILDING

Eduardo Sousa presented a summary from breakout sessions on specific issues in capacity building for protected areas and for broader community issues. The conversations were distilled into the following six key themes for the purpose of sharing back to the large group:

1. Capacity is more than just money. It is about long-term commitments, skills, time, and knowledge. Capacity and ability are not the same thing.
2. Capacity and its understanding must start with Indigenous worldviews. This includes reconnecting culture, traditions, ceremony, and the land. How capacity is understood by the governmental and environmental sector is not necessarily how Indigenous Peoples think about capacity. We need to reverse how we think about capacity from a Western perspective. Capacity needs to be rooted in Indigenous worldviews and lenses.
3. Government needs to ask the right questions. Government comes in thinking about how to fund capacity-building initiatives; that’s an imposition. Rather, they should be asking what you need at the First Nations government level. What are your needs in order for you to do what you need to do?
4. Understanding or appreciating Indigenous knowledge systems is important. Capacity needs to be rooted in local Indigenous knowledge systems; it is important for non-Indigenous governments to understand that point and work with that framing.
5. A holistic approach to capacity building is needed from various perspectives. It could be sharing resources across communities, the use of official planning processes and layering planning processes to increase efficiency. Increasing efficiency will increase capacity; they are interlinked.
6. As part of a holistic approach, identify what other pressing needs are. It’s not about coming in with an agenda, but understanding that communities are facing other issues which may impact their capacity to engage.

### Key points:

- Truth and reconciliation starts with the individual.
- Capacity is reciprocal - need to educate counterparts within government to better understand why and how Indigenous Peoples manage the way they do. Capacity is also technical, time, monetary, education/training, organizational, social/intellectual. Some capacity building strategies:
  - Partner with a Guardian program for on the land training
  - Start writing down traditional laws

- Train the trainer to expand the impact
- Need capacity to work with community, to build consensus and manage/implement solutions.
- People are part of this process representing broad constituencies. They need time to bring people together and have discussions.
- Capacity building should target schools and educate youth. We need to get the word out about the need to fill political positions and technical service gaps and roles.
- There are many social issues faced by communities. There's a challenge to find the space and time to support engagement. Often a burden on a few community members doing a lot of the work with minimal resources, leading to burn out.
- Supporting a community in areas besides natural resources is needed to build overall wellness.
- The Australia model works in all the linked considerations (e.g. health, education) into holistic planning. A comprehensive approach needs to be taken, with Elders at the table. A possible model is the "healthy country" planning used in Australia. Some of those principles are used by the Deline.
- Capacity for enforcement. Community can deal with offences from local members but not from others. It may be possible to receive enforcement training through the RCMP. Responses are on a volunteer basis – can't twist arms. Soft-sided enforcement.
- Need to identify the capacity needs that enable a nation to exercise authority.
  - Great Bear Rainforest example: lack of capacity provided to Guardians. Onus on the nations to develop plans; the communities are set up to fail.
  - Communities are eager to receive authority. Authority doesn't come with resources, it often comes with strings. Another risk for failure.
- Sustainable funding systems mean you don't always have to fight and get one off support. Trust funds could support programs so communities aren't constantly writing proposals.
- Need bigger structures and long-term framework to support capacity and implementation.
- Capacity is partly about what you do when you have the money. What are the skills and knowledge required so that when an IPCA is designated, it can be acted on?
- Need capacity to appreciate the Indigenous worldview and build "capacity" to link to the land, culture, and traditional.
- Need to reverse the thinking that Indigenous Peoples and traditional knowledge should fit into the Western system/science. Many Indigenous Peoples are educated in other knowledge systems; traditional knowledge systems are lost. Need to be able to ground Indigenous Peoples in their own knowledge systems. Learn those ways.
- Idea of capacity seems to come from a non-Indigenous world view with layers of complex legislation and laws that are interwoven and overlapping. Instead of starting from understanding the whole Western system, turn it around and start from an Indigenous view of the landscape.
  - If there was a common ground for the two approaches to understand each other, it would be much more powerful
- Ceremony – and capacity to carry out ceremony – must be built into the approach. Elders must be a part of it and guiding the process, reaching back to the Ancestors for guidance.
- Recognition that there is mounting pressure outside traditional areas. Need capacity to look beyond boundaries. There are so many off-site impacts, cumulative effects. Capacity needs to extend beyond the scope of boundaries.
  - Need for traditional knowledge illustrations (such as the Ross River example, where they presented to industry)

- Use of keystone species as basis for management
- The example of building capacity amongst the Metis Nation was discussed. The Metis are not just a dot on the map; their territory is wide-ranging. The nation has its own governance structure. There is a desire to create a Metis path forward and a strategy that would identify how the Metis would consider implementation.
- There was a lack of consultation in the Pathway process, which reflects capacity issues. The roll out has been little more than most processes with government.
  - Who will make the decision about what will count towards the 17% target? Will Indigenous Peoples be part of the decision?

## **Recommendations**

- On the land skills and knowledge “capacity” building and training:
  - Sahtu Elders have a program and will be providing certification.
  - “On the land collaborative,” planting seeds with younger generations
  - “Kutz” example, where youth learn traditions, language and culture.
- Consider capacity building as a long-term investment and planning for the future
- Capacity, ideas and resources through use of designations (e.g. UNESCO)
- Share resources among communities, so not inventing the wheel each time.
- “Just do it” mentality
- Take a holistic approach that brings in Elders. Strengthen the social fabric for communities.
- Recognize the system of Indigenous knowledge and move away from training communities to participate in a Western dominated system
- Recognize that often the ability is there; capacity is knowledge and skills, not lack of ability.
- Need to build capacity around reciprocity and respect to support meaningful relationships
- Need capacity to work beyond boundaries/lines on a map towards managing for cumulative effects. Traditional knowledge is a great base map to inform holistic management

## **BREAKOUT 2: VALUES AND PRINCIPLES**

Danika Littlechild presented on sessions that were framed by asking participants two different questions around values and principles related to IPCAs. Danika reported back the key themes shared in each session, which were characterized as criteria for success for an IPCA. Participant responses are summarized below.

### **Key Themes and Criteria for Success**

- Describing values and principles depends on your perspective or worldview. It calls to mind the concept of ethical space, which the organizers and participants co-created for this workshop, in trying to provide the space for different perspectives to emerge.
- We value the land, air, water, and the animals. This relates to concepts like connectivity and integrity, being able to live in connection with other beings and with respect.
- Indigenous languages are vital; language itself can be conceived as a value and principle.
- Translating Indigenous concepts and worldviews into English is highly problematic. How does translation impact understandings moving forward? How do we overcome the obstacle of having to translate ourselves on an ongoing basis?
- Indigenous laws and protocols are significant and function within their own systems. We need to think about the interaction between the oral and written concepts of laws and the role of spirit in

the context of Indigenous systems. Recognizing that there are knowledge systems, laws and protocols that need to retain their integrity, going beyond the limits of the English language and the Western system.

- Cultural transmission is significant; we need to create the space and place for this in the context of IPCAs. This would exist at the core of an IPCA.
- Youth, and their interactions to Elders and knowledge holders flow from issues of cultural transmission, language, protocol, and the connection to land, air, water, and animals.
- The concept of justice is significant. What does it mean to confront the narratives that shape who we are in our history? Considering our past interactions with parks and what this history has done to our peoples, our life ways, and our livelihoods. And how that now interacts with the Elders, the youth, the cultural transmission, laws and protocols, language, and these fundamental connections.
- The Dene drum can be used as an analogy for moving forward. To be able to work side by side with everyone, respect diversity in experiences, perspectives, and respect each other and every being. Not just people, but to make the best decisions for Mother Earth considering all elements of an Indigenous worldview and knowledge system, including laws, protocol, language, land, air, water, animals, youth, Elders.

