



JOURNALS OF THE SENATE

1st Session, 43rd Parliament
69 Elizabeth II

JOURNAUX DU SÉNAT

1^{re} session, 43^e législature
69 Elizabeth II

Nº 25

Monday, June 22, 2020

Le lundi 22 juin 2020

6 p.m.

18 heures

The Honourable GEORGE J. FUREY, Speaker

L'honorable GEORGE J. FUREY, Président

The Members convened were:

The Honourable Senators

Anderson	Dasko
Batters	Deacon (<i>Ontario</i>)
Black (<i>Ontario</i>)	Forest-Niesing
Campbell	Furey
Cormier	Gagné
Coyle	Gold
Dagenais	Harder
Dalphond	Housakos

The Members in attendance to business were:

The Honourable Senators

Anderson	Dasko
Batters	Deacon (<i>Ontario</i>)
Black (<i>Ontario</i>)	Forest-Niesing
Campbell	Furey
Cormier	Gagné
Coyle	Gold
Dagenais	Harder
Dalphond	Housakos

Les membres présents sont :

Les honorables sénateurs

LaBoucane-Benson	Miville-Dechêne
Larkin	Moncion
Loffreda	Moodie
Marshall	Munson
Martin	Pate
Massicotte	Patterson
McPhedran	Plett
Mégie	Ringuette

Les membres participant aux travaux sont :

Les honorables sénateurs

LaBoucane-Benson	Miville-Dechêne
Larkin	Moncion
Loffreda	Moodie
Marshall	Munson
Martin	Pate
Massicotte	Patterson
McPhedran	Plett
Mégie	Ringuette

The first list records senators present in the Senate Chamber during the course of the sitting.

An asterisk in the second list indicates a senator who, while not present during the sitting, was in attendance to business, as defined in subsections 8(2) and (3) of the [Senators Attendance Policy](#).

La première liste donne les noms des sénateurs présents à la séance dans la salle du Sénat.

Dans la deuxième liste, l'astérisque apposé à côté du nom d'un sénateur signifie que ce sénateur, même s'il n'était pas présent à la séance, participait aux travaux, au sens des paragraphes 8(2) et (3) de la [Politique relative à la présence des sénateurs](#).

PRAYERS**SENATORS' STATEMENTS**

Some Honourable Senators made statements.

ROUTINE PROCEEDINGS**Tabling of Documents**

The Honourable Senator Gold, P.C., tabled the following:

Charter Statement prepared by the Minister of Justice in relation to Bill C-18, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2021, pursuant to the *Department of Justice Act*, R.S.C. 1985, c. J-2, sbs. 4.2(1).—Sessional Paper No. 1/43-582.

Charter Statement prepared by the Minister of Justice in relation to Bill C-19, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2021, pursuant to the *Department of Justice Act*, R.S.C. 1985, c. J-2, sbs. 4.2(1).—Sessional Paper No. 1/43-583.

Presenting or Tabling Reports from Committees

The Honourable Senator Patterson, Deputy Chair of the Standing Committee on Ethics and Conflict of Interest for Senators, presented the third report of the committee, entitled *Developments and actions in relation to the committee's fifth report regarding Senator Beyak*.

(The report is printed as an appendix at pages 563-814.)

The Honourable Senator Patterson moved, seconded by the Honourable Senator Seidman, that the report be placed on the Orders of the Day for consideration at the next sitting.

The question being put on the motion, it was adopted.

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The Honourable Senator Harder, P.C., for the Chair of the Standing Senate Committee on National Finance, tabled the third report of the committee, entitled *Supplementary Estimates (A), 2020-21*.—Sessional Paper No. 1/43-584S.

The Honourable Senator Harder, P.C., moved, seconded by the Honourable Senator Pate, that the report be placed on the Orders of the Day for consideration at the next sitting.

The question being put on the motion, it was adopted.

PRIÈRE**DÉCLARATIONS DE SÉNATEURS**

Des honorables sénateurs font des déclarations.

AFFAIRES COURANTES**Dépôt de documents**

L'honorable sénateur Gold, c.p., dépose sur le bureau ce qui suit :

Énoncé concernant la Charte préparé par le ministre de la Justice ayant trait au projet de loi C-18, Loi portant octroi à Sa Majesté de crédits pour l'administration publique fédérale pendant l'exercice se terminant le 31 mars 2021, conformément à la *Loi sur le ministère de la Justice*, L.R.C. 1985, ch. J-2, par. 4.2(1).—Document parlementaire n° 1/43-582.

Énoncé concernant la Charte préparé par le ministre de la Justice ayant trait au projet de loi C-19, Loi portant octroi à Sa Majesté de crédits pour l'administration publique fédérale pendant l'exercice se terminant le 31 mars 2021, conformément à la *Loi sur le ministère de la Justice*, L.R.C. 1985, ch. J-2, par. 4.2(1).—Document parlementaire n° 1/43-583.

Présentation ou dépôt de rapports de comités

L'honorable sénateur Patterson, vice-président du Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs, présente le troisième rapport du comité, intitulé *Faits nouveaux et les mesures prises concernant le cinquième rapport du comité au sujet de la sénatrice Beyak*.

(Le rapport se trouve en annexe, pages 563 à 814.)

L'honorable sénateur Patterson propose, appuyé par l'honorable sénatrice Seidman, que le rapport soit inscrit à l'ordre du jour pour étude à la prochaine séance.

La motion, mise aux voix, est adoptée.

○ ○ ○

L'honorable sénateur Harder, c.p., pour le président du Comité sénatorial permanent des finances nationales, dépose le troisième rapport du comité, intitulé *Budget supplémentaire des dépenses (A), 2020-2021*.—Document parlementaire n° 1/43-584S.

L'honorable sénateur Harder, c.p., propose, appuyé par l'honorable sénatrice Pate, que le rapport soit inscrit à l'ordre du jour pour étude à la prochaine séance.

La motion, mise aux voix, est adoptée.

Government Notices of Motions

With leave of the Senate,
The Honourable Senator Gold, P.C., moved, seconded by the Honourable Senator Gagné:

That, notwithstanding any provision of the Rules, usual practice or previous order:

1. on Tuesday, June 23, 2020, the business before the Senate at 3 p.m., including the ringing of the bells if then underway, be interrupted for the Senate to resolve itself into a Committee of the Whole to consider the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2021, and in the Supplementary Estimates (A) for the fiscal year ending March 31, 2021, during which the committee receive the Honourable Bill Morneau, P.C., M.P., Minister of Finance, and the Honourable Jean-Yves Duclos, P.C., M.P., President of the Treasury Board, each accompanied by one official;
2. on Thursday, June 25, 2020, the Senate resolve itself into a Committee of the Whole at the start of Orders of the Day to consider the Government of Canada's role in addressing anti-Black racism, anti-Indigenous racism and ending systemic racism, during which the committee receive a minister or ministers of the Crown, each accompanied by one official;
3. each committee rise no later than 155 minutes after it begins;
4. during each committee:
 - (a) the witnesses' introductory remarks be limited to a combined total of five minutes;
 - (b) if a senator does not use the entire period of 10 minutes for debate provided under rule 12-32(3)(d), including the responses of the witnesses, that senator may yield the balance of time to another senator;
 - (c) the provisions of rule 3-3(1) be suspended; and
 - (d) the ringing of the bells for any deferred standing vote that would conflict with the committee be delayed until the committee has completed its work;
5. on the day one of the committees is to meet:
 - (a) if a standing vote would take place at the time the committee is to begin, that vote be deferred until after the committee has completed its work;
 - (b) after the committee has completed its work, the business of the Senate resume at the point it was interrupted for the committee, with the times for debate and other proceedings being unaffected by the interruption; and
 - (c) until the committee has completed its work, the application of any provision of the Rules or previous

Préavis de motions du gouvernement

Avec le consentement du Sénat,
L'honorable sénateur Gold, c.p., propose, appuyé par l'honorable sénatrice Gagné,

Que, nonobstant toute disposition du Règlement, toute pratique habituelle ou tout ordre antérieur :

1. le mardi 23 juin 2020, les travaux dont est saisi le Sénat à 15 heures, la sonnerie d'appel y comprise, s'il y a lieu, soient interrompus pour que le Sénat se forme en comité plénier afin d'étudier les dépenses prévues dans le Budget principal des dépenses pour l'exercice se terminant le 31 mars 2021 et dans le Budget supplémentaire des dépenses (A) pour l'exercice se terminant le 31 mars 2021, au cours duquel le comité reçoive l'honorable Bill Morneau, c.p., député, ministre des Finances, et l'honorable Jean-Yves Duclos, c.p., député, président du Conseil du Trésor, chacun accompagné d'un fonctionnaire;
2. le jeudi 25 juin 2020, le Sénat se forme en comité plénier au début de l'ordre du jour afin d'étudier le rôle du gouvernement du Canada dans le combat contre le racisme envers les Noirs et les Autochtones, et pour mettre fin au racisme systémique, au cours duquel le comité reçoive un ministre ou des ministres de la Couronne, chacun accompagné d'un fonctionnaire
3. chaque comité lève sa séance au plus tard 155 minutes après le début de ses travaux;
4. au cours de chaque comité :
 - a) les remarques introductives des témoins durent un total maximal de cinq minutes;
 - b) si un sénateur n'utilise pas l'entièrère période de 10 minutes prévue pour les interventions à l'article 12-32(3)d) du Règlement, les réponses des témoins y comprises, il puisse céder le reste de son temps à un autre sénateur;
 - c) les dispositions de l'article 3-3(1) du Règlement soient suspendues;
 - d) la sonnerie pour tout vote reporté qui entrerait en conflit avec le comité soit différée jusqu'à la fin des travaux du comité;
5. le jour où l'un des comités siégera :
 - a) si un vote par appel nominal avait lieu au moment où le comité doit commencer ses travaux, ce vote soit différé jusqu'à la fin des travaux du comité;
 - b) une fois que le comité aura terminé ses travaux, les travaux du Sénat reprennent au point où ils étaient au moment de l'interruption pour le comité, la durée du débat et des autres délibérations n'étant pas affectée par l'interruption;
 - c) jusqu'à la fin des travaux du comité, l'application de toute disposition du Règlement ou tout ordre antérieur

order concerning the time of adjournment be suspended and no motion to adjourn the sitting be received; and

6. Government Motion number 39 be discharged from the Order Paper.

The question being put on the motion, it was adopted.

QUESTION PERIOD

The Senate proceeded to Question Period.

ORDERS OF THE DAY

GOVERNMENT BUSINESS

Bills – Second Reading

Second reading of Bill C-18, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2021.

The Honourable Senator Gold, P.C., moved, seconded by the Honourable Senator Gagné, that the bill be read the second time.

After debate,

The question being put on the motion, it was adopted, on division.

The bill was then read the second time.

The Honourable Senator Gold, P.C., moved, seconded by the Honourable Senator Gagné, that the bill be placed on the Orders of the Day for third reading at the next sitting.

The question being put on the motion, it was adopted.

○ ○ ○

Second reading of Bill C-19, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2021.

The Honourable Senator Gold, P.C., moved, seconded by the Honourable Senator Gagné, that the bill be read the second time.

After debate,

The question being put on the motion, it was adopted, on division.

The bill was then read the second time.

The Honourable Senator Gold, P.C., moved, seconded by the Honourable Senator Gagné, that the bill be placed on the Orders of the Day for third reading at the next sitting.

The question being put on the motion, it was adopted.

concernant la levée de la séance soit suspendue et aucune motion tendant à lever la séance ne soit reçue;

6. la motion n° 39 du gouvernement soit supprimée de l'ordre du jour.

La motion, mise aux voix, est adoptée.

PÉRIODE DES QUESTIONS

Le Sénat procède à la période des questions.

ORDRE DU JOUR

AFFAIRES DU GOUVERNEMENT

Projets de loi – Deuxième lecture

Deuxième lecture du projet de loi C-18, Loi portant octroi à Sa Majesté de crédits pour l'administration publique fédérale pendant l'exercice se terminant le 31 mars 2021.

L'honorable sénateur Gold, c.p., propose, appuyé par l'honorable sénatrice Gagné, que le projet de loi soit lu pour la deuxième fois.

Après débat,

La motion, mise aux voix, est adoptée avec dissidence.