**Question 1:** What are the core values and principles of an IPCA?

- Approach with hearts as well as minds
- Consider how we relate to one another, how we include everyone

### Responses

- Land, water, air, animals
  - “We are part of the land. We are part of the water”
  - Living side by side in a good way and work together
  - “How do I live on the land and water in harmony, and how do I share?”
  - “We don’t own the land. The land owns us.”
- Cultural and Language
  - “Language is who we are, is our identity to our culture and way of life.”
- Engagement of youth; enabling youth-Elder mentorship
  - Not just getting kids onto the land but connecting spiritually and understanding how ancestors are part of this.
- Respect for Indigenous laws (e.g., Dene laws)
  - “Being on the land in the Dene way will protect who we are.”
  - Respect for wildlife
  - Respect for how you treat each other
  - When harm comes to another clan, you heal it, make it right.
- Integration of laws (western and Indigenous)
  - Indigenous laws are *imprinted*; Western laws are *imposed*
  - Acknowledge conflicting values between Indigenous and westerns worldviews (e.g., on ownership)
- Language, culture, history, values are all related to looking after the land
- Teachings come from the land

- Integrity - living with the land according to your beliefs; applying your beliefs, values, knowledge and skills
  - “How strong is my integrity every day?”
  - “There is a protocol for everything.
- Being involved from start to finish
- Role of place names (related to knowing what happened there)
- System based on inclusivity, decency, respect, harmony
- Importance of spirituality
- Embrace diversity
- Respect all living things
- Draw up new way to be together in our diversity but without forgetting the teachings; need balance and wisdom
- Dene drum as metaphor for being respectful of yourself as well as with other people (two parallel lines inside drum)
  - Work side by side with everyone
  - Be respectful of each being as we move forward to make best decisions for Mother Earth
  - Respect people the way we are rather than pointing fingers
- Traditional values
  - Respect, caring sharing, love are all based in relationship
  - Everything respects everything; this comes from the land
  - Everything has a spirit; need to consider the spiritual dimension of everything
  - Role of ceremony; keeping things in order through spiritual ceremony
  - Give thanks to trees, snow, everything – that they will be kind to us
  - Ceremonies are important part of relationship to land
- Must learn and study and practice on the land to really look after the land
- Terminology, translation, interpretation
  - Significant translation and interpretation are involved in articulating values and principles in other languages and into western frameworks; creates confusion and misunderstanding.
  - Cross-cultural orientation important when different worldviews come together; need bridging methods and tools to truly work together.
  - Indigenous language needs to be at the heart of articulating values and principles

**Question 2:** What is the criteria for success of IPCA in terms of values and principles? What do these look like? Where might they come from?

### Responses

- Values are all encompassed in the term “IPCA” – Indigenous, Protected and Conserved. Key is knowing what is the community trying to accomplish? And what is the tool to do that?
  - Indigenous
    - According to the people of that place
  - Protected
    - Need to know what we are protecting from? Internationally protection has meant protect the land from use by people so move Indigenous Peoples elsewhere.
  - Conserved



- For what purposes? Can have clash of ideals if not articulated (e.g., save for 1000 years versus use for employment, education, etc.)
- Conservation areas good but protect with a yellow caution light (many lived examples to draw upon)
- What are we conserving?
  - Social values
  - Lifestyles
  - Harmony, justice, equity
- Recognition of Indigenous expertise (non-Indigenous specialists tend to claim expertise)
- IPCAs should respond to International Target 11 not Canada's Target 1; the domestic goals dropped goals of equitable management and integration into broader landscape: IPCAs can set this right.
- Principle of Justice: Issue in access to justice and barriers around restorative justice; what kind of justice are we talking about? What would be justice for your people today?
  - Healthy land, healthy water, healthy animals
  - Not several thousand dollars for lost muskrats
- Public education is key
- Not a two dimensional approach; is multidimensional way that honours people perspectives and truths; need to provide space for truths to be told
- Don't want principles and values to be idealistic; not something to gloss over as "just another preamble about respect." Need to get to the heart of *why* we talk about justice and equity.
- Different manifestation of principles and values depending on perspectives, history, landscape, etc. – do we need to start thinking like this?
- Resilience; what would bring Indigenous Peoples to feel good about the land?
  - We need to be back on the land but the land is destroyed
  - Can't afford to live on the land because nothing is left to trap
- Valuing people on the land
- Thinking more about what justice means
- Thinking about currency – what is the currency to represent IPCAs?
- Inspiration to fight the good fight
- Valuing time to spend together; hope
- Valuing diversity; needs skillful navigation of intercultural spaces
- IPCA should conserve an Indigenous way of life by protecting the ecosystem that it depends on. This is core. Can protect a way of life without protecting the ecosystem that it depends on.
- Protection by and for Indigenous Peoples
- Educating the youth is key to the future
  - Social media
  - On the land programs
  - Importance of people who have knowledge to transmit to youth

### BREAKOUT 3: GOVERNANCE

Steven Nitah presented on two sessions that explored issues in governance for IPCAs. Steven framed the sessions by asking: what type of governance do you envision in protected areas in your region? Key themes and participant responses were summarized as follows:

#### Key Themes

- Consensus-based decision making vs. Roberts rule of law. Creating a governance body where people have to vote can be problematic. Consensus-based models show respect for other opinions
- Community ownership of process. The process should be initiated and run by community, not Crown governments.
- Importance of including youth and Elders in decision-making. For example, youth committees or an education body comprised of people with expertise about the agreement.
- Collective vs. individual perspective; shifting from “self” to “us” in governance discussions.
- Enabling expert bodies for better governance. For example, a governance body with authority to create sub-committees whose decisions benefit communities.
- A foundation of trust and good relationships is necessary for all governance agreements. Create an ongoing process for relationship building.
- Rights without responsibilities needs reconciliation. There is a disconnect between Indigenous Peoples and the land when they have the rights to use the land but the responsibility to manage ourselves and the lands is absent.
- Management bodies should be comprised of people who want to be there, not people who are delegated or elected. Individuals with political positions can stir conflict.
- Right people at the right time for the right task. For example political vs. operational responsibilities.
- Designating special management zones around protected areas is a good practice and consistent with what is done for UNESCO biosphere reserves. This is a recommendation to consider moving forward in this process, in terms of what can be done for sensitive border lands outside of protected areas in Canada.

### **Key Points**

- Governance is essential for management and designation of protected areas, for supporting life. Spectrum, from Indigenous management to co-managed protected areas
- Haida Gwaii is a strong example of governance innovation. Despite limited capacity, the Haida Nation maintains a government to government relationship with the Province of BC. They also created a reconciliation protocol agreement by bringing governments together. Keeping politics separate from decision-making has been beneficial.
- The Black Lake community near Athabasca, SK is a good example of holistic land-use planning between the First Nation, the province, municipalities and communities. The community interviewed 100+ informants and generated 1000+ points on a map that reflected significant harvesting sites and sacred areas. This fed into a parallel process to collect data and produce maps on sensitive habitat areas. A land-use plan was created with four zones for protection and special management. In the process they built relationships and started reconciling with mining companies. In the future, community members want to create 5km buffer zones around communities for any economic development activity
- Strong governance models:
  - Hershel Island, a park created through Inuvialuit agreement where staff are 100% Inuvialuit.
  - Vuntut Gwitchin territorial reserve and habitat protection area, where the core park is managed by Gwitchin and Parks Canada, governed by the territorial government. Government has authority but the obligation to consult.
  - Frost Hills Integrated Plan

- In theory, a governance body with authority to create sub-committees whose decisions benefit communities
- Stone Provincial Park is an example of a strong government to government relationship with continual engagement and relationship building.
- Need ongoing community consultation; community needs to understand what is in their best interests.
- Boards or collaborative bodies comprised of people who are interested, not delegated.
- Involve young people in decision-making and hands on activities, like Guardian programs.
- Self-government is important. Need to get a sense of how your people feel; do a vote. Bend your own rules.
- Governance needs to incorporate cultural continuity and human relations to the land. Governance centered on harvesting, species, or habitat would be valuable. Being able to use an area the way the Ancestors used it is what governance is all about. Putting all this on paper becomes very difficult.
- Governance of a given area should reflect the purpose of that space. How are we going to design the space? Need the right people at the right time. How do we select those people? Governance needs to reflect our needs.
- “Cultural conservation” is a new framework being constructed, related to networking through the federal government
- Consensus based decision-making and management is desired.
- Desire to self-determine what areas would make the best parks, what is best for a community. This can work well on a small scale.
- Need to know the authorities, understand roles and responsibilities, what we can and can’t exercise. Need to be good negotiators, need to take the lead.
- Governance is all about relationships; how are we co-defining the relationships with Indigenous partners? Need to nurture relationships and build trust
- What legislative tools are required to meet these needs? What governing bodies/management will implement this?
- What are examples of governing bodies that have failed with protected areas? What steps were taken to correct this?

#### **BREAKOUT 4: RECONCILIATION**

Eli Enns presented on the reconciliation breakout discussions. Eli framed the sessions by describing three views or levels of reconciliation that may be considered in relation to IPCAs. A fourth level of reconciliation was identified by participants. Key points from participants are summarized below:

#### **Views or levels of reconciliation in relation to IPCAs**

1. Reconciliation of Indigenous and non-Indigenous Peoples
2. Reconciliation of people and their environment or inter-species relationships
3. Internal personal reconciliation
4. Temporal, intergenerational and inter-societal reconciliation

#### **Key Points**

- Dene law and Crown law are different. Dene law is based on relationship and harmony –from the heart. European/Crown law – from the head.
- Dene law is embedded in our way of life.

- Retaining Treaty title to land is important for Indigenous governments.
- Indigenous government engagement in Crown law development is a form of reconciliation.
- New legislation has to include Dene versions of law.
- Indigenous Peoples must educate non-Indigenous about our culture. We can't retreat to mistrust, must be proactive.
- There is willingness within parks and protected areas agencies to learn and be taught about Indigenous law and culture, and to improve how parks are established and managed.
- Restoration parks or "reconciliation spaces" could be an avenue to study and "fix" areas on the landscape that have been harm, to heal the land and the people together.
- Reconciliation is to give back what has been taken away. To regain identity; to assist in giving back. To revive language, customs, practices, songs that have been lost.
- Reconciliation of power has to come with a strong foundation of trust.
- There is not enough Crown financial support. Capacity is limited to seek resources from government funders.
- Jurisdictional boundaries have an impact on Indigenous communities and culture; have created hardships and divisions between First Nations.
- Intergenerational reconciliation within Indigenous communities is necessary.
- Essential to reconcile and heal within before you can reconcile with others – regardless what "side" of harm you are on.
- Importance of recalling the traditional family structure, from before residential school.
- IPCAs can provide a platform for reconciliation – within, between peoples, with the land and water and internally.
- Story from an Elder, metaphor for fixing the broken relationship between Indigenous and settler societies: The Elder's son was driving his canoe out in the middle of nowhere without any communications and his skidoo broke down. He had the knowledge and the tools to fix the skidoo, but because of the weather conditions he couldn't start fixing the skidoo in that exposed setting. So he built an igloo around the broken machine which gave him the shelter he needed to fix it. And the metaphor is: Wood Buffalo National Park is the broken machine. Let's build an igloo of our culture around that thing. To shelter us from these winds of more harm and get in there and start fixing it.

## CLOSING

Several participants expressed their gratitude and shared brief final reflections. Thanks were extended to the Government of Northwest Territories for their role in organizing the gathering and supporting ICE, as well as to all the speakers, conveners, staff and cooks of Aurora Village.

A closing prayer was provided by Addie Jonason.

## REPORT 4: CENTRAL REGIONAL GATHERING ON INDIGENOUS PROTECTED AND CONSERVED AREAS (IPCAs)

### INTRODUCTION

The fourth Regional Gathering was held at the Fort Garry Hotel in Treaty 1 territory, Metis homeland, in Winnipeg, MB from September 25-28, 2017.

### OPENING WELCOME

September 25, 2017

Canadian Museum for Human Rights

The opening was held at the Canadian Museum for Human Rights where participants enjoyed dinner and were welcomed to Treaty 1 territory and the Metis homeland.

The evening began with an offering of tobacco to Elder Dave Courchene (Sagkeeng First Nation, Manitoba). Elder Courchene greeted everyone and expressed his humble appreciation for being asked to speak. He provided the following opening comments:

*“Whenever tobacco is offered, that’s a very important gesture that is made. We’re told by the knowledge keepers of our people that it is to be treated with honour and a privilege. Tobacco has always been a symbol for our people to acknowledge first of all the Creator. And it is in that spirit that I offer each and every one of you a warm welcome to our territory, known as Treaty 1.*

*When the Museum for Human Rights was built, one of the things that they discovered was an ancient footprint, which was here well before the arrival of the many people that arrived on our homeland. And we were honored to be asked to do a tour that became a very important tour for the museum. And that footprint became a symbol of giving us the opportunity to be able to share the identity of who we are as a people and to bring forward the ancestral way of life that was very much connected to spirit. And it offered us the opportunity to share our identity as a people and the strength of who we are is based on values, values that I feel are absolutely critical and important in today’s world for all to acknowledge that we can’t continue to live in this world where we are not treating the earth in the way that it should be treated.*

*And the ancestral way of life of our people has always been a relationship where they held the land with a deep sacredness. And also in the belief system that our people have always had is a strong relationship with the one that we call the great Creator. And many people today, amongst our nation, consider the great Creator as a great mystery. We don’t have the intellectual capability to understand the fullness and the greatness of the Great Spirit. But it is within the lodges of our people, we are given the teachings and we are given the knowledge that would help us to be good human beings. And that a goodness that we are to walk is reflected in the love that we are to have for the land.*

*I feel very privileged to be able to be here and to listen to the discussions that are going to take place, and maybe offer my own feelings. Because we’ve entered a time that we really have to consider the way that we are treating each other as human beings, and certainly the way that we are treating the land. We can’t continue to destroy that life if we really do care for our children.*

*And I hope in this prayer that I will give here, that it will be a prayer of words of acknowledgement to the Creator, showing my gratitude for the life that each of us has been given. And that we will use that life that*

*we have been given in the fullest way that we can, so that we can live the original instructions that we were all given: on how to live and behave as human beings. And in the words that I speak, I ask the Spirit, I invoke the Spirit to come within our presence in these few days. That we will be guided, inspired to be able to achieve a vision that will be inclusive, and will help us to become united in our efforts to take care of our home.*

*And then we consider that the most important work that we need to do has to be built on giving our children the best opportunity they can have that will ensure that they can have a future. It is the children that we should put at the centre of our life and whatever efforts that we do. Each of us has come together with our own expertise, with our own experience that we have, and our challenges is to use the uniqueness of that knowledge that we may carry for the benefit of all.*

*I ask the spirit of the Ancestors, that have lived on this land for thousands of years, that they look down upon us and continue to guide us, and to give us the dreams that we need that will help us to inspire us and help us to find the path that we need to recover from this insanity that we're living in today's world. There is so much violence and there is so much hatred. And we know that all of us are tired of that.*

*It is a firm belief I have in my heart that Indigenous Peoples are here to fulfil the prophecy of their Ancestors, and that is to be able to bring forward the knowledge and understanding that would help all of us, to elevate us to a level of understanding. A level that we can find the love that we need to go beyond what is destroying us. So I invoke that Spirit in that way, and also acknowledge Mother Earth for all that she gives us, and we recognize and acknowledge that she is hurt and that she is sick because of the way that we have treated her. And we have a very simple, basic understanding of truth: that what you do to the earth you do to yourself. And we are witnessing it today. And we are living it today.*

*We ask our great Mother of the Earth to continue to show her great love for the people of the earth, like any mother would to her children. That she continues to show patience with us that we are going to change, that we are going to make things better, that we are going to give her the opportunity to fulfill her sacred role in giving us all that we need to be able to live and to survive. The food, water, medicines, and the teachings that are dear to her known as the seven laws of the earth. That we are all given the same responsibility to be able to support those natural laws that are only there to bring balance and harmony in our life if we choose to follow those natural laws.*