Le projet de loi est alors lu pour la deuxième fois.

L'honorable sénateur Gold, c.p., propose, appuyé par l'honorable sénatrice Gagné, que le projet de loi soit inscrit à l'ordre du jour pour la troisième lecture à la prochaine séance.

La motion, mise aux voix, est adoptée.

○ ○ ○

Deuxième lecture du projet de loi C-19, Loi portant octroi à Sa Majesté de crédits pour l'administration publique fédérale pendant l'exercice se terminant le 31 mars 2021.

L'honorable sénateur Gold, c.p., propose, appuyé par l'honorable sénatrice Gagné, que le projet de loi soit lu pour la deuxième fois.

Après débat,

La motion, mise aux voix, est adoptée avec dissidence.

Le projet de loi est alors lu pour la deuxième fois.

L'honorable sénateur Gold, c.p., propose, appuyé par l'honorable sénatrice Gagné, que le projet de loi soit inscrit à l'ordre du jour pour la troisième lecture à la prochaine séance.

La motion, mise aux voix, est adoptée.

Motions

Orders No. 1 and 7 were called and postponed until the next sitting.

OTHER BUSINESS

Senate Public Bills – Second Reading

Order No. 1 (*Bill S-201*) was called and, pursuant to rule 4-15(2), dropped from the *Order Paper and Notice Paper*.

○ ○ ○

Order No. 2 was called and postponed until the next sitting.

○ ○ ○

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Cordy, for the second reading of Bill S-203, An Act to amend the National Capital Act (buildings or works of national significance).

The Honourable Senator Munson moved, seconded by the Honourable Senator Dalphond, that further debate on the motion be adjourned until the next sitting.

The question being put on the motion, it was adopted.

○ ○ ○

Ordered: That consideration of Order No. 4 be postponed until the next sitting of the Senate.

○ ○ ○

Orders No. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 were called and postponed until the next sitting.

○ ○ ○

Second reading of Bill S-217, An Act to establish the Office of the Commissioner for Children and Youth in Canada.

The Honourable Senator Moodie moved, seconded by the Honourable Senator Patterson, that the bill be read the second time.

After debate,

The Honourable Senator Munson moved, seconded by the Honourable Senator Pate, that further debate on the motion be adjourned until the next sitting.

The question being put on the motion, it was adopted.

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Motions

Les articles n°s 1 et 7 sont appelés et différés à la prochaine séance.

AUTRES AFFAIRES

Projets de loi d'intérêt public du Sénat – Deuxième lecture

L'article n° 1 (*Projet de loi S-201*) est appelé et supprimé du *Feuilleton et Feuilleton des préavis*, conformément à l'article 4-15(2) du Règlement.

○ ○ ○

L'article n° 2 est appelé et différé à la prochaine séance.

○ ○ ○

Reprise du débat sur la motion de l'honorable sénateur Joyal, c.p., appuyée par l'honorable sénatrice Cordy, tendant à la deuxième lecture du projet de loi S-203, Loi modifiant la Loi sur la capitale nationale (bâtiments et autres ouvrages d'importance nationale).

L'honorable sénateur Munson propose, appuyé par l'honorable sénateur Dalphond, que la suite du débat sur la motion soit ajournée à la prochaine séance.

La motion, mise aux voix, est adoptée.

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Ordonné : Que l'étude de l'article n° 4 soit reportée à la prochaine séance du Sénat.

○ ○ ○

Les articles n°s 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 et 16 sont appelés et différés à la prochaine séance.

○ ○ ○

Deuxième lecture du projet de loi S-217, Loi constituant le Bureau du commissaire à l'enfance et à la jeunesse du Canada.

L'honorable sénatrice Moodie propose, appuyée par l'honorable sénateur Patterson, que le projet de loi soit lu pour la deuxième fois.

Après débat,

L'honorable sénateur Munson propose, appuyé par l'honorable sénatrice Pate, que la suite du débat sur la motion soit ajournée à la prochaine séance.

La motion, mise aux voix, est adoptée.

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Order No. 18 was called and postponed until the next sitting.

○ ○ ○

Second reading of Bill S-219, An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age).

The Honourable Senator McPhedran moved, seconded by the Honourable Senator Forest-Niesing, that the bill be read the second time.

After debate,

The Honourable Senator Miville-Dechêne moved, for the Honourable Senator Omidvar, seconded by the Honourable Senator Deacon (*Ontario*), that further debate on the motion be adjourned until the next sitting.

The question being put on the motion, it was adopted.

L'article n° 18 est appelé et différé à la prochaine séance.

○ ○ ○

Deuxième lecture du projet de loi S-219, Loi modifiant la Loi électorale du Canada et le Règlement adaptant la Loi électorale du Canada aux fins d'un référendum (âge de voter).

L'honorable sénatrice McPhedran propose, appuyée par l'honorable sénatrice Forest-Niesing, que le projet de loi soit lu pour la deuxième fois.

Après débat,

L'honorable sénatrice Miville-Dechêne propose, au nom de l'honorable sénatrice Omidvar, appuyée par l'honorable sénatrice Deacon (*Ontario*), que la suite du débat sur la motion soit ajournée à la prochaine séance.

La motion, mise aux voix, est adoptée.

Private Bills – Second Reading

Order No. 1 was called and postponed until the next sitting.

Reports of Committees – Other

Orders No. 1, 3, 4, 8 and 9 were called and postponed until the next sitting.

○ ○ ○

Consideration of the second report of the Standing Committee on Ethics and Conflict of Interest for Senators, entitled *Consideration of an inquiry report of the Senate Ethics Officer*, presented in the Senate on June 18, 2020.

The Honourable Senator Patterson moved, seconded by the Honourable Senator Seidman, that the report be adopted.

After debate,

Pursuant to rule 12-30(2), further debate on the motion was adjourned until the next sitting.

Projets de loi d'intérêt privé – Deuxième lecture

L'article n° 1 est appelé et différé à la prochaine séance.

Rapports de comités – Autres

Les articles n°s 1, 3, 4, 8 et 9 sont appelés et différés à la prochaine séance.

○ ○ ○

Étude du deuxième rapport du Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs, intitulé *Examen d'un rapport d'enquête du Conseiller sénatorial en éthique*, présenté au Sénat le 18 juin 2020.

L'honorable sénateur Patterson propose, appuyé par l'honorable sénatrice Seidman, que le rapport soit adopté.

Après débat,

Conformément à l'article 12-30(2) du Règlement du Sénat, la suite du débat sur la motion est ajournée à la prochaine séance.

Motions

Orders No. 5, 6, 7, 8, 9, 10, 12, 15, 16, 18, 19, 20, 22, 25, 26, 30, 31, 47, 53 and 56 were called and postponed until the next sitting.

Motions

Les articles n°s 5, 6, 7, 8, 9, 10, 12, 15, 16, 18, 19, 20, 22, 25, 26, 30, 31, 47, 53 et 56 sont appelés et différés à la prochaine séance.

Inquiries

Orders No. 1, 3, 4, 6, 7, 8, 9, 10 and 11 were called and postponed until the next sitting.

○ ○ ○

Resuming debate on the inquiry of the Honourable Senator Bovey, calling the attention of the Senate to the need to renew and further its interest in Arctic issues.

After debate,

The Honourable Senator Martin moved, seconded by the Honourable Senator Campbell, that further debate on the inquiry be adjourned until the next sitting.

The question being put on the motion, it was adopted.

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Orders No. 14 and 15 were called and postponed until the next sitting.

MOTIONS

The Honourable Senator Dalphond moved, seconded by the Honourable Senator Munson:

That, notwithstanding any provision of the Rules, previous order or usual practice, upon the adoption of this order, and for the remainder of the current session, no Senate committee be considered a standing or special committee for the purposes of paragraphs 62.1(1)(g) and (h) of the *Parliament of Canada Act*.

After debate,

The Honourable Senator Martin moved, seconded by the Honourable Senator Plett, that further debate on the motion be adjourned until the next sitting.

The question being put on the motion, it was adopted.

○ ○ ○

The Honourable Senator Lankin, P.C., moved, seconded by the Honourable Senator Pate:

That a Special Senate Committee on Systemic Racism be appointed to conduct a review of systemic racism in Canada;

That, without limiting its mandate, the committee be authorized:

1. to review the extent and scope of anti-Indigenous racism, anti-Black racism, and systemic racism in federal institutions and agencies;
2. to review the federal government's role in eliminating anti-Indigenous racism, anti-Black racism, and systemic racism both within federal institutions and agencies and in Canadian society generally; and

Interpellations

Les articles n°s 1, 3, 4, 6, 7, 8, 9, 10 et 11 sont appelés et différés à la prochaine séance.

○ ○ ○

Reprise du débat sur l'interpellation de l'honorable sénatrice Bovey, attirant l'attention du Sénat sur la nécessité de renouveler et approfondir son intérêt pour les enjeux concernant l'Arctique.

Après débat,

L'honorable sénatrice Martin propose, appuyée par l'honorable sénateur Campbell, que la suite du débat sur l'interpellation soit ajournée à la prochaine séance.

La motion, mise aux voix, est adoptée.

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Les articles n°s 14 et 15 sont appelés et différés à la prochaine séance.

MOTIONS

L'honorable sénateur Dalphond propose, appuyé par l'honorable sénateur Munson,

Que, nonobstant toute disposition du Règlement, ordre antérieur ou pratique habituelle, dès l'adoption du présent ordre, et jusqu'à la fin de la présente session, aucun comité du Sénat ne soit considéré comme étant un comité permanent ou spécial aux fins de l'application des alinéas 62.1(1)(g) et h) de la *Loi sur le Parlement du Canada*.

Après débat,

L'honorable sénatrice Martin propose, appuyée par l'honorable sénateur Plett, que la suite du débat sur la motion soit ajournée à la prochaine séance.

La motion, mise aux voix, est adoptée.

○ ○ ○

L'honorable sénatrice Lankin, c.p., propose, appuyée par l'honorable sénatrice Pate,

Qu'un Comité sénatorial spécial sur le racisme systémique soit constitué afin d'examiner le racisme systémique au Canada;

Que, sans toutefois limiter son mandat, le comité soit autorisé à :

1. examiner l'étendue et la portée du racisme envers les Autochtones et les Noirs ainsi que du racisme systémique dans les institutions et agences fédérales;
2. examiner le rôle que joue le gouvernement fédéral pour éliminer le racisme envers les Autochtones et les Noirs ainsi que le racisme systémique au sein des institutions et agences fédérales et dans la société canadienne en général;

3. to identify priorities and recommendations for government action to combat anti-Indigenous, anti-Black, and systemic racism;

That the committee be composed of 12 members, to be nominated by the Committee of Selection, and that 5 members constitute a quorum;

That the committee have the power to send for persons, papers and records; to hear witnesses; and to publish such papers and evidence from day to day as may be ordered by the committee;

That, notwithstanding any provision of the Rules or usual practices, and taking into account the exceptional circumstances of the current pandemic of COVID-19, the committee have the power to meet by videoconference or teleconference, if technically feasible for any purposes of:

1. the study authorized by this order;
2. an organization meeting pursuant to rule 12-13; or
3. electing a chair or deputy chair if there is a vacancy in either of those positions;

That both senators and witnesses be allowed to participate in meetings of this committee by videoconference or teleconference, with such meetings being considered for all purposes to be meetings of the committee in question, and senators taking part in such meetings being considered for all purposes to be present at the meeting;

That, for greater certainty, and without limiting the general authority granted by this order, when the committee meets by videoconference or teleconference:

1. members of the committee participating count towards quorum;
2. priority be given to ensuring that members of the committee are able to participate;
3. such meetings be considered to be occurring in the parliamentary precinct, irrespective of where participants may be; and
4. the committee be directed to approach in camera meetings with all necessary precaution, taking account of the risks to confidentiality inherent in such technologies;

That, when the committee meets by videoconference or teleconference, the provisions of rule 14-7(2) be applied so as to allow recording or broadcasting through any facilities arranged by the Clerk of the Senate, and, if a meeting being broadcast or recorded cannot be broadcast live, the committee be considered to have fulfilled the requirement that a meeting be public by making any available recording publicly available as soon as possible thereafter;

That there be a minimum of 72 hours' notice for a meeting of the committee by videoconference or teleconference, subject to technical feasibility;

3. identifier des priorités et formuler des recommandations relatives à l'intervention du gouvernement pour lutter contre le racisme envers les Autochtones et les Noirs et contre le racisme systémique;

Que le comité soit composé de 12 membres sélectionnés par le Comité de sélection, et que 5 membres constituent le quorum;

Que le comité soit autorisé à convoquer des personnes et à réclamer des documents et des dossiers, à entendre des témoins et à faire imprimer au jour le jour les documents et témoignages dont l'impression s'impose;

Que, nonobstant tout article du Règlement ou usage habituel, et tenant compte des circonstances exceptionnelles découlant de la pandémie de la COVID-19, le comité soit autorisé à se réunir par vidéoconférence ou téléconférence, s'il est techniquement possible de le faire, aux fins :

1. de l'étude autorisée par cet ordre;
2. d'une séance d'organisation en vertu de l'article 12-13 du Règlement;
3. d'élire un président ou un vice-président si l'un de ces postes devient vacant;

Que les sénateurs et témoins soient autorisés à assister par vidéoconférence ou téléconférence aux réunions du comité, que de telles réunions soient, à toute fin, considérées comme des réunions dudit comité, et que les sénateurs participant à de telles réunions soient, à toute fin, réputés présents;

Que, pour plus de certitude et sans limiter l'autorité attribuée par cet ordre, lorsque le comité se réunit par vidéoconférence ou téléconférence :

1. les membres du comité y participant soient pris en compte pour déterminer le quorum;
2. la priorité soit accordée afin d'assurer que les membres du comité soient en mesure de participer;
3. de telles réunions soient réputées se tenir dans la Cité parlementaire, peu importe l'endroit où les participants se trouvent;
4. le comité prenne toutes les précautions nécessaires en ce qui a trait aux réunions à huis clos, compte tenu des risques inhérents à de telles technologies;

Que, lorsque le comité se réunit par vidéoconférence ou téléconférence, les dispositions de l'article 14-7(2) du Règlement s'appliquent afin d'en autoriser l'enregistrement et la diffusion par tout moyen déterminé par le greffier du Sénat, et que si une réunion enregistrée ou diffusée ne peut pas être diffusée en direct, le comité soit réputé avoir tenu une réunion publique en publiant tout enregistrement dès que possible;

Qu'un préavis d'au moins 72 heures soit donné pour toute réunion du comité tenue par vidéoconférence ou téléconférence, s'il est techniquement possible de le faire;

That, the committee be authorized to report from time to time, submit a comprehensive interim report no later than six months after its organization meeting, and submit its final report no later than six months after the tabling or presenting of the comprehensive interim report;

That the committee be permitted to deposit its reports with the Clerk of the Senate if the Senate is not then sitting, with the reports then being deemed to have been tabled or presented in the Senate; and

That the committee retain the powers necessary to publicize its findings for 60 days after submitting its final report.

After debate,

The Honourable Senator Dasko moved, seconded by the Honourable Senator Moncion, that further debate on the motion be adjourned until the next sitting.

The question being put on the motion, it was adopted.

ADJOURNMENT

The Honourable Senator Gagné moved, seconded by the Honourable Senator LaBoucane-Benson:

That the Senate do now adjourn.

The question being put on the motion, it was adopted.

(Accordingly, at 10:21 p.m., the Senate was continued until tomorrow at 2 p.m.)

DOCUMENTS DEPOSITED WITH THE CLERK OF THE SENATE PURSUANT TO RULE 14-1(7)

Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19 (81100-3-96), dated June 17, 2020, pursuant to the *Aeronautics Act*, R.S.C. 1985, c. A-2, sbs. 6.41(5) and (6).—Sessional Paper No. 1/43-580.

Legislative Costing Note of the Office of the Parliamentary Budget Officer entitled *Canada Emergency Response Benefit (CERB): Eight Week Extension*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).—Sessional Paper No. 1/43-581.

Que le comité soit autorisé à faire rapport de façon ponctuelle, à soumettre un rapport provisoire détaillé au plus tard six mois après la tenue de la séance d'organisation du comité, et à soumettre son rapport final au plus tard six mois après le dépôt ou la présentation du rapport provisoire détaillé;

Que le comité soit autorisé à déposer ses rapports auprès du greffier du Sénat si le Sénat ne siège pas, et que les rapports soient alors réputés avoir été déposés ou présentés au Sénat;

Que le comité détienne l'autorité nécessaire pour publier ses conclusions 60 jours après avoir déposé ou présenté son rapport final.

Après débat,

L'honorable sénatrice Dasko propose, appuyée par l'honorable sénatrice Moncion, que la suite du débat sur la motion soit adjournée à la prochaine séance.

La motion, mise aux voix, est adoptée.

LEVÉE DE LA SÉANCE

L'honorable sénatrice Gagné propose, appuyée par l'honorable sénatrice LaBoucane-Benson,

Que la séance soit maintenant levée.

La motion, mise aux voix, est adoptée.

(En conséquence, à 22 h 21, le Sénat s'ajourne jusqu'à 14 heures demain.)

DOCUMENTS DÉPOSÉS AUPRÈS DU GREFFIER DU SÉNAT CONFORMÉMENT À L'ARTICLE 14-1(7) DU RÈGLEMENT

Arrêté d'urgence visant certaines exigences relatives à l'aviation civile en raison de la COVID-19 (81100-3-96), en date du 17 juin 2020, conformément à la *Loi sur l'aéronautique*, L.R.C. 1985, ch. A-2, par. 6.41(5) et (6).—Document parlementaire n° 1/43-580.

Note sur l'évaluation du coût d'une mesure législative du Bureau du directeur parlementaire du budget intitulée *Prestation canadienne d'urgence (PCU) : Prolongation de huit semaines*, conformément à la *Loi sur le Parlement du Canada*, L.R.C. 1985, ch. P-1, par. 79.2(2).—Document parlementaire n° 1/43-581.

APPENDIX
(*see page 555*)

Monday, June 22, 2020

The Standing Committee on Ethics and Conflict of Interest for Senators has the honour to present its

THIRD REPORT

Your committee, which was authorized by the Senate on Tuesday, December 10, 2019 to examine and report on developments and actions in relation to your committee's fifth report from the first session of the Forty-second Parliament now presents its final report.

Respectfully submitted,

Le vice-président,

DENNIS PATTERSON

Deputy Chair

ANNEXE
(*voir page 555*)

Le lundi 22 juin 2020

Le Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs a l'honneur de présenter son

TROISIÈME RAPPORT

Votre comité, qui a reçu l'autorisation du Sénat le mardi 10 décembre 2019 d'examiner, afin d'en faire rapport, les faits nouveaux et les mesures prises concernant le cinquième rapport du comité de la première session de la quarante-deuxième législature, présente son rapport final.

Respectueusement soumis,

Le vice-président,



SENATE
SÉNAT
CANADA

Developments and actions in relation to the committee's fifth report from the 42nd Parliament regarding Senator Beyak

Report of the Standing Committee on Ethics and Conflict of Interest for Senators

The Honourable Murray Sinclair, *Chair*
The Honourable Dennis Patterson, *Deputy Chair*

JUNE 2020



For more information please contact us:

by email: conf@sen.parl.gc.ca.

by mail: The Standing Committee on Ethics and Conflict of Interest for Senators
Senate, Ottawa, Ontario, Canada, K1A 0A4

This report can be downloaded at: www.sencanada.ca/CONF

The Senate is on Twitter: @SenateCA,
follow the committee using the hashtag #CONF

Ce rapport est également offert en français

THE COMMITTEE MEMBERSHIP

Members of the Standing Committee on Ethics and Conflict of Interest for Senators

The Honourable Murray Sinclair, Chair

The Honourable Dennis Patterson, Deputy Chair

The Honourable Judith G. Seidman

The Honourable Scott Tannas

The Honourable Howard Wetston

Parliamentary Information and Research Services, Library of Parliament:

Isabelle Brideau, Analyst

Law Clerk and Parliamentary Counsel:

Charles Feldman, Parliamentary Counsel

Élise Hurtubise-Loranger, Senior Parliamentary Counsel

Senate Committees Directorate:

Marie-Eve Belzile, Clerk of the Committee

Debbie Larocque, Administrative Assistant

Senate Communications Directorate:

Ben Silverman, Communications Officer

Introduction

In April 2019, your committee considered the Inquiry Report of the Senate Ethics Officer concerning Senator Lynn Beyak. The Inquiry Report concluded that Senator Beyak breached sections 7.1 and 7.2 of the *Ethics and Conflict of Interest Code for Senators* (the “Code”) by posting on her Senate website five letters that contained racist content against Indigenous peoples.

On April 30, 2019, during the 1st Session, 42nd Parliament, your committee presented to the Senate its report which dealt with the Inquiry Report from the Senate Ethics Officer on Senator Lynn Beyak (referred hereinafter as the “Fifth Report”). In that report, your committee indicated that it was troubled by Senator Beyak’s failure to recognize that the content of the letters in question was racist, her unwillingness to recognize the harm caused by her actions, and her lack of respect for the enforcement process under the Code. Your committee recommended several remedial measures and the suspension of Senator Beyak from the Senate.

The Senate adopted your committee’s Fifth Report on May 9, 2019, on which day Senator Beyak was suspended from the Senate. Senator Beyak’s suspension ended with the dissolution of the 42nd Parliament.

Your committee underscored in its Fifth Report that Senator Beyak’s failure to comply with the remedial measures identified in its recommendations and any failure to comply with the intent of the Senate’s decision would constitute a continuing breach of the Code. On December 10, 2019, the Senate adopted a motion directing your committee to conduct a study on developments and actions in relation to the committee’s Fifth Report. That motion allowed the committee to present multiple reports, with its final report due June 30, 2020. On January 31, 2020, your committee deposited with the Clerk of the Senate its first report (interim report) pursuant to the order of December 10, 2019. In this interim report, your committee examined Senator Beyak’s actions in relation to the conditions of her suspension established in the Fifth Report as agreed to by the Senate.

Your committee found that Senator Beyak had not complied with the intent and spirit of certain recommendations and thus remained in breach of the Code. Specifically, your committee determined that Senator Beyak failed to successfully complete the educational programs approved by the Senate Ethics Officer and adequately apologize for her conduct, as required by Recommendations 3 and 5 of the Fifth Report, respectively. In light of these findings, your committee determined that further actions were required to address the situation and uphold the dignity of the institution of the Senate. To that end, your committee made three recommendations.

The first recommendation proposed that Senator Beyak be suspended again to afford her with the opportunity to gain further perspective on the privilege of serving in the Senate and her obligations as a senator.

The second recommendation proposed that Senator Beyak complete an educational program that would guide her conduct and understanding in relation to Indigenous matters, and that her successful completion of such a program would be necessary for her continued presence in the Senate.

The third recommendation required that Senator Beyak, after completing the educational program described in Recommendation 2, write a new letter of apology that would be published in the *Journals of the Senate*.

The interim report was adopted by the Senate on February 27, 2020. That same day, the Standing Committee on Internal Economy, Budgets and Administration (CIBA) met and issued a news release announcing that it was moving forward without delay in implementing the actions recommended by your committee in its interim report concerning the suspension of Senator Beyak.¹

The Committee Study

During the Senate's extended adjournments due to the COVID-19 pandemic, your committee received updates from the Senate Ethics Officer regarding the implementation of his mandate under the interim report. After receiving authorization from the Senate to meet virtually, your committee held a meeting via videoconference on June 1, 2020, to discuss further developments in this regard, including correspondence from the Senate Ethics Officer and Senator Beyak's counsel.

On June 9, 2020, the Senate Ethics Officer provided the committee with his report dealing with the assessment of the educational training provided to Senator Beyak, entitled *Report of the Senate Ethics Officer Concerning Senator Beyak's Training on Racism in Relation to Indigenous Peoples*, in accordance with Recommendation 2 of the committee's interim report. Your committee subsequently met on June 12, 2020, to consider the Senate Ethics Officer's report.

Recent Developments and Actions

a. Education Program

In its interim report, your committee underscored that further education and training were warranted, in the hope and expectation that Senator Beyak would develop an awareness, recognition, and understanding of the reality of racism toward Indigenous peoples. Your committee also hoped and expected that this training would afford Senator Beyak a better understanding of the negative impacts of her actions on Indigenous peoples, her colleagues, and the reputation of the Senate.