*So I acknowledge Mother Earth in that way. I invoke the Spirit of four directions that represent the balance of life. The spirit that comes in from the East, South, West, and the North. And I want to say a very prayer in my language, because that is my identity, that is who I am. The Creator gave me a beautiful language that I have to use.*

*It wasn't that long ago that we were prohibited from speaking our language. We were prohibited by law for practicing our way of life. But those days are gone now. We are in a time of restoring that way of life. And I believe that those that have taken away that way of life have a shared responsibility to bring back what they took away, and there's many ways to do it. To be able to support the dreams and the visions that these peoples have.*

*So I ask the Spirit to join us in those efforts, that we will truly be able to live together, recognizing that there is uniqueness in the human family. And we certainly are a very unique people. We are a very giving, kind caring, loving people. That is the strength of who we are as Indigenous Peoples, we're a spiritual people. Our sovereignty is derived from our relationship to the Creator, that's our sovereignty. Our*

*sovereignty is derived from the relationship that we have with the land. So in prayer I say [prayer spoken in Indigenous language]. Thank you for listening, miigwech."*

Eli Enns expressed his appreciation for Elder Courchene's words and for opening the gathering. He indicated the values and goals that were expressed will guide the process for the Pathway to Canada Target 1. He explained that the Pathway process is not fixated on a number, rather is part of a paradigm shift to support healthy, intact, thriving lands, cultures and languages, and to create enabling relationships that we can take forward. He expressed the importance of guidance from Elders such as Dave Courchene in this process.

Regrets were expressed on behalf of President David Chartrand of the Manitoba Metis Federation and Chief Hudson of Peguis First Nation. Will Goodon shared greetings on behalf of President Chartrand and welcomed participants to Metis homeland. He provided a brief history of the Red River area as the heartland of Manitoba and the first provisional government of Louis Riel. The Red River area is full of history and symbols of who the Metis people are and participants will be led through guided tours of some important historical sites as part of the gathering.

Brief opening remarks were shared by Nadine Crookes and Scott Jones, who provided an overview of what the Pathway to Canada Target 1 involves and the role of the ICE.

Eli Enns expressed regrets from Danika Littlechild and provided an overview of the Central Regional Gathering and the work of ICE in the Pathway to Canada Target 1. He explained how the process is grounded in ceremony, through participation of all the committees in a pipe ceremony last June. Four prayer cloths were part of that ceremony, one for each region where the gatherings have taken place. The prayer cloths have been endowed with the intentions and good words of everyone present in the ceremony and have been traveling with ICE as markers of this process and beacons of good intentions to oversee the work.

An introduction of all ICE members and a round of introduction of all participants ensued.

## SETTING THE STAGE

August 26, 2017

### CEREMONY, SPIRITUALITY AND SEVEN TEACHINGS

Elder Dave Courchene

Elder Dave Courchene (Sagkeeng First Nation) opened the session with a prayer in his language. He then offered his reflections on how Indigenous and non-Indigenous societies can best move forward together and shared the seven foundational teachings of his peoples' way of life.

Elder Courchene began by sharing a story to demonstrate the significance of an Anishinaabe offering of tobacco. When tobacco is offered it is always taken to the spirit of humbleness, and the person asks the spirit to guide the words that will be spoken. In this case, an Elder accepted the gift of tobacco from a chief federal judge of Canada, and asked the spirit to guide him in finding the words that needed to be heard by the judges. As a result of that meeting, the judges ended up at Turtle Lodge. Once the judges arrived and experienced what Dave and others wanted to share, the judges began to realize what they had to give and share as an Indigenous Peoples.

Elder Courchene reflected on the challenges facing society today:



*“We are living in a time that we really need to seriously consider the way that we are treating the earth. As Indigenous Peoples, the legacy left to us by our Ancestors is a way of life that reflects a sacred relationship with the earth. [...] We see the destruction brought by human kind’s greed and lust for power as they continue to spend the inheritance of their own children. The struggle to find the rightful place in our homeland continues. It’s still the world of imposition.”*

The question remains how to move forward and support the dreams and the visions held by the Indigenous Peoples. The solution has to be found within the people themselves. The issue of nationhood has been limited to politics, from sacred lodges and through the voices of Elders and knowledge keepers. But an Indigenous understanding of nationhood is not limited to political control or monetary wealth. Rather, Indigenous nationhood represents a sovereignty defined by spirit and nature. It is a nationhood defined by following spiritual law and in support of the natural laws of the earth.

Elder Courchene noted that there is a shared responsibility with the governments and its institutions, and private enterprises to restore what they took away, to restore the way of life that Indigenous Peoples survived on for thousands of years. The best ones to define the dreams and the visions of Indigenous Peoples are the Elders and the knowledge keepers who carry a remembrance of a way of life that ensured balance and harmony with the land.

Assimilation would bring an end to an identity of a people who have a way of life filled with knowledge. Knowledge that can help humanity in areas like climate change. Recently, an Indigenous young person at university shared her perspective on knowledge keepers. She said as young people entering the university, if we don’t reach out to our Elders and traditions and learn about our true identity, we are the generation that will fast track the total assimilation of our people. She was correct.

The original instructions given to Indigenous Peoples are based on values and teachings that ensure survival and respect for the land and its natural laws. Indigenous Peoples have always understood that all life is connected. You cannot fragment the earth, using policies as structures.

Elder Courchene emphasized that the most important part of their knowledge as a people is the spirit, which is nurtured through ceremony:

*“We have always been a ceremonial people. We give thanks for everything. We are given life. And receive our guidance, our direction, and our inspiration in ceremony. If we are truly to live our identity as Indigenous Peoples we must always begin with ceremony. We cannot overstep the spirit. The intention of our knowledge keepers has always been to [highlight] spirit and ceremony and the values that underpin Indigenous knowledge.”*

Recently, Elder Courchene hosted a gathering at Turtle Lodge that brought together respected Indigenous knowledge keepers from across Canada, along with the top scientists led by David Suzuki. The gathering was unique in that it was led through Indigenous protocols of ceremony and provided the ceremonial context for the building of alliances, sharing and decision-making. As Indigenous knowledge keepers, Dave noted that they wanted to build an alliance with the scientists to address issues like climate change. They wanted to share their holistic understanding of life, to help scientists go beyond seeing the world in parts. Traditional knowledge keepers and Elders are the resource in seeing the world in a way that is rooted in the spirit and in the land.

The solutions to effectively adapting to our changing earth lie in embracing values and teaching found through the observation of the earth. Values that Indigenous Peoples know as spiritual laws and natural laws. Nature's laws are not negotiable. They require compliance to ensure the survival of humanity.

Elder Courchene observed that the greatest gift of his people has always been the capacity to give and to share. We are living in a time when we are being called upon to share our gifts with the world. They have to share and impress upon the significance of spirit and the significance of the relationship to the land. Indigenous Peoples were given knowledge of the laws of spirit and the laws of the land. Laws that the whole world needs to hear and learn in order for human beings to survive.

Elder Courchene then briefly shared the seven laws and teachings that are the foundation for his peoples' way of life. The teachings are symbolized by seven animals.

1. **The law of respect**, which is symbolized by the buffalo. The essence of the buffalo is the essence of respect, which is to give. The same way the buffalo gave every part of its being so that people could survive. It is the challenge for us as human beings to give and to share, but it's how we'll be able to survive.
2. **The teaching of love**, represented by the eagle. We hear it constantly from the grandmothers of our nation [Ind. phrase meaning "I love you"]. In today's world filled with hatred and violence, Dave wonders where the love is; the love that we all need.
3. **The teaching of courage**, represented by the bear. The courage to be able to do the right thing. The heart will always tell us what the right thing is, but our mind plays tricks on us. The mind tries to convince us not to have that courage to be able to do the right thing.
4. **The teaching of honesty**, represented by bigfoot. Be honest with your own identity and who you are by thanking the Creator each morning for who you are and for giving you a way of life. Walk with the best of your ability with your identity. Speak from your heart, and be honest with the people that you deal with in your life.
5. **The teaching of wisdom**, represented by the beaver. Wisdom is not limited to academic knowledge. Wisdom is to know that you have a gift, and that gift is to be able to be used to serve humanity, to serve life. That is wisdom. To use your being with all that you have been given, to be able to share your life, to give your life. A mother would know this. A mother would give everything to her child to protect their child. That is real wisdom.
6. **The teaching of humility**, represented by the wolf. When you walk through the forest and you happen to be walking on the same trail as a wolf coming towards you, what does the wolf do? The wolf stops and bows aside. It humbles itself in the presence of the human being. And the human being does not try to overpower the wolf. You also get out of the way. Humbleness is to know that within the circle of life there is no one above or below. That within the eyes of the Great Spirit, he offers the same love, unconditional love for each and every one of us. Today we are separated by race, ideology, and politics. We don't know how to get along because we don't understand the law of humility.
7. **The teaching of truth**, represented by grandmother turtle. Truth is to know love, truth is to have courage, truth is to know and understand wisdom, and truth is to be humble. All of the teachings amount to what truth is. And the Creator chose grandmother turtle to be the voice and the symbol of truth. On her back are thirteen markings that represents the cycle of the woman. The truth is written on the back of the turtle. They say that during the dark times Indigenous Peoples had to go through, the turtle was unable to walk or lead the people who had chosen her path. But they

survived, because that's how powerful spirit is. That's how powerful truth is, the truth will always prevail.

Elder Courchene proposed a priority to establish ancestral schools of knowledge. In a recent call to action put out by Dave and others, they ceded support to develop these schools. Schools that are overseen by Elders with the purpose of facilitating intergenerational knowledge transmission between youth and Elders. Establishment of these schools would be a foundational step in the shared journey towards reconciliation and sustainability. Dave reiterated that ancestral knowledge is the foundation for living in balance with the earth:

*“The traditional wisdom of Indigenous Peoples, rooted in the laws of peaceful conduct, and the love and spiritual relationship with the land, the air, the water, the plant, animal, human and celestial worlds, has allowed the Indigenous to live sustainably with diverse homelands for millennia. Indigenous nations were given original instructions on how to live with the land and the elements. Here on this [land] we call Turtle Island, our own globe, is this wisdom and knowledge of stewardship techniques is a gift from the Creator, and [it] is needed to help humanity navigate an uncertain future in an era of climate change.”*

Elder Courchene asserted that Indigenous Peoples must be proactive in defining their own processes, not finding themselves reacting to government-initiated processes. He warned that we cannot limit our view to conserving a certain percentage of the land in protected and conserved areas. We all have a responsibility to be guardians of the land, but what is needed most is leadership of Indigenous Peoples. Their leadership can offer an inclusive vision with defined actions for safeguarding nature and all the elements of life found on the earth.

Paramount is the education of youth in land-based experiences, led by Indigenous Peoples, with the help and support of relevant non-Indigenous experts. We cannot separate or fragment the land when everything is connected and related to how we take care of the land. Ceremony and an understanding of spirit is not something we can teach in a classroom. Spirit is something that you need to feel and is best experienced on the land and in the environment of sacred lodges.

For Indigenous Peoples in the Winnipeg area, Turtle Lodge is their house and place of strength where the leadership of Elders and knowledge keepers is rooted. It was built based on the vision received on the land. Sacred lodges and outside nature are the places where ceremonies live and are practiced in fullness. Using sacred places for these meetings and practicing ceremonies makes our alliance and work together all more powerful, because we are supported and inspired by the forces of nature and the forces of spirit.

In our future work, Elder Courchene suggests that the ceremonial approach of Indigenous Peoples leads the process. This approach will ensure true practice of Indigenous nationhood, and it will ensure going beyond the practice. Setting a ceremonial context is the key to success and is a process that knowledge keepers like Dave would be prepared to engage in. Dave would bring in a group of respected Elders and knowledge keepers and begin to set a foundation using the sacred pipe, sacred drum, sacred rattles, and sacred songs of his people. If people are serious about engaging, Dave invited them to come to his house of knowledge.

## **LUNCH PRESENTATION**

Metis National Council President Clément Chartier

President Clément Chartier spoke expressed his perspective that a focus on “responsibilities, not rights” is easy to say because rights are there but it is hard to see implemented in the Metis Nation as they have co-existing rights and territories with First Nations. “To uphold our responsibilities, we need to have our rights

recognized.” President Chartier provided an overview of key historical and legal events for the Metis Nation, indicating the progress they are making but underscoring the need for land and for rights to be implemented. He expressed appreciation for the Law of Humility, shared by Elder Courchene earlier in the day. The idea that no one is above or below anyone else is welcoming Metis people. They are not here to take away from others, rather they want to share both the good and the problems. He ended with the encouragement: “Let’s exercise our responsibilities.”

### MOCK EXERCISE ON IPCAS

Eli Enns led a thought exercise on establishing an IPCAs drawing on his experience with creating of Tribal Parks in his home territory on the west coast. A lengthy question and comment period ensued asking for clarification. Eli explained that IPCAs will be different in different parts of the country given unique geopolitical contexts. He also clarified that choices to pursue IPCAs are up to each self-determining Nation, and conservation or protection doesn’t have to involve an IPCA at all. This gathering is an opportunity to share information about what some other Nations are doing to protect biodiversity in their territories since different Nations are doing different things. The point of this meeting is to share that info, to receive advice from participants’ own territories. It is a misconception that the government wants to “come and do IPCAs on your land.” He assured participants that this is not the case and that IPCAs are just a tool that is available.

### BREAKOUT GROUP PLANS

Six breakout groups on different topics were created to support and encourage exchanges between participants on key theme related to IPCAs. Three rounds of breakouts were scheduled over the ensuing 2 days so participants could take part in their top three choice of topics. Brief cumulative report backs were shared in the closing plenary for each topic:

- **Reconciliation A:** Effect of pre-1982 Parks & Protected Areas: Impact on Cultures & Individuals
- **Reconciliation B:** “Inter-National” reconciliation (reconciliation between Indigenous Nations in Canada)
- **Capacity Requirements** for successful IPCAs: Creating conditions for success
- **Governance Models:** Capturing rights, roles and responsibilities for success of an IPCA
- **Defining IPCAs:** Scale and Spectrum of Models
- **Values and Principles** of IPCAs: The Role of Ceremony and Spirituality

### METIS FIDDLERS AND TRADITIONAL DANCERS

Participants were treated to an exhilarating evening performance by a band of local Metis fiddlers and a professional dance group.

### LUNCH KEYNOTE PRESENTATION:

September 27, 2017

Pimachiowin Aki World Heritage Project

By Gord Jones

Gord Jones gave an overview and shared a video of the Pimachiowin Aki World Heritage Project in Manitoba, which is a proposed mixed site to protect an Anishinaabe cultural landscape in the boreal forest. Further information is available at: <http://pimachiowinaki.org/>

## SITE TOURS

September 28, 2017

Participants were taken on site tours to learn about reconciliation and Indigenous-led conservation and commemoration. Sites included the Forks, St. Boniface and the Louis Riel commemorative site.

## BREAKOUT SUMMARIES AND REPORT BACKS

September 29, 2017

Rapporteurs provided collated summaries on each of the six breakout topics. Note that the two sessions on reconciliation have been combined in this summary.

### RECONCILIATION A: EFFECT OF PRE-1982 PARKS AND PROTECTED AREAS: IMPACT ON CULTURES AND INDIVIDUALS

### RECONCILIATION B: INTER-NATIONAL RECONCILIATION AMONG INDIGENOUS PEOPLES

Rapporteurs Eli Enns and Will Goodon

Reconciliation is a very powerful word and highly charged, evoking a lot of emotions. There are many challenges with that word, because of the Metis experience with it, but also because it's so intimately connected with the TRC, with all of the residential schools. There was a strong word of caution to be careful about how we use the word reconciliation and not water it down. There's a perception out there that reconciliation is becoming cheapened in the way that it's being used.