As such, Recommendation 2 of the interim report provided further direction on what would constitute successful completion of the educational program. It required that the Senate Ethics Officer identify and approve an educational program provider and that the provider's program be approved by the Senate Ethics Officer and be designed specifically for Senator Beyak.

Recommendation 2 of the interim report further imposed specific performance evaluation requirements based on Senator Beyak's learning outcomes and willingness to learn. Accordingly, the Senate Ethics Officer was to receive, from the educational program provider, an assessment of whether she has successfully completed the course, whether she has learned and was willing to learn, and whether she understands her responsibility as a senator in relation to racism and the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate.

¹ Standing Committee on Internal Economy, Budgets and Administration, [Internal Economy Committee takes action regarding Senator Beyak](#), news release, February 27, 2020.

i. Difficulties Encountered by the Senate Ethics Officer

Following the adoption of the interim report, the Senate Ethics Officer kept your committee informed of developments in relation to the implementation of Recommendation 2 of the interim report. In his correspondence with the committee, the Senate Ethics Officer indicated having encountered certain difficulties in carrying out his obligations under the recommendation.

Initially, the Senate Ethics Officer drew to the committee's attention difficulties in identifying an educational program provider in light of the COVID-19 pandemic. The Senate Ethics Officer nonetheless successfully engaged the services of a team of experienced and qualified experts from the University of Manitoba, which has a long-established Department of Indigenous Studies, and informed the committee accordingly. The team of experts was led by Dr. Jonathan Black-Branche, Dean of Law and Professor of Law at the University of Manitoba.

Your committee notes that it was impressed by the calibre of the educational program approved by the Senate Ethics Officer. Each educator's curriculum vitae — included in the appendices to the Senate Ethics Officer's report attached to this report — reflect a wealth of expertise and experience in Indigenous matters that uniquely qualifies them to provide this training. Your committee was pleased that a team of such high regard was assembled for this purpose despite the ongoing pandemic and its attendant challenges.

Once the program was established, questions arose about the possibility of having the sessions monitored or recorded. This prospect was raised by Senator Beyak's legal counsel and two other senators. Both the Senate Ethics Officer and your committee were opposed to any monitoring or recording primarily because it risked compromising the learning environment and unnecessarily politicizing the process, which was to be assessed by an independent impartial actor. Your committee was of the view that the qualifications of the experts would allow for a professional, impartial, and informed evaluation to be provided to the committee upon the completion of the training.

ii. The Senate Ethics Officer's Report Concerning Senator Beyak's Training

As previously stated, on June 9, 2020, the Senate Ethics Officer provided a report to your committee regarding the evaluation of Senator Beyak's performance that included the evaluation prepared by the educational program provider in accordance with Recommendation 2. Further, the Senate Ethics Officer's report included comments from Senator Beyak in response to the educational program provider's assessment.

In his report, the Senate Ethics Officer outlined the process he undertook to identify and engage an educational program provider, as well as difficulties that arose during that process. On May 12, 2020, Dr. Black-Branche provided the Senate Ethics Officer with a proposed program of instruction. That same day, the Senate Ethics Officer approved the program and communicated with Senator Beyak's counsel to make further arrangements. In his report, the Senate Ethics Officer characterized the program as sophisticated and elaborate, and he expressed the view that it addressed all the requirements set out in Recommendation 2 of the interim report.

Senator Beyak attended a four-day educational program from May 19-22, 2020, delivered *via* videoconference since COVID-19 and physical distancing requirements did not allow for in-person training.

As outlined in his report, the Senate Ethics Officer received the performance assessment report from Dr. Black-Branche on May 31, 2020, and provided it to Senator Beyak's legal counsel the next day. Senator Beyak provided her response via email on June 3, 2020. In her response, Senator Beyak did not comment on the assessment report in detail but conveyed her gratitude for the training and commended Dr. Black-Branche and the team of experts "for a thoughtful, fair, comprehensive, and accurate report."

In his report, the Senate Ethics Officer determined that the performance assessment provided by Dr. Black-Branche was "thorough, comprehensive and indisputable." He was therefore of the view that the performance assessment met all the requirements of Recommendation 2.

iii. The Educational Program Provider's Assessment Report

In his performance assessment report, Dr. Black-Branche confirmed that Senator Beyak attended all 10 sessions, for a total of 24 hours of education (which included a three-hour review and assessment component), and that she had successfully participated in and completed all aspects of the educational program as required. He stated that while it is impossible to confirm whether Senator Beyak has fully internalized the information delivered through the training, she has learned, was willing to learn, and seemed to work towards developing and furthering her understanding of her responsibilities as a senator and the impact of her past conduct.

In his assessment report, Dr. Black-Branche provided examples of Senator Beyak's cooperation and willingness to learn in support of his conclusions. He added that Senator Beyak's response to questions during the sessions and her final assessment indicated that she seems to accept "the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism" and understand her obligations in relation to racism as a senator.

In his conclusion, Dr. Black-Branche expressed the view that Senator Beyak seemed to have met the criteria set out in Recommendation 2 of your committee's interim report. Despite this conclusion, Dr. Black-Branche observed that attitudinal change on cultural and social issues often takes time and efforts "that are unlikely to be ascertained within one stand-alone educational unit." He nonetheless indicated that such education programs can be effective in fostering behavioural change, developing different perspectives, and promoting professional reflection, and that Senator Beyak is now better equipped "for approaching her professional work and her personal beliefs."

iv. The Committee's Conclusions

Your committee accepts the report of the Senate Ethics Officer and appreciates his extensive efforts to arrange for the delivery of this course despite the challenges of the COVID-19 pandemic. Based on the evaluation provided by the educational program provider and the comments of both the Senate Ethics Officer and Senator Beyak, your committee is satisfied that Senator Beyak has complied with Recommendation 2 of its interim report.

Your committee shares the view of Dr. Black-Branche that one educational course alone may not yield attitudinal changes on Indigenous matters or informed behavioural changes. However, your committee identified in its interim report that further and particular training for Senator Beyak was necessary to improve her understanding of racism against Indigenous peoples in Canada and the associated responsibilities of a senator. Your committee believes she has engaged in the required process, was willing to learn, and did indeed learn.

Your committee notes broadly that education plays an important role in reconciliation. Indeed, the Truth and Reconciliation Commission of Canada recognized education as “the key” to reconciliation with Indigenous peoples, stating, “Education must remedy the gaps in historical knowledge that perpetuate ignorance and racism.”² To this end, providing a learning environment for expert education on Indigenous history and contemporary realities is part and parcel of the larger process of reconciliation.

The report of the Senate Ethics Officer is attached, in part, as an appendix to this report. To protect the privacy of the individuals involved in the training, certain personal information has been removed, consistent with the committee’s previous practices. The report is otherwise reproduced in its entirety.

b. Letter of Apology

Recommendation 3 of the interim report required that Senator Beyak:

- (a) write a letter of apology that includes:
 - (i) an apology for the impact of her conduct on Indigenous Canadians as well as the institution and reputation of the Senate;
 - (ii) Senator Beyak’s reflections on the education received and indicating what she has learned from this experience; and
 - (iii) Senator Beyak’s understanding of the role and responsibility of a senator with respect to minority rights; and
- (b) provide the apology to the Clerk of the Senate, who will cause the letter to be published in the *Journals of the Senate* either:
 - (i) on the next sitting day after the apology is received, or
 - (ii) for the last sitting day if received between the adjournment of the Senate and the prorogation or dissolution of Parliament.

On June 5, 2020, Senator Beyak submitted a letter of apology to the Clerk of the Senate. In accordance with Recommendation 2, the Clerk of the Senate caused the letter to be published in the *Journals of the Senate* at its next sitting, held Tuesday, June 16, 2020.³

While it will be for all senators to judge its sufficiency, your committee is satisfied that, in her letter of apology, Senator Beyak adequately acknowledges and understands the impact of her conduct and offers thoughtful reflection on her educational experience and what she has learned as a result.

Your committee is also of the view that Senator Beyak’s letter demonstrates a clearer understanding of her role as a Senator in representing and promoting minority rights. Coupled with her speech in the Senate Chamber during debate of your committee’s interim report,⁴ your committee believes the spirit and intention of this recommendation have been met. Senator Beyak has acknowledged the wrongs of her past conduct and has committed herself to improvement. The apology’s inclusion in the *Journals of*

² The Truth and Reconciliation Commission of Canada, *The Final Report of the Truth and Reconciliation Commission of Canada*, [Volume 6](#), 2015, p. 117.

³ Senate, [Journals](#), 1st Session, 43rd Parliament, Issue 22, June 16, 2020, pp. 503-505.

⁴ Senate, [Debates](#), 1st Session, 43rd Parliament, Vol. 151, Issue 11, February 25, 2020, p. 284.

the Senate is a reminder to all senators of the need to accept responsibility for one's behaviour and an expression to the public of the Senate's belief in the accountability of senators for their actions.

Further Reflections

This report completes a process that began over a year ago, during the previous Parliament. While the initial complaint that gave rise to the Senate Ethics Officer's inquiry has long since been addressed, your committee takes this opportunity to remind all senators to reflect critically upon the Code and their obligations as senators, including representing minority groups and interests. Every senator has a role to play in combatting racism and discrimination in all its forms in Canadian society. The Senate, too, plays an important part in ensuring that under-represented voices have a place and can be heard in Canada's democratic institutions.

Education is a lifelong journey. Senators, like all Canadians, must engage in critical self-reflection to question assumptions and challenge potential biases. The Code requires senators to "uphold the highest standards of dignity inherent to the position of Senator", which includes recognizing the inherent worth and value of every individual. Although the Code was not specifically designed as a tool to combat racism or other discrimination, your committee believes that racism is incompatible with the values of the Senate as expressed in the Code, and it takes seriously its responsibility to address these matters when they arise before the committee.

Recommendations

In light of the above, your committee recommends:

That the Senate rescind the suspension of Senator Beyak, as ordered on February 27, 2020; and that, for greater certainty, her suspension end on the day on which this report is adopted by the Senate;

That the Standing Committee on Internal Economy, Budgets and Administration be empowered to take any action it considers appropriate to implement Senator Beyak's return to office; and

That, in accordance with section 2.9 of the *Members of Parliament Retiring Allowances Act*, the entitlement to accrue pensionable service for Senator Beyak be reinstated as of the day on which this report is adopted by the Senate.



Office of the
Senate Ethics Officer
Bureau du
conseiller sénatorial
en éthique

Report of the Senate Ethics Officer Concerning Senator Beyak's Training on Racism in Relation to Indigenous Peoples

June 9, 2020



Senate Ethics
Officer
Conseiller sénatorial
en éthique

June 9, 2020

The Honourable Murray Sinclair, Chair
The Honourable Dennis Patterson, Deputy Chair
Standing Committee on Ethics and Conflict of Interest for Senators
c/o Ms. Marie-Eve Belzile, Committee Clerk
[REDACTED] Chambers Building
The Senate of Canada
Ottawa, ON K1A 0A4

Dear Senators:

*Re: First Report of the Standing Committee on Ethics and Conflict of Interest
for Senators, January 31, 2020*

I am writing this letter pursuant to Recommendation 2 of the First Report of the Standing Committee on Ethics and Conflict of Interest for Senators, dated January 31, 2020 (the Report).

As you know, paragraph (c) of Recommendation 2 of the Report requires that I provide a report to you no later than 10 calendar days after having received any submissions from Senator Beyak regarding the evaluation of her performance, which was prepared by the educational program provider.

In my report to you, which is attached herewith, I am required to provide you with the evaluation, any submissions from Senator Beyak, and any observations and recommendations as I consider appropriate. As you will note, all of these have been included in my report.

Sincerely,

Pierre Legault

Encls.



REPORT OF THE SENATE ETHICS OFFICER CONCERNING SENATOR BEYAK'S TRAINING ON RACISM IN RELATION TO INDIGENOUS PEOPLES

On Thursday, February 27, 2020, the Senate adopted the First report of the Standing Committee on Ethics and Conflict of Interest for Senators (the Committee), entitled Developments and actions in relation to the committee's Fifth report regarding Senator Lynn Beyak, tabled in the Senate on January 31, 2020 (First Report).