But reconciliation is impossible if we keep looking at it through the same lens. A broken, dysfunctional worldview is going to be the result of a dysfunctional lens. All Section 35 of the *Constitution Act* did was recognize and affirm pre-existing Aboriginal and Treaty rights. Those things were already there. 1982 didn't introduce anything new per se, it simply recognized things that were there already. I we need to start respecting those Treaties, what does that look like? How can we do that? I doesn't have to be a scary thing. In fact, if we respect the Treaties and the innovation behind the worldview of the people who make our Treaties, it's a good thing for all of us to follow. There will be a sharing of responsibility but were all working towards what's in the best interests of our friendship.

Regarding the reconciliation that needs to happen between Indigenous nations, amongst Indigenous nations, and even within Indigenous nations:

- Nations have to define reconciliation themselves. Regarding the word reconciliation, apologies don't always work. We need to do more than apologize, the work and the capacity need to be there to follow through with policies. Rights do not come from Treaty, they come from the Creator.
- Reconciliation was described as both parties understanding each other. So when we're talking about inter-Nation reconciliation, you undertake that so understanding can happen.
- Reconciliation was also described as a willingness to forget. We need to learn to live in two worlds, we need to understand where the other party is coming from.
- It used to be in our country that people that told the government what to do. Now it's the government that tells people what to do.
- There is no hierarchy of rights in Indigenous rights. In the Constitution, Section 35 of the *Constitution Act* talks about three Indigenous Peoples: Inuit, First Nations and Metis. And in law there is no right that is more or less.

- Reconciliation between and amongst Indigenous Peoples should be the easiest point to achieve, as we all have common ground and interests, even though our interests are land and we might have territories that overlap.
- At the heart of the matter of reconciliation between Indigenous nations is that we need to recognize the sovereignty of each other.

### **Other key points:**

- Reconciliation is a buzzword; take care in how it is used, don't water it down. Means when both parties understand each other
- Inter-national reconciliation: between, amongst, and in Indigenous nations
- Reconciliation is where we need to recognize the sovereignty of each other.
- Need to look at reconciliation with cultural sensitivity, different worldview; means different things to different peoples
  - Nations need to define it themselves
  - Apologies not enough: need to bring capacity and follow through with policies
- From a government perspective it's difficult to figure how to implement the new direction on reconciliation.
- Respect the old Treaties and share responsibility, in the best interests of government and First Nations
- Sharing, cooperation, open communication with neighbors to divide lands among Indigenous nations
- Trapline borders can be used to define land-use planning areas.
- Traditional protocols about where boundaries lie.
- We have to protect but also have to allow hunting
- Community members believe the Creator has put them on the land and they have a responsibility to care for that land.
- Rights come from the Creator not from government, not even from Treaty.
- The Indian Act split us – Treaty vs non-Treaty people. Our nations need to reconcile.
- It used to be the people were on top but now it's the government on top.
- Metis, First Nation and Inuit, we need to pull on the same rope. Need to find ways to bring each other up instead of pulling each other down. If we don't government will find a way to drive a wedge between us.
- There is a need for education. Need to understand the past and how to move forward together.
- Pathway process should have dispute resolution process – what if the Ministers don't take up recommendations?
- Need to address industry positions in these discussions.
- ICE will need to decide what to say to governments about the need for reconciliation between nations and whether the Crown governments have a role, or should leave inter-national reconciliation up the Indigenous governments.
  - Province of Ontario: approach to let First Nations work out boundaries and come to agreements on shared areas amongst themselves.
- We need a paradigm shift; government should be figuring out how to work with us rather than vice versa.
- Torngat Park and Riding Mountain are two ends of the spectrum re: Indigenous Peoples and parks
  - Torngat National Park: Inuit have a benefit agreement and decide how the park is presented to the world. Governance via establishment agreements.

- Riding Mountain: established without consent of Indigenous Peoples
- Webequie First Nation: told they were not allowed on the lands of a nearby provincial park. Nation worked with government to deregulate the park to create a reserve (reserve designation required for the Nation to access funding). Planning underway for additional area protection outside the reserve.

## CAPACITY REQUIREMENTS FOR SUCCESSFUL IPCAS: CREATING CONDITIONS FOR SUCCESS

Rapporteur Marilyn Baptise

The group examined capacity in already existing parks and protected areas, and also how that would be for new ones. It was noted that our Indigenous languages need to be a part of this process for preserving the land and culture. Our Indigenous Peoples need cross-cultural training in the doctrines of the Constitution and that process. Which is part of joining our worldviews.

Equitable long-term funding at multi-levels is one of the biggest issues but the Ministry of Environment across Canada is the least funded Ministry. How can you ensure there is a level of capacity for those parks and protected areas?

Elder Jimmy Hunter-Spence gave the analogy of the canoe that has gone up river without a paddle. We need to be able to shore our canoe so we can fix it and build a paddle together.

### Key themes and recommendations:

- Importance of language to preserve land/culture (engage Elders, youth, and women) and storytelling (landscapes tell stories). The land carries you into adulthood
- Need to address capacity in holistic approach. Systematic change: build long-term stewardship of the land (establish and maintain protected areas and IPCAS) and to include:
  - Whole government approach (breakdown the silos between departments, e.g. energy, conservation, forestry departments). Need consistency, transparency, adequate resources for work and consultations; staff with adequate experience
  - Retain skills and knowledge with Indigenous governments. Recognize their ability as equal decision-makers
  - Build relationships: cross-cultural training, adjoin worldviews (ITK and Indigenous law + science and western law)
  - Recognize importance of ceremony (e.g. tobacco offerings)
  - Core capacity needed for watchmen/guardian programs (including at national level) and having youth and Elders on the land
  - Facilitate sharing knowledge, tools, experiences for all to access (e.g. information access on trans-boundary projects and foster collaboration among Indigenous governments)
  - Consider all elements of the medicine wheel (e.g. not only human) E.g. 6 seasons (not 4), elements of nature and the elements of animals. What is nature and the land telling us? Ask the right questions and monitor the land – based on traditions and stories
- Need innovative, equitable, long-term funding models (e.g. trust funds) independent of government budget cycles, not managed by Treasury Boards, available at multilateral levels (F/T/P). Funding available to support establishment and maintenance of IPCAs over time
- (Analogy provided by an Elder in the group): Paddling a canoe together: Bring Metis, First Nations, Inuit to work together and build relationships by fixing the canoe, making paddles, paddling upstream together as one



## Key points and details:

- Existing protected areas have little capacity and not enough funds to manage the area over time post establishment. This further prevents building a successful relationship between park authority and Indigenous governments, as well as no capacity for monitoring the area and addressing issues. Examples/issues raised in the context of existing protected areas:
  - Ts'il'los Park is co-managed through a memorandum of understanding between BC Parks and the Xeni Gwet'in First Nations Government but no capacity to do the work/manage the area in addition to BC government being absent;
  - Wood Buffalo National Park - new administration mechanism but no capacity by Parks Canada for creating a new governance structure in collaboration with First Nations for the National Park.
  - Same lack of capacity from Parks Canada for Great Bear Lake and Batoche National Historic Sites (e.g. the co-management regime for the Batoche NHS is not functioning well not due to lack of capacity especially from Metis side, and transfer of lands promised to Metis is still not completed following an 18-yr old promise).
  - Existing protected areas should be reviewed according to the principals for IPCAs (and framed through the ethical space window). Indigenous Peoples were not involved in creation of protected areas and need to have a say in existing protected areas so that the land is treated with respect.
  - Having the ability and skills to play a meaningful role in the protected areas management by having opportunities i.e. for people to be trained and be employable (capability, sovereignty and technology – rangers and IPAs model in Australia).
- In the context of reconciliation, a question was asked on whether or not asking for funds was also part of reconciliation in order for people to manage IPCAs on their own. Reconciliation also needs to be seen as adequacy.
- Capacity is more than receiving money and having bodies sitting in chairs. Having funds may be the start of the process but not the end.
- Adequate capacity for supporting IPCAs means having positive outcomes such as: reconciliation, community wellness, language, youth pride, relationships.
- In the context of establishing new protected areas and IPCAs, capacity means having effective inclusion of traditional knowledge and traditional land use for decision-making (e.g. interviewing and documenting knowledge holders such as Elders in their language, mapping capacity bringing Elders and youth together prior to industrial pressures and interests), and the sharing of stories and lessons learned (e.g. the building of a national program for guardianship work in support of equity among nations and governments).
- The need for interim protection within land use planning exercises for areas of importance (ecologically and culturally), where development pressures are imminent but where there is also support for the conservation of the area by industry (e.g. French River Watershed conservation case & Ontario's Far North Act – could be an IPCA).
- Theme of language:
  - The importance of having an Elder committee as they are the knowledge keepers as well as a women advisory committee because women have a different view than men.

- The importance of ceremony (e.g. process of the pipe for Indigenous Peoples vs. process of law for governments), and having a legacy model (for children).
- We don't own the land, we belong to the land. Babies are taken out on the land with their mother. They grow into children learning the way of the land early on (e.g. an 8-year old handing an axe to chop wood is normal for Indigenous Nations but perceived as a danger/risk from a western society point of view). However, much has been lost already such as reading and hearing nature's sign for predicting weather for example.
- Who has a role and responsibility for protecting language?
- Some discussion on what capacity means in relation to UN (the 7 elements: learning & livelihood, language, governance, economics, history, land) and that we can't protect the land if people are not on the land.
- Pursue linkages with TRC recommendations regarding access to advisory committees

## GOVERNANCE MODELS: CAPTURING RIGHTS, ROLES AND RESPONSIBILITIES FOR SUCCESS OF AN IPCA

Rapporteur Steven Nitah

Given the spectrum of the different models, or levels of governance or participation, it is important to distinguish governance from land claims as there is confusion between the two. Governance is the ability to make a decision, full stop. There are different types of governance models that exist within the nation of Canada and in different parks and protected areas based on pre-1982 protected areas, or federal, provincial and territorial jurisdiction that impact parks today.

On one end of the spectrum there is the pre-1982 types of protected areas that were created. And there's Indigenous governance within those areas. But advisory bodies are created to advise the minister on how to manage those protected areas are not governance decision-making bodies. The ultimate authority is still with the minister responsible for that particular park or protected area. On the other end of the spectrum we have Indigenous governments, who make decisions on protected areas which we know as Tribal Parks. And then there are Indigenous-led creations, and they make decisions on what happens in that area.

### Key points:

- Governance spectrum: one end: pre 1982 protected areas (minister with ultimate authority), other end: Indigenous-led governance (e.g. Tribal Parks). Shared governance in the middle (both parties with authority and jurisdiction, e.g. Thaidene Nene)
- Recognize that nations across Canada have created their own "conserved" or "protected" areas using their own laws. Doesn't have Crown government recognition – it is the nation acknowledging their title to those lands and exercising Section 35 of the *Constitution Act*, rights for culture, spirituality, hunting, gathering.
  - Recognizing those areas would contribute to the 17% Pathway to Target 1 target.
  - Create a national body to support Indigenous nations in creation or recognition of protected areas
- Review examples of sustainable funding models (e.g. trust fund for Thaidene Nene). Choose a model that doesn't rely on taxpayers in perpetuity; more appealing to government.
- Consistent support for tools to build capacity and relationships (e.g. land use plans). Legislative instruments to create IPCAs don't exist yet.

- Relationship-building is critical, e.g. advisory committees in national and provincial parks enable Indigenous Peoples to participate in park operations and management discussions
- Vision statements to guide politicians
- Need political will to move forward
- Clear mandates for First Nations
- Willingness to participate/cooperate
- Develop new legal framework that recognizes traditional knowledge
- Ability to hold the pen
- Carbon taxation and credits to benefit communities

## DEFINING IPCAs: SCALE AND SPECTRUM OF MODELS

Rapporteurs Curtis Scurr and Tom Soehl

The majority of the conversation was focused on governance. A one size fits all approach is not appropriate. Ideas were shared on what Indigenous-led means, and what Indigenous-led conservation and protection means. The uses of these areas will determine conservation and protection goals, as identified by the nations themselves.

An IPCA can be whatever the nation wants it to be, regardless of the size. Many times we think of IPCAs as vast tracts of land, but that's not always the case. Allow flexibility in the definition to keep that box open.

The challenge on the definition is how to come up with a word to describe what an IPCA is when there's such a diversity of situations across Canada. You have Metis, First Nations, and Inuit. There are Indigenous groups with modern land claims, historic Treaties, no Treaties. There are areas that are largely unchanged and areas that are heavily disturbed. And in all those situations there's a desire to have an IPCA.

We have a range of governance operations, so the definition needs to be broad and flexible, but it also needs to describe how an IPCA is different from a national park or provincial or Territorial Park. The key points are Indigenous-led, they allow for the rights of Indigenous Peoples to use the land and they also provide the responsibility to take care of the land. How that use gets defined, and what are the conservation needs will vary from place to place. It probably doesn't mean no industrial activity, but how do you define that? It can probably be framed in terms of use that has to be consistent with maintaining the ecological integrity of the area and consistent with the cultural values set by the Indigenous government themselves.

### Themes and Key points:

#### Defining IPCAs: General considerations

- How are we defining key words like conservation and protection? These words mean different things to different people, stakeholders and jurisdictions.
- What would make an IPCA different from other protected areas?
  - Key words/considerations:
    - Indigenous led – identification and selection, management, access, use and associated assignments
    - Indigenous-owned?
    - Long- term commitment to conserve land in a defined area
      - Tribal Park example: long term commitment of the community/nation to protect the lands.

- Indigenous Peoples have the right to use and responsibility to manage
- Large scale industrial activities are not allowed
  - Difficult to define such considerations but this is a starting point for discussion.
  - Language should include “no large scale industrial activity impacting IPCAs”
- Current focus is on management intentions and not the state of the land
- Challenges with overlapping territories or shared space/territory → who has the right to use the land and decide how to protect?

### **“Large scale” industrial activity: definition and scope**

- How do we define “large scale” industrial activity?
  - Selective harvesting vs clear cutting – would selective harvesting be considered a large scale industrial activity?
  - What are you protecting just the surface or what is beneath?
  - Protected areas are protected to the core of the earth (Manitoba example)
- IPCA control must also include sub-surface management as well
  - Ex. Horizontal drilling
- What is industrial activity and are we talking about new, current and/or previous activity?
- We need to be clear about what large scale industrial activity is/is not and do we need to marry strictly with the IUCN criteria which calls for “no” industrial activity.

### **IUCN categories and IPCAs**

- Is there an intention to create a new IUCN category for IPCAs or to ensure that IPCAs as identified fit within the existing 7 IUCN categories?
- Can federal and provincial legislation adopt IUCN principles?

### **Spectrums for IPCAs: Geographic sizes, buffers, networks**

- Size doesn’t matter – we often think of IPCAs as vast swaths of land, when ultimately it could be something as small as a park along the river or some smaller area that is of significance to the community/nation.
- Buffer zones cannot be a requirement because in some areas it’s just not possible but it would be ideal.
- Concept of concentric circles of protected areas: surround core protected area to serve as a buffer and ensure “true” protection.
- It’s more about a connected network with multiple uses across the landscape
- Support for the spectrum of IPCAs which would allow nations with flexibility to be involved as they are willing, able and to transition or advance along the spectrum.
- Focus on reclamation sites that can transition into IPCAs

### **Balance economy, culture, ecology in a community-led process**

- An ideal IPCA would be entirely free of ecological impacts and would focus on upholding/enhancing ecological integrity.