Recommendation 2 of the First Report

The First Report conferred a mandate on me to identify and approve, with the assistance of outside expertise as required, an educational program provider with demonstrated experience in race relations, particularly in Indigenous matters, to develop and deliver an educational program designed specifically for Senator Beyak and approved by me.¹

¹ Recommendation 2 of the First Report reads as follows:

- (a) That the Senate Ethics Officer identify and approve – with the assistance of outside expertise as required – an educational program provider with demonstrated experience in race relations, particularly in Indigenous matters, to
 - (i) develop and deliver an educational program that is approved by the Senate Ethics Officer and designed specifically for Senator Beyak related to racism, with a focus on racism against Indigenous peoples in Canada and the particular responsibility of legislators in this regard, as well as how this relates to her past actions, and;
 - (ii) provide a written and objective evaluation of Senator Beyak's performance and attendance in the educational program to the Senate Ethics Officer within 10 calendar days of the program's completion, including an assessment of whether Senator Beyak:
 - (A) successfully completed the course;
 - (B) learned and was willing to learn; and
 - (C) understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator;
- (b) That the Senate Ethics Officer provide Senator Beyak the evaluation received from the educational program provider as promptly as circumstances permit and afford her 10 calendar days to submit any comments or reflections as she considers appropriate;
- (c) That the Senate Ethics Officer provide a report to the Standing Committee on Ethics and Conflict of Interest for Senators that includes the evaluation of the educational program provider, any submission provided by Senator Beyak under paragraph (b), and any observations and recommendations as the Senate Ethics Officer considers appropriate no later than:
 - (i) 10 calendar days after receiving a submission from Senator Beyak under paragraph (b), if one is received; or
 - (ii) 15 calendar days after providing Senator Beyak with the report from the educational institution, if no submission is received from her under paragraph (b);
- (d) That the Standing Committee on Ethics and Conflict of Interest for Senators:
 - (i) be authorized to establish, as promptly as circumstances permit, a time period in which Senator Beyak must complete the educational program identified and approved by the Senate Ethics Officer;



The Committee outlined five criteria that were necessary for the educational program:

- (1) It was to be designed specifically for Senator Beyak, as already mentioned earlier.
- (2) It was required to be related to racism with a focus on racism against Indigenous peoples in Canada.
- (3) It had to include a component related to the particular responsibility of legislators in this context. This requirement involved an understanding of certain aspects of constitutional law and an understanding of the Senate as a parliamentary institution.
- (4) Senator Beyak's past actions had to be understood in the context of her role as a legislator.
- (5) An objective evaluation of Senator Beyak's ability to learn the above matters had to be provided to the Senate Ethics Officer at the completion of the course.

Recommendation 2 also provided that I was required to provide a report to the Committee that included the evaluation from the educational program provider, any submissions from Senator Beyak and any observations and recommendations that I considered appropriate.

This is my report to the Committee pursuant to Recommendation 2.

The Senate Ethics Officer's Mandate

My mandate was to identify a competent educational program provider with demonstrated experience in the above-mentioned matters. This meant that the provider's background had to encompass a number of different areas and specialties, including racism, constitutional law, human rights and adult learning. The provider had to be a qualified educator who would be able to assess students objectively and independently.

Once I selected the educational program provider, he or she was required to design the program, have it approved by me, deliver it to Senator Beyak, and then provide an assessment of Senator Beyak's performance, as already mentioned above.

In Recommendation 2, the Committee was very specific about the mandate of the Senate Ethics Officer, the mandate of the educational program provider, the process, the timelines, the content of the course and the elements on which she was to be assessed in the performance evaluation. The Recommendation left the decisions concerning the development of the educational program to the educational program provider, though the Senate Ethics Officer was required to approve the program. The Recommendation did not stipulate a role for Senator Beyak in any of these areas.

-
- (ii) be authorized to deposit a report with the Clerk, to inform the Senate of the time period, at any time the Senate stands adjourned and the report shall be deemed to have been tabled in the Senate; and
- (iii) communicate the time period established under subparagraph (d)(i) to Senator Beyak as promptly as circumstances permit; and
- (e) That the Senate Ethics Officer inform the Standing Committee on Ethics and Conflict of Interest for Senators of any difficulties encountered in the implementation of this recommendation and that the committee be authorized to report to the Senate with consequential recommendations as it considers appropriate.



Given the detailed nature of the Recommendation, I was not at liberty to modify or exceed my mandate; I was not provided with that kind of discretion. The Recommendation required a performance evaluation prepared by an educational program provider with demonstrated expertise and experience. The Recommendation specifically delineated what was required to be assessed but did not outline the method for assessing Senator Beyak. The latter was left to the discretion of the educational program provider and, again, Senator Beyak was not provided with a role in this matter.

Identification of the Educational Program Provider

Process

The choice for the educational program provider was critical to the design and delivery of a very complex program containing a number of elements. The institution that was ultimately chosen would be important to ensure an objective assessment and to inspire credibility in the assessment such that it would be unassailable.

Immediately after the Senate adopted the Committee's First Report on Thursday, February 27, 2020, I began to fulfil my mandate to implement Recommendation 2 by searching for an educational program provider with all of the above-mentioned expertise and qualifications.

First, I sought advice as to which institution might have all the criteria required from an organization with an expertise in racism. I then reached out to a reputable educational institution that offers training to adults, including training on reconciliation with Indigenous people, in order to seek its views on a possible educational program provider. It advised the following:

- i. A single person could not deliver on all five elements of the program; rather, only a specialized team of experts could do so.
- ii. Only universities have the depth of knowledge and experience to provide this specific type of program and are able to bring such a team of experts together.
- iii. This educational institution could not participate in this matter since it did not meet all the qualifications necessary to implement Recommendation 2.

At the end of March, this organization was able to provide me with a short list of universities which had the capability and the experts to develop and deliver the program and to also assess Senator Beyak. Prior to receiving the list -- receipt of which was delayed because of COVID-19 and the resulting disruption in the workplace -- I had contacted various universities which, while interested, could not devote the time to assist in this matter because of COVID-19. On March 19, 2020, I informed your Committee of this difficulty, pursuant to Recommendation 2(e).

However, I was fortunate that the University of Manitoba, which was my first choice among the options on the short list of institutions provided, was able to take on the challenging task. This university had all the essential features necessary to ensure the best possible environment and circumstances for Senator Beyak to learn. First, the Faculty of Law would be involved. Second, this university has a long-established Department of Indigenous Studies. Third, the experts that would be involved had demonstrated experience on all five elements required for the program.

As such, I contacted Dr. Black-Branche, Dean of Faculty of Law, on April 16, 2020 and he agreed on April 22, 2020 to put together a team and the program to be submitted for my approval.



As is evident from his impressive curriculum vitae, which is found in **Appendix A** to this report, Dr. Black-Branch is eminently qualified to undertake this task. He is the Dean of Law and a Professor of Law at the University of Manitoba. He is a lawyer in Manitoba and a Barrister and a Justice of the Peace in England where he has also previously sat as a Magistrate on a part-time basis. He has a doctorate in Law from the University of Oxford and also a Ph.D from the University of Toronto. He has taught school in Northern Manitoba and inner-city Toronto here he saw first-hand issues regarding race and community relations. In his work as Dean at the University of Manitoba, he has fostered Indigenous community outreach. He convened a special Dean's Committee on TRC Call to Action examining Indigenous scholarship and achievement to implement CTA#28 focusing on curriculum and the learning environment. He has written on Indigenous topics and has provided human rights training on discrimination and substantive equality to numerous individuals, groups and organizations, as well as professional development training.

Dr. Black-Branch assembled a team of experienced experts and enlisted their assistance while coordinating the delivery of the program with each of them. Their full and impressive resumes are found in **Appendix B** to this report. These experts are:

- Dr. Bruce Curran, Associate Dean (Academic), the Faculty of Law at the University of Manitoba; and
- Elder Norman Meade, Elder-in-Residence, University of Manitoba;
- Dr. Cary Miller, Head of Native Studies, Department of Native Studies at the University of Manitoba;
- Dr. Lorne Neudorf, Deputy Dean, Faculty of Law, University of Adelaide and Adjunct Professor, Faculty of Law at the University of Manitoba.
- Ms. Melissa Serbin, Senior Crown Attorney, Manitoba Prosecution Service and Sessional Lecturer, Faculty of Law, University of Manitoba;
- Ms. Wendy Whitecloud, Director of Academic Support (Indigenous) Program, and Retired Senior Instructor, Faculty of Law at the University of Manitoba.

As a team, they have the experience expressly sought by the Senate. The group is eminently qualified, each member with outstanding credentials and each able to contribute to the success of the program in a significant way.

Dr. Black-Branch provided me with the program for my approval on May 12, 2020. I thoroughly reviewed it and approved it that same day. The program was then provided to Senator Beyak's counsel, again, that same day.

The program, which is included in **Appendix C** to this report, was sophisticated and elaborate. It addressed all the requirements set out under Recommendation 2. It included a description each of the team members, the course curriculum, the various modules, the objective learning criteria, and the learning conditions.

The program was delivered *via* video due to the fact that COVID-19 did not allow for in-person training, though that would have been preferable.



Senator Beyak's Cooperation

Two weeks prior to the expected delivery dates of the program, on May 5, 2020, my Office contacted Senator Beyak's counsel in order to confirm Senator Beyak's availability for the week of May 18, 2020. She was represented in this matter by Mr. Donald Bayne. In an email on May 11, 2020, Mr. Bayne confirmed her availability for that week with the exception of May 18th. On May 12, 2020, my Office confirmed the dates for the program and sent the curriculum with all the necessary information to Mr. Bayne. On May 15, 2020, my Office sent Mr. Bayne a more detailed schedule with timeslots for the sessions of the program. A copy of the detailed schedule is attached in **Appendix D** to this report.

The team at the University of Manitoba delivered the program as planned on May 19 through to May 22, 2020, inclusive.

Issues that Arose Throughout Process

I encountered a number of issues throughout the process. These are outlined below:

COVID -19

Due to the unforeseen situation with COVID-19, it took some time to find a university to agree to develop a program, deliver it and provide an evaluation of Senator Beyak's performance. As noted earlier in this report, given all of the requirements stipulated by the Committee in its First Report, only a university would be well-equipped to deliver on all aspects of the Recommendation.

The months of March and early April were critical periods for universities as they adapted to COVID-19 and moved from classroom to online delivery and online assessment. In fact, Dr. Black-Branche confirmed that he and his Faculty would not have been at liberty to accept this mandate during that critical period and, in his opinion, no universities in Canada would have been able to do so.

I had approached Dr. Black-Branche on the last day of examinations. Given the appropriate timing, he was able to develop a very complex, tailored-made program and assemble a team of qualified experts in a very short period of time, especially given the quality of the team and the level of detail of the program.

Assessment Criteria

Senator Beyak's counsel, Mr. Bayne, repeatedly argued for the need for objective criteria against which Senator Beyak would be assessed. He argued that Senator Beyak should have knowledge of this criteria in advance of the beginning of the delivery of the program so that she would know what she was expected to accomplish in order to succeed in the program.

Recommendation 2 of the First Report specifically outlined what was required to be learned and accomplished but it did not impose performance assessment criteria in the Report. Rather, it left that to the discretion of the educational program provider.



The program created by Dr. Black-Branch clearly delineated the objectives of each module of the program and included a 3-hour assessment module. The most effective way in which to obtain an objective assessment was, in my view, to identify and rely on the objectives of the program and subsequently rely on a highly qualified and experienced educational program provider to carry out the assessment based on these clearly defined learning objectives.

Dr. Black-Branch and his team were indisputably qualified to assess Senator Beyak and it would not have been appropriate for the Senate Ethics Officer or anyone else who was not qualified to second guess the professional educational program providers.

Monitoring - Recording

The issue of whether the program should be monitored or recorded in real time (so that it could be monitored at a later date) was also raised repeatedly by Mr. Bayne. He was of the view that Recommendation 2 of the First Report did not preclude the notion of monitoring/recording of the program and he was insistent that the Senate Ethics Officer permit such monitoring/recording.

The issue of monitoring was also raised by two other Senators with me. They asked to be able to monitor the program in order to avoid the situation that had occurred with the previous educational program that Senator Beyak had taken in which there seemed to have been a dispute between Senator Beyak and the educational program provider as to what had transpired.

Mr. Bayne both spoke with and wrote to my Office on May 5, 2020 concerning this matter and again raised it in a telephone call on May 14, 2020. Mr. Bayne again raised the issue in another letter dated May 15, 2020. In this last letter to my counsel, he copied the Chair of your Committee and, as you are already aware, the Chair responded directly to him, as did my Office.

First, the Senate did not include the concept of monitoring/recording in Recommendation 2 of the First Report. Mr. Bayne was advised of this as were the two Senators who raised this same issue. The Chair's correspondence to Mr. Bayne confirmed that. It was clear from that correspondence that Recommendation 2 did not encompass a monitoring/recording feature and, as such, any attempt to include one would have meant that I would have exceeded the mandate that was ultimately conferred on me by the Senate, something which I was not willing to do.

Moreover, it seemed clear that the most effective way in which to avoid the situation that had occurred the last time Senator Beyak took educational training would be to ensure that the right educational program provider was identified and to rely on the experts' professionalism and their assessment of her as disinterested third parties. The most ineffective means of dealing with this problem would have been to substitute a non-professional opinion for a professional one. The former approach was taken, not the latter approach.

Finally, when I raised this issue with Dr. Black-Branch, he explained that the behavior of trainers and trainees are affected if their training is monitored/recording. People become self-conscious, more guarded and less candid. Moreover, the trainers are more careful in answering questions. This affects the content of the training, the performance of the trainees and the benefits they receive from it. It also means the assessment may not be a true reflection of what trainees have learned, should have learned, and how they learned. In addition, team members agreed to deliver their part of program on the condition that there would be no monitoring/recording of the program. In fact, Dr. Black-Branch made it a condition of delivering the program.



Therefore, for the reasons outlined above, any monitoring/recording of the program was not permitted. It was entirely appropriate and within my mandate for me to approve the program submitted to me, which included this condition.

As such, Mr. Bayne was informed that there would be no monitoring/recording of the program. I also informed the two senators that had raised this matter with me that there would be no monitoring of the educational program. However, the Office informed Mr. Bayne that Dr. Black-Branch had indicated that Senator Beyak could certainly take handwritten notes for her personal use, which I understand that she did.

Assessment, Submission and Report to the Committee

Dr. Black-Branch provided the assessment report to me on May 31, 2020. This was within the 10 calendar days of the end of program as required by Recommendation 2. This assessment report is in **Appendix E** to this report.

Dr. Black-Branch's conclusion is as follows:

In conclusion, on a holistic level it would seem from the findings from the Educational Team involved in delivering this Educational Program that Senator Beyak has met the criteria set out in Recommendation 2 of the Senate Standing Committee on Ethics and Conflict of Interest for Senators of January 31, 2020 (at page 11). In particular, Senator Beyak has (a) successfully completed the course; (b) learned and was willing to learn; and (c) understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

The Office provided the assessment report to Mr. Bayne on June 1, 2020.

Senator Beyak sent me her response *via* email on June 3, 2020 and I received it on June 4, 2020. In her email, Senator Beyak did not comment on the assessment report itself other than to commend the University of Manitoba and Dr. Black-Branch and his team for a "thoughtful, fair, comprehensive, and accurate report" concerning her training. A copy of Senator Beyak's response is attached in **Appendix F** to this report.

My report is being provided to your Committee within 10 calendar days of receiving Senator Beyak's comments, as required under Recommendation 2.

Observations and Recommendations on Assessment Report

I am of the opinion that the performance assessment provided by Dr. Black-Branch is thorough, comprehensive and indisputable. It demonstrates the depth and the high quality of the tailored-made educational program that Dr. Black-Branch created and from which Senator Beyak was able to benefit. It meets all the requirements of Recommendation 2 and therefore should provide the Committee with the information necessary for it to finalize its work in this matter.



Gratitude

I would like to conclude this report by expressing my sincere gratitude to the University of Manitoba, its Faculty of Law and its Department of Native Studies. I am especially grateful to Dr. Black-Branche for the outstanding work that he did in putting together a comprehensive, thorough and highly competent educational program for Senator Beyak, in accordance with the First Report of the Committee.

Not only did he put this excellent program and an outstanding team together, but he did so in record time in order to meet the needs of the Committee in reporting back to the Senate.

I would also like to thank his exceptional team for their role in delivering the program and their role in preparing a thoughtful and detailed performance evaluation -- again in record time -- that is objective, professional and independent. Their cooperation, assistance and commitment throughout the entire process was most appreciated.

Pierre Legault
Senate Ethics Officer

June 9, 2020



Appendices

Appendix A – Curriculum Vitae of Dr. Jonathan Black-Branch²

Appendix B – Curricula Vitae of Team Experts

Dr. Bruce Curran

Dr. Cary Miller

Dr. Lorne Neudorf

Melissa Serbin

Wendy Whitecloud

Appendix C – Educational Program

Appendix D – Schedule of Educational Program

Appendix E – Assessment Report of Dr. Black-Branch

Appendix F – Submission of Senator Beyak

² The educational program providers submitted their individual curriculum vitae in English only.

APPENDIX A

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP*Academic curriculum vitae of:***PROFESSOR JONATHAN L. BLACK-BRANCH, JP, FRSA**

Benchers of the Law Society of Manitoba
 Justice of the Peace, England & Wales
 Fellow of the Royal Society of Arts

PERSONAL DETAILS

Citizenship: Canadian
 Address: [REDACTED]

PERSONAL RECOGNITION & ACHIEVEMENTS

Queen Elizabeth II Silver Jubilee Medal Recipient

“For worthy and devoted services to the community of Canada.”
Grand Priors Award- Saint John's Ambulance

The President's Award of Excellence - Manitoba Bar Association (2017)
 “For extraordinary contribution to the Association and its goals, honouring colleagues
 who demonstrate excellence and commitment to the law, the legal profession and the
 community at large.”

ACADEMIC WORK EXPERIENCE

1998-present	Barrister, England & Wales, UK.
2016-present	Barrister & Solicitor, Province of Manitoba.
2016-present	Dean of Law and Professor, Faculty of Law, University of Manitoba.
2005-2016	Professor, Chair of International Law. Teaching Fellow, University of London.
2011-2015	Head of the School of Law; Director of Research & Enterprise and Director of BMRI, University of Bedfordshire.
2009-2011	Dean & Head of School and Professor, AVT Business School, Copenhagen Denmark.
2005-2008	Fellow and Senior Tutor of Law, Greyfriars Hall; Director of Law, St Benet's Hall, University of Oxford and Professor of International Law, University of Buckingham.
2003- 2007	Exams moderator for the Oxford University Foreign Service Programme, Queen Elizabeth House, University of Oxford
1996- 2005	Lecturer, Senior Lecturer, Principal Lecturer of Law, Oxford Brookes University
1995- 1999	Wolfson College, University of Oxford, Junior Research Fellow

RECENT BOARD OF DIRECTORSHIPS

2019- present	Legal Help Centre –Winnipeg, Manitoba
2018- present	LDRC – Legal Data Resources (Manitoba) Corporation Treasury - Finance - Committee

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

2017- present	Member of the Canadian Federation of Law Societies -Law Degree Approvals Committee
2016- present	Bencher of the Law Society of Manitoba (Active Member of Committees: Disciplinary; Equity; and, Access to Justice)
2016- present	Law Foundation of Manitoba

VISITING PROFESSORSHIPS

2019-Present	Visiting Fellow, Clare Hall, Cambridge University
2018- present	Visiting Professor, Law Faculty, University of Adelaide
2014- present	Visiting Professor of Comparative Law and International Trade Dar Al-Hekma University, Jeddah, Saudi Arabia
2005- present	Thomas M Cooley Law School Adjunct Professor of Law, Toronto Program and Co-Director of Oxford Program & Adjunct Professor (2014-2016)
1998- 2016	College of Law, Syracuse University, New York, Annual Lecture.
2010- 2015	Professor of Anglo-American Business Law, ZHAW (Zürcher Hochschule für Angewandte Wissenschaften, Switzerland.
1999- 2016	College of Law, University of Oklahoma, Distinguished Visiting Professor in Law (ranks in the Top Tier of American Law Schools).
2008-11	VHU-Kellogg (Otto Beisheim School) Vallender, Germany, Visiting Professor of International Business Law VHU-Kellogg: Ex-MBA.
2007-12	EBS - European Business School, Wiesbaden, Germany, Visiting Professor of Business Law (2007-12). In 2009 I received the "Excellence in Teaching Award" (post-graduate level) the students' choice for the best overall Professor.

ACADEMIC & PROFESSIONAL EDUCATION
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University Education

Brown University - IE Madrid	Executive MBA	(Expected May 2020)
Yale University	Global Executive Leadership Program (YELP)	2019
Harvard University	Program for Leadership Development (PLD)	2018
The University of Oxford	Doctor of Philosophy	D.Phil. (Law) 1999
Oxford Brookes University	Bachelor of Laws (Hons)	LLB(Hons) 1996
The University of Toronto	Doctor of Philosophy	Ph.D. 1993
The University of Toronto	Master of Education	M.Ed. 1990
Harvard University	Post-Graduate Courses	1989
Mount Allison University	Bachelor of Education	B.Ed. 1985
Université Laval	French Studies	1984
St Thomas University	Bachelor of Arts	B.A. 1983

Professional Education & Training

Bar Vocational Course at Inns of Court School of Law, London.
 Barrister-at-Law, Lincoln's Inn, London.
 Barrister and Solicitor, Manitoba Law Society

Further Education

Harvard University	Certificate of Management Excellence	2018
The University of Oxford	Post-Graduate Diploma in Learning and Teaching	

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

Oxford Brookes University in Higher Education (PGDipLATHE) 2002
Certificate of Teaching in Higher Education 1999

Higher Education Academy Fellowship 2002

PROFESSIONAL MEMBERSHIPS AND SOCIETIES

Commonwealth Magistrates' and Judges' Association, Life Member
Magistrates' Association, England & Wales, Member
Oxford Magistrates' Quorum Club, Member
Institute of Directors, London, UK - Life Member
Royal Society of Arts and Science, UK - Life Fellow
Member of Lincoln's Inn, UK - Barrister
Member of Inner Temple, UK - Barrister

MONOGRAPH IN PROGRESS

The Treaty Prohibiting Nuclear Weapons: Legal Challenges for Military Doctrines and Deterrence Policies, Cambridge University Press (In Press 2020)

RESEARCH CONFERENCES
NUCLEAR NON-PROLIFERATION IN INTERNATIONAL LAW

- | | |
|------|---|
| 2019 | Fifth Research conference on 'Harnessing the Winds of Change in a Shifting Nuclear World' (Winnipeg, 29-30 September 2019) at the Canadian Museum for Human Rights in conjunction with the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA) and ISLAND. |
| 2018 | Fourth Research conference on 'Re-Considering Nuclear Non-proliferation & Disarmament: Regional and Institutional Approaches Regarding Controls, Defence and Diplomacy' (Winnipeg, 20-21 September 2018) at the Canadian Museum for Human Rights in conjunction with the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA) and ISLAND. |
| 2017 | Third Research conference on 'Human Dimensions and Perspectives in a Nuclear World: Legal Issues of Non-Proliferation, Disarmament and the Right to Nuclear Energy' (Winnipeg, 11-12 October 2017) at the Canadian Museum for Human Rights in conjunction with the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA) and ISLAND. |
| 2015 | Second Research conference on 'Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes' (Cologne, 12-13 November 2015), conducted in cooperation with Professor Kerstin Odendahl, Executive Director of the Walther Schuecking Institute of International Law at the University of Kiel in conjunction with the ILA Committee and the Nuclear Round Table Strategic Forum on Non-Proliferation and Disarmament in International Law (RFND) and ISLAND. |

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- 2014 Research conference on 'Verification of Nuclear Non-Proliferation Obligations' (Cologne, 13-14 November 2014), conducted in cooperation with Professor Claus Kress, Director of the Institute of Peace and Security Law at the University of Cologne in conjunction with the ILA and RFND and ISLAND.