- Only activities that are consistent with the cultural and ecological interests/values of the community/nation will be allowed.
- Principles driven by Aboriginal and Treaty Rights, but ultimately the process needs to be driven by each communities interests and values.
- Ultimate issue is going to be about balance for Indigenous Peoples, balancing protecting the environment with economic growth and prosperity for nations.
  - Support for mixed use approach to IPCAs that can allow for the balance of all interests
- Nations must ultimately have the ability to decide the uses of IPCAs

### **Shared responsibilities and importance of Indigenous-led process**

- Transitioning the focus of our conversations from ownership to shared responsibilities (in the practices of our Elders)
- A real Indigenous-led IPCA ensures the mechanisms to give Indigenous Peoples legal responsibility to manage the land and decision making authority. There really isn't a process like this in Canada yet
- Indigenous Led:
  - Decision making held by the Indigenous Peoples of the area
  - Must be indigenous governments holding the decision making power
  - Systems must be in place for our people to be able to monitor, track and measure that can contribute to our decision making ability (capacity issues and support)
  - Elder advisory and cultural retention (tools) for our people to be able to embrace our management and authoritative role.
  - IPCAs can be win – win – win but must focus on youth connection to the landscape
  - Struggling with how this process can ultimately be Indigenous led given the existing structures in place. We need to involve Elders and spiritual leaders to advise us on this.
  - Who are our allies and potential partnerships; there must be some kind of support as well.
  - Clarity on the role of Chief and Council in these processes
    - Thaidene Nene created their own resolution in which all community members had to input and vote on direction and decision making.
  - Indigenous led and IPCA establishment must be guided by Indigenous law

### **Establish IPCAs as new category of decision-making**

- IPCAs should be established under a new category of decision making → Sec 91, 92, 93
  - Separate authority
  - If the fed/provincial governments are serious about this, then this kind of approach should seriously be considered.
  - Interested in division of power and can fit into these categories
- Needs to be a new law created that provides ultimate decision making authority to Indigenous governments regarding IPCAs and the federal gov't must also have veto power over industry and the provinces.
- Traditional land use and occupancy reports must be considered in IPCA development

### **Examples of innovative governance models**

- Take a spectrum or phased approach. Begin with joint decision-making or co-management; move towards Indigenous-led management
- Co-management (joint management board)
  - Manitoba example – traditional land use planning areas and there is a specific Act which designates these areas (Traditional Land Use Planning Areas Act). The plans all describe different zones and there is a co-management board that is established which consists of provincial reps and Indigenous community members. Unfortunately decision making authority remains with the province.
- Indigenous Management Board (make recommendations to the Minister)
  - Labrador Inuit example (Torngat Mountains provincial park)
  - Vuntut National Park example
- Advisory Committees

## VALUES AND PRINCIPLES OF IPCAs: THE ROLE OF CEREMONY AND SPIRITUALITY

Rapporteurs Kelly Bannister and Scott Duguid

The Elders were thanked for sharing strong lessons and teachings within the breakout sessions on values and principles. The conversations were very deep and it was unanimous that spirituality and ceremony have an important role in shaping the values and principles that should guide IPCAs.

Elders took lead in helping the group understand how to be together in a good way, and supporting the group practice of the teachings that were shared. The group process adapted as etiquette and protocols were graciously shared. Some highlights of teachings included:

- **Prayer** - Elder Dave Courchene explained the need to begin with prayer as it is an important part of ceremony to evoke spirit and to proceed with respect for one another as human beings. It was explained that “the empty chairs are not empty.”
- **Ceremony** - The values and principles found in ceremony are what are missing from the world today. Answers lie in ceremony. A way of life that connects to ceremony accesses a higher intelligence. Ceremony is needed to heal the world and the self. Working with spirit is easier than living in a world of fear, hatred, and fighting. Solutions come from this place of hope and joy and love. Giving thanks is the first ceremony.
- **Respect** - Elder Howard Mustus explained that respect means we need to respect each other’s spirituality and ceremony and the diversity of teachings and beliefs. The group practiced respect for the diversity in the room, learning from one another and growing together.
- **Natural law is the first rule of spirituality** – Natural laws are not negotiable. Spirituality is involved in everything, and there is ceremony for everything. So spirituality and ceremony are part of everything. Duty and responsibility of guardianship, not ownership. No one owns the land.
- **Kindness** - Speak in kindness always.
- **Go back to the beginning** – Elder Dave Courchene taught about the importance of going back to the beginning. The beginning is all about spirituality, acknowledging the great mystery that we call the Creator. Spirituality begins with each one of us. It means understanding the importance and influence that spirit can have in our lives. We need to first do our own work in ourselves, to make peace in our own life.

- **Language is a core principle** – Using our own languages, translating into our own languages, understanding meanings within languages, and understanding the loss of meanings through translation.
- **Elders** - The strong and essential role of Elders was pointed out for this Pathway process, as well as in implementing the recommendations. It was underscored that an Elder is not simply related to age but involves a spiritual calling to work on behalf of the Creator or Higher Power. Elders have an important role in spirituality and ceremony. ICE process needs resources to support Elders to establish ceremony to guide the process.
- **Women** - As people who are community-driven, women have certain roles as water keepers, and water carriers. A strong role for women in this process moving forward has to be recognized. Honouring and respecting life begins with respecting our mothers. “She gave you the life you are living.” Displacement of grandmothers in our society a key problem. They are so full of love and kindness, which is what our children need today.
- **Family** - Values of strong family and respect for family are needed. “Family time creates family ties.” Slow down, the children matter.
- **Caring for the land** - One of the Elders said “the land is a gift of the Creator, and caring for the land is an acknowledgement of that gift and by extension honors the Creator.”
- **Building community, connection and ceremony** - IPCAs have a role as a place where you build community, connection to the land, and ceremony.
  - IPCAs as places of protection of land, air and water and biodiversity, protection of Treaty rights and traditional uses.
  - IPCAs as sanctuaries from disturbance, places to be away from industrial activities, and the trappings of industrial culture.
  - IPCAs as sacred places for Indigenous language and culture preservation, places that are connected to creation stories.
  - IPCAs as places for self-determination, sovereignty, and a sense of community ownership.
  - IPCAs as a way to connect with the Creator, to foster connection between Elders and youth, a place for families to gather and to support connectivity in the community
  - Places for all Indigenous communities; inter-Indigenous community gatherings
  - **Community-built** - The idea of IPCAs need to come from Indigenous communities themselves, not from government. Co-management or government involvement may limit the ability to incorporate the true values and cultural practices.
  - **Laughter is medicine** - This movement needs to be a spiritual movement and a fun movement
  - **Love** – the breakout sessions ended with a Declaration of Love, an invitation to say “I love you” to each another, which is the fundamental principle and value within all the teachings.
  - **National Protection and Conservation Ceremony** – The group talked about the “why” and the “what” of principles, values, ceremony and spirituality, but also recognized that it’s difficult to figure out the “how” amid so much diversity. Regarding the “how”, it was suggested that to move this process forward, a “National Protection and Conservation Ceremony” should be created. How to support this in our process and institutions needs careful consideration.

## CLOSING COMMENTS

Eli Enns



The idea of creating ceremony for IPCAs is powerful as well as self-empowering. It would have to look different in different parts of the country. In the past, ceremonies often went underground (e.g., potlatches on the west coast after they were made illegal). There's a hangover from that era in our communities where talking about certain topics in our society is considered to be taboo outside of ceremonies. The Elders reminded us that everyone had responsibility to understand these things and their roles in maintaining balance and health in our communities. This is in contrast to what the Indian residential school process has done to us. To not only be shamed, but to learn how to think about and feel our ceremony as taboo makes the idea of creating an IPCA ceremony very powerful. That helps us to break out of that taboo and empower ourselves to be creative and to move forward and rebuild our Nations in a good way.

Eli thanked everyone for their comments and time, and asked for a prayer to close the gathering.

### **CLOSING PRAYER**

Elder Jimmy Hunter-Spence (Nisichawayasihk Cree Nation) acknowledged the learning that took place through dialogue and the good thoughts expressed. He thanked everyone for their contributions and encouraged everyone to move forward together. He closed the gathering with a prayer.