**NUCLEAR NON-PROLIFERATION IN INTERNATIONAL LAW
BOOK SERIES (peer-reviewed)**

- (In Progress) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol VI: Nuclear Disarmament and Security at Risk – Legal Challenges in a Shifting Nuclear World (Springer/TM Asser Press).
- (2020) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol V: Legal Challenges for Nuclear Security and Deterrence (Springer/TM Asser Press).
- (2019) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol IV: Human Rights and Human Perspectives on the Use of Nuclear Energy for Peaceful Purposes (Springer/TM Asser Press).
- (2016) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol III: Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes (Springer/TM Asser Press).
- (2015) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol II: Verification and Compliance (Springer/TM Asser Press).
- (2014) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol I with Preface by Mohamed El Baradei (Springer/TM Asser Press).

Chapters in Volumes

**ROUND TABLE STRATEGIC FORUM ON DISARMAMENT & NUCLEAR
NON-PROLIFERATION IN INTERNATIONAL LAW:
ROUND TABLE REPORTS**

- (2019) Report on the Tenth Round Table: Legal Challenges for Nuclear Deterrence & Nuclear Security (London, England).
- (2018) Report on the Ninth Round Table: Pathways to Disarmament (Sydney).
- (2017) Report on the Eight Round Table: Treaty on the Prohibition of Nuclear Weapons (Winnipeg).
- (2016) Report on the Seventh Round Table: Legal and Diplomatic Issues Regarding Disarmament and Nuclear Non-Proliferation in the Middle East (Jeddah, Saudi Arabia).
- (2015) Report on the Sixth Round Table: Middle East Nuclear Weapons Free Zone (Jeddah, Saudi Arabia).
- (2015) Report on the Fifth Round Table: Disarmament and Nuclear Non-Proliferation (Cologne).
- (2014) Report on the Fourth Round Table: Legal Challenges in Ensuring Nuclear Non-Proliferation (Cologne).

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- (2013) Report on the Third Round Table: Nuclear Weapons, Nuclear Energy and Non-Proliferation under International Law: Current Challenges and Evolving Norms (London).
- (2012) Report on the Second Round Table on Nuclear Weapons, Nuclear Energy and Non-Proliferation under International Law (London).
- (2010) Report on the First Round Table: The Scope and Meaning of the Right to Civilian Nuclear Energy Capability in Article IV of the Nuclear Non-Proliferation Treaty (Brighton UK).

**INTERNATIONAL LAW ASSOCIATION:
NUCLEAR WEAPONS, NON-PROLIFERATION &
CONTEMPORARY INTERNATIONAL LAW REPORTS**

- (2020) Fifth Report: Legal Aspects of the Use of Nuclear Energy for Peaceful Purpose. Published in the 78th Biennial Report of the International Law Association.
- (2018) Fourth Report: Legal Aspects of the Use of Nuclear Energy for Peaceful Purpose. Published in the 78th Biennial Report of the International Law Association.
- (2016) Third Report: Legal Issues of Verification of Nuclear Non-Proliferation Commitments. Published in the 77th Biennial Report of the International Law Association.
- (2014) Legal Aspects of Nuclear Disarmament. Published in the 76th Biennial Report of the International Law Association.
- (2012) Practice Regarding Nuclear Energy, Non-Proliferation and Regulation of Nuclear Weapons. Published in the 75th Biennial Report of the International Law Association.
- (2011) Committee Strategy Report on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2010) Final Committee Mandate on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2008) Revised Committee Mandate on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2006) Draft Committee Mandate on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2004/5) Proposal and Rationale for a Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law.

INTERNATIONAL COMMERCIAL ARBITRATION

- (2013) Editor (with Peter Münch and Nicole Conrad). International Commercial Arbitration: Standard Clauses and Forms - Commentary. 913 pages (Helbing & Lichtenhahn, Basel, Switzerland).
- (2013) International and Comparative Arbitration. Chapter in International Commercial Arbitration: Standard Clauses and Forms - Commentary. Eds. Jonathan Black-Branch, Peter Münch and Nicole Conrad (Helbing & Lichtenhahn, Basel, Switzerland).
- (2013) Arbitration in England & Wales. Chapter in International Commercial Arbitration: Standard Clauses and Forms - Commentary. Eds. Jonathan

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

Black-Branch, Peter Münch and Nicole Conrad (Helbing & Lichtenhahn, Basel, Switzerland).

The handbook covers the arbitration rules for the following institutions and countries: UNCITRAL, ICC, WIPO, Austria (VIAC), China (CIETAC), Dubai (DIAC), England & Wales (LCIA), Germany (DIS), Hong Kong (HKIAC), India (ICA), Malaysia (KLRCA), Singapore (SIAC), Sweden (SCC), and Switzerland (Swiss Rules). This comprehensive handbook provides the full range of clauses, forms and documents needed by practitioners in the course of arbitral proceedings as well as commentaries based on legal principles and insider know-how with regard to arbitration in specific countries. Furthermore, it includes expert commentary on the principles at work, and offers insider know-how on arbitration processes in specific countries, including the Asian countries (which are rapidly becoming important in the field of international arbitration). This is a handbook which will assist the practitioner - whether lawyer, counsel or arbitrator - to traverse the minefield of arbitral proceedings.

BANKING LAW EDITOR

- The Euro: Law and Banking.* Practitioners Loose-Leaf Binding. Lloyd's of London Publishing (LLP), London, 800 plus pages.
 First Up-date to the Series (adding 100 pages of text analyzing the evolution of banking services and investment services within the European Community).
 Second Up-date to the Series (up-dating European Community Legislation, Commission Decisions and Directives).
 Third Up-date to the Series (up-dating Community Laws, Commission Decisions and Directives).

RECENT REFERRED & RELEVANT PUBLICATIONS

- (In Progress) The Treaty on the Prohibition of Nuclear Weapons: Universality & Emerging Disarmament in International Law, in Black-Branch and Fleck (Eds), *Nuclear Non-Proliferation and International Law: Nuclear Disarmament and Security at Risk Legal Challenges in a Shifting Nuclear World*, Vol. VI Springer/ TM Asser Press.
- (In Progress) Black-Branch J. and Fleck, D. Nuclear Non-Proliferation, Disarmament and Security: Evolving Legal Challenges, in Black-Branch and Fleck (Eds), *Nuclear Non-Proliferation and International Law: Nuclear Disarmament and Security at Risk Legal Challenges in a Shifting Nuclear World*, Vol. VI, Springer/ TM Asser Press.
- (2019) International Obligations Concerning Disarmament and the Cessation of the Nuclear Arms Race: Justiciability over Justice in the Marshall Islands Cases at the International Court of Justice *Journal of Conflict and Security Law*, Volume 24, Issue 3, Winter 2019, Pages 449-472.
- (2020) Precarious Peace: Nuclear Deterrence and Defence Doctrines of Nuclear-Weapon States in the Post-Cold War Era, in Black-Branch and Fleck (Eds), *Nuclear Non-Proliferation and International Law: Legal Challenges for Nuclear Security and Deterrence*, Vol V, Springer/ TM Asser Press.
- (2020) Black-Branch J. and Fleck, D. Legal Challenges for Nuclear Security and Deterrence, in Black-Branch and Fleck (Eds), *Nuclear Non-*

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- (2019) Proliferation and International Law: Legal Challenges for Nuclear Security and Deterrence, Vol V, Springer/ TM Asser Press.
- (2019) Statutory Interpretation Regarding the Powers, Authorities and Privileges Vested in the Law Society: A Sphere of Sovereignty as “Self-governing in Virtually Every Aspect”. *Statute Law Review*, Volume 40, Issue 2, June 2019, Pages 97–112, Oxford University Press.
- (2019) Black-Branch J The Inalienable Right to Nuclear Energy, Uranium Mining and the Right to Self-Determination of Indigenous Peoples in Canada, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law: Human Rights and Human Perspectives on the Use of Nuclear Energy for Peaceful Purposes, Vol IV, Springer/ TM Asser Press.
- (2019) Black-Branch J and Fleck D The Significance of the Human Impact for Nuclear Safety and Nuclear Disarmament, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law: Human Rights and Human Perspectives on the Use of Nuclear Energy for Peaceful Purposes, Vol IV, Springer/TM Asser Press.
- (2018) Legal Obligations Regarding “Premises” for Operational, Administrative and Accommodations Purposes under Paragraphs 16-19 of the UN Model SOFA (Status of Forces Agreements) and Article IX(3) of the NATO SOFA (Status of Forces Agreements). *The Handbook of the Law of Visiting Forces*, (2nd edition) (Oxford University Press, 2018), Dieter Fleck (Ed.).
- (2018) Legal Obligations Regarding “Travel and Transport” for Free Movement, Mobility and Open Access under Paragraphs 12-14 of the UN Model SOFA (Status of Forces Agreements) and Article IX(6) of the NATO SOFA (Status of Forces Agreements). *The Handbook of the Law of Visiting Forces*, (2nd edition) (Oxford University Press, 2018), Dieter Fleck (Ed.).
- (2018) Judicial Powers of Statutory Interpretation under the Human Rights Act 1998 in Britain: The Evolution of Democracy and Rights or a Step Too Far?. In *Legislating Statutory Interpretation: Comparative Perspectives from the Common Law World*. Eds. Neudorf, Lorne, Rankin, Micah and Hunt, Chris Hunt, Carswell (Thomson Reuters). [Refereed chapter]
- (2017) Nuclear Terrorism by States and Non-State Actors: Global Responses to Threats to Military and Human Security in International Law. *Journal of Conflict & Security Law* (2017) Volume 22, Issue 2, Summer 2017, Pages 201–248. Oxford University Press.
- (2017) Modern Legal Education: Towards Practice-Ready Attitudes, Attributes and Professionalism. *Manitoba Law Journal* 2016 Vol. 39 Special Issue, A Review of the Current Legal Landscape.
- (2016) The Precarious Nature of Human Rights. *Canadian Journal of Human Rights*, (2016) 5:1 Can J Hum Rts vii.
- (2016) Due Diligence as a Legal Imperative to Ensure Security and Safety of Peaceful Uses of Nuclear Energy as well as Non-Proliferation and Disarmament Obligations, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol III, Springer/Asser Press.
- (2016) Black-Branch J and Fleck D Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes: A Comprehensive Synopsis of Outstanding Issues,

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol II, Springer/Asser Press.
- (2015) The Effectiveness of UN Sanctions in the Case of North Korea Nuclear Disarmament and Non-Proliferation in International Law, Caracciolo I and Pedrazzi M (Eds) Nuclear Disarmament and Non Proliferation: Strengthening Treaty Obligations, IAEA Safeguards and Measures Counteracting Nuclear Terrorism, Eleven International Publishing.
- (2015) Countermeasures to Ensure Compliance with Nuclear Non-Proliferation Obligations, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol II, Springer/Asser Press.
- (2015) Black-Branch J and Fleck D Verification of and Compliance with International Nuclear Obligations: A Comprehensive Synopsis of Outstanding Issues, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol II, Springer/Asser Press.
- (2014) Black-Branch J and Fleck D Nuclear Weapons, Non-Proliferation and Disarmament: A Comprehensive Audit of Relevant Legal Issues and International Concerns, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol I, Springer/Asser Press.
- [Note that 2009-14: Nuclear Non-Proliferation work in other section of this cv]
- (2009) The legal status of Cluster Munitions under international humanitarian law: indiscriminate weapons of war. *Journal of International Law of Peace and Armed Conflict (Humanitäres Völkerrecht)* (Informationsschriften) Volume 22, 4/2009, at page 186.
- (2003). Powers of Detention of Suspected International Terrorists Under the United Kingdom Anti-Terrorism, Crime and Security Act 2001: Dismantling the Cornerstones of a Civil Society. *European Law Review (Human Rights Survey)*, Volume 27, Number 1, pp. 1-31.
- (2002). Parliamentary Supremacy or Political Expediency? The Constitutional Position of the Human Rights Act under British Law. *Statute Law Review*, Volume 23, Number 1, pp. 59-81 Oxford University Press.
- (2001). Being over Nothingness: The Right to Life under the Human Rights Act. *European Law Review (Human Rights Survey)*, Volume 26, Number 1, pp. 22-41.
- (2001). The Use of Children in War: The International Protocol on the Involvement of Children in Armed Conflicts. *Mediterranean Journal of Human Rights*, Volume 4, pp. 185-206.
- (2001). The Derogation of Rights under the UK Human Rights Act: Diminishing International Standards?. *Statute Law Review*. Volume 22, Number 1, pp. 71-81 Oxford University Press.
- (1999). Duty of Care versus Care as a Duty in Higher Educational Institutions. Eight refereed articles in a special issue of the *Journal of Collective Negotiations in the Public Sector* Volume 27(3) pp. 167-303. (Co-written with Dr. Wendy K. Lamont.) The articles are:
1. Public Sector Asphyxiation.
 2. Duty of Care and Teacher Wellness.
 3. Legal, Professional or Ethical Obligations to Promote Teacher Wellness.
 4. The Equity Equation: Equality of Opportunity.
 5. A Level Playing Field or Unequal Footing.
 6. Essential Elements for Teacher Wellness.

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

7. Support Services Linked to Private Institutions over Public and Female Directors over Male.
 8. The Future Direction of Public over Private Services.
- (1998). Entrenching Human Rights Legislation under Constitutional Law: The Canadian Charter of Rights and Freedoms. *European Human Rights Law Review*. Number 3, pp. 312-331.
- (1998). Closing the Door on Closed-Shop Agreements: Labour Law, Trade Unionism and the Right to Freedom of Assembly and Freedom of Association under the European Convention on Human Rights. *Journal of Collective Negotiations in the Public Sector*, Volume 27(4), pp. 307-330.
- (1998). Professional, Quasi-Professional or Loose Cannons: The Status of Mediators. *Family Law*. January, Vol. 28.
- (1998). Judging Education: Legal and Judicial Implications of the Canadian Charter of Rights and Freedoms. *Oxford Comparative Series in Education, Special Edition on Change in the Pacific Rim: Meeting the Challenges*, pp. 59-78.
- (1997). Entrenching Contractual Clauses for Safety in the Workplace into the Collective Agreement: The New Frontier in Employment Law. (co-authored with Dr. W. K. Lamont). *Journal of Collective Negotiations in the Public Sector*, Vol. 26 No. 2.
- (1997). Dignity, Discrimination and Legal Implications: The Politics of AIDS in Private and Public Sector Work Settings, A Comparative Analysis. *Journal of Individual Employment Rights*, Volume 6 No. 1, pp. 1-14.
- (1997). A New Era in Educational Planning in Canada: The *Canadian Charter of Rights and Freedoms* as Constitutional Law. *Educational Planning*. Volume 11, Number 1, pp. 5-20.
- (1996). Observing and Enforcing Human Rights under the Council of Europe: The Creation of a Permanent European Court of Human Rights. *Buffalo Journal of International Law*. July Issue, pp. 1-32.
- (1996). The Nature, the Context and the Consequences of Work: A Conceptual Framework for Studying Job Satisfaction Amongst Teachers. *Journal of Collective Negotiations in the Public Sector*. Vol. 25 No. 3, pp. 233-245.
- (1996). The Consequences of Teaching and Job Satisfaction: Federation/ Union, Remunerations and Career Development, the Most Important Factors. *Journal of Collective Negotiations in the Public Sector*. Vol. 25 No. 3, pp. 247-269.
- (1994). Weighing the Balance Between Constitutional Legal Rights and Administrative Duties. *The Canadian Administrator*, Vol. 33, No. 8, May.
- (1994). Fallen on Deaf Ears: A Legal Analysis of the Closure of the R.J.D. Williams Provincial School for the Deaf. *ACEHI Journal*, Vol. 20, Issue 1/2.
- (1994). Liberté et Égalité: Le Rôle de la Charte Canadienne des Droits et Libertés à Argumenter les Provisions pour les Élèves en Programmes Spécialisés. *B.C. Journal of Special Education* Vol. 18 No. 2.
- (1994). O'Canada, Our Home on Native Land: Aboriginal Self Government May Be the Key to Educational Reform Not the Charter of Rights and Freedoms. *The Canadian Journal of Native Studies* Vol. 13, No. 2.

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

EDITORIAL BOARDS OF REFERRED JOURNALS AND REVIEWS

Yearbook of Arms Control and International Disarmament Law, Editor-in-Chief with Dieter Fleck.

British Yearbook of International Law, Oxford University Press Board Reviewer.

Oxford University Press, Book Proposal Reviewer, International Law and International Humanitarian Law.

Cambridge University Press, Book Proposal Reviewer, International Law and International Humanitarian Law.

Reviewer for Various Publishers, ad hoc Book Proposal Reviewer, International Law.

Denning Law Journal, University of Buckingham Press, Buckingham

Journal of Emerging Trends in Economics and Management Sciences (JETEMS) Editorial Board Member.

Journal of Collective Negotiations in the Public Sector, Baywood Publishing, New York, Editorial Board Member.

Professional Studies Journal, The University of Regina, Editorial Board Member.

Canadian Journal of Education, (Canadian Learned Society for Studies in Education). *ad hoc* referee for education and the law submissions.

CONFERENCE ORGANIZATION (SELECT)

(November 2018) Co-Organizer of the Isaac Pitblado Lectures (for the Manitoba Law Society) with The Honourable Madam Justice Lore Mirwaldt.

Reimagining Justice: Trust, Truths and Transformation(s). (2nd November 2018).

(September 2018) Co-Organizer (along with the Manitoba Law Society and the Manitoba Bar Association). Indigenous Law Program “Tebwetibajimowin - To Tell the Truth” (September 27, 2018).

(September 2009) Organized a five-day conference for the 40th Anniversary of the Commonwealth Magistrates' and Judges' Association (CMJA) entitled: Community Justice & Judicial Independence: Local Issues, Commonwealth Standards (attended by judges and magistrates from 63 countries).

APPENDIX B

BRUCE J. CURRAN, Ph.D.

Curriculum Vitae (May 2020)

[REDACTED]
Faculty of Law
University of Manitoba

[REDACTED]
Work: [REDACTED]
Home: [REDACTED]
Cell: [REDACTED]
E-mail: [REDACTED]

EDUCATION

2015 PhD, Centre for Industrial Relations and Human Resources
University of Toronto
Thesis Title: Three Essays on Legal Issues Impacting the Employment Relationship In Canada

One paper used the statistical technique of event history analysis to study the causes of delay in grievance arbitration in Ontario over the past two decades. The second paper used another statistical method, a tobit model, to study the impact of *Honda v. Keays* on bad faith damages. The third paper developed a conceptualization of Freedom of Association from first principles, and used this conceptualization to critique Supreme Court of Canada jurisprudence.

2009 Master of Laws (Alternative Dispute Resolution)
York University

2003 Master of Industrial Relations
University of Toronto

1998 Bachelor of Laws
University of Western Ontario

1995 Honours Bachelor of Applied Science (Family and Social Relations)
University of Guelph

WORK EXPERIENCE

2018-present University of Manitoba, Winnipeg, Manitoba
Associate Dean Academic, J.D. Program: Faculty of Law
Responsible for administering the Juris Doctor program, including supervising curriculum, overseeing exchanges, setting timetable, managing Faculty members and sessional instructors, advising approximately 320 students, handling instances of academic misconduct, and organizing and hosting various special events.
Working with Dean to develop policies responsive to the COVID-19 outbreak.

CURRAN — 2

Supervising “Student Services” for JD students, including admissions, financial aid, and career services.

2016-present	<u>University of Manitoba, Winnipeg, Manitoba</u> Assistant Professor: Faculty of Law Research, teaching and service responsibilities.
2014-2016	<u>University of Ontario Institute of Technology, Oshawa, Ontario</u> Lecturer: Legal Studies Program, Faculty of Social Science and Humanities. Teaching eight courses per year with additional service responsibilities.
2010	<u>University of Toronto, Toronto, Ont.</u> Labour Relations Officer: Advised Human Resource Professionals regarding labour relations matters, including grievances, layoffs, reorganizations, and occupational health & safety. Represented clients in mediations. Negotiated collective agreements.
2009-2010	<u>Canadian Tire Dealers’ Association, Mississauga, Ont.</u> Vice President, Legal: Provided legal services to Canadian Tire “Dealers” (franchisees) across Canada on a wide range of labour and employment law issues, including terminations, employment standards, human rights, pay equity, and occupational health and safety.
2003-2009	<u>Towers Perrin (now Willis Towers Watson), Toronto, Ont.</u> Lawyer: Group benefits practice. Advised employers on labour and employment issues, with an emphasis on pensions and benefits. Provided legal and consulting advice to clients during settlement and/or arbitration of labour grievances and during negotiation of collective agreements.
2002	<u>St Joseph Corporation, Concord, Ont.</u> Human Resources Counsel: Drafted corporate-wide policies and procedures manual pertaining to broad variety of human resource topics, including dispute resolution, compensation, and occupational health and safety. Advised on employment law issues.
2000-2001	<u>Lerner & Associates (now Lerners), London, Ont.</u> Associate Lawyer: Practised civil litigation, with an emphasis on employment law. Advised clients. Advocated for clients in trials, motions, appeals, and other hearings. Negotiated favourable settlements. Represented clients in mediations.

TEACHING EXPERIENCE

Assistant Professor

Course Co-ordinator for “Desautels Oxford Program: International, European & Comparative Business Law & Society” (LAW 3980), Faculty of Law, University of Manitoba (Summer 2019)

CURRAN — 3

“The Law of Contracts” (LAW 1100/1102), Faculty of Law, University of Manitoba (Full year course: Fall 2016-Winter 2017; Fall 2017-Winter 2018; Fall 2018-Winter 2019; Fall 2019-Winter 2020)

“The Law of Trusts” (LAW 2490), Faculty of Law, University of Manitoba (Winter 2017; Fall 2017)

Course Co-ordinator for “Legal Negotiation” (LAW 2680), Faculty of Law, University of Manitoba (Fall 2016; Fall 2017; Fall 2018; Fall 2019)

Coach of two University of Manitoba teams, Canadian Negotiation Competition, Saskatoon, SK (Winter 2018)
(Teams placed second and sixth nationally)

Judge, Law Games Moot, Law Games, hosted by University of Manitoba (January 2018)

Judge, Moot for “Legal Methods” Course, Faculty of Law, University of Manitoba (March 2018)

Witness, Final Trial for “Advocacy” Course, Faculty of Law, University of Manitoba (March 2018)

Lecturer

“Employment & Mediation” (LGSL 3610), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Winter 2015; Winter 2016)

“Canadian Human Rights Law” (LGSL 2420), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Winter 2015, Two Sections; Winter 2016, Two Sections)

“Introduction to the Canadian Legal System” (SSCI 1010), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Fall 2014; Winter 2015; Fall 2015; Winter 2016)

“Private Law” (LGSL 2110), Legal Studies Program, University of Ontario Institute of Technology (Fall 2014; Fall 2015; Spring 2016)

“Rights and Freedoms in the Canadian Justice System” (SSCI 2050), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Fall 2015)

“Labour and Employment Law” (LGSL 3410), Legal Studies Program, University of Ontario Institute of Technology (Fall 2014; Fall 2015)

CURRAN — 4

Sessional Lecturer

“Labour & Employment Law and Policy Colloquium” (LAW5550), Osgoode Hall Law School, York University (Winter 2016)

“Employment Law” (IRE430), Employment Relations Program, Centre for Industrial Relations and Human Resources, University of Toronto (Full year course, Fall 2014 to Winter 2015)

“Collective Bargaining Law” (LAW2515), Osgoode Hall Law School, York University (Winter 2014)

“Industrial Relations & Human Resources” (ECO244), Department of Economics, University of Toronto Mississauga (Winters 2011 and 2012)

Teaching Assistant

“Negotiation” course (WDW372), Woodsworth College (Winter 2013)

“Employment Law” course (WDW430), Woodsworth College (Full year course, Fall 2011 and Winter 2012)

“Employment Health” course (WDW378), Woodsworth College (Winter 2011)

“Legal Environment of Business 1” course (MGTC31), Department of Management, University of Toronto Scarborough (Fall 2010; Summers 2011 and 2012)

PROFESSIONAL & COMMUNITY SERVICE

Chair, Academic Affairs Committee, (Faculty of Law, University of Manitoba) 2018-present
Chairing regular meetings of the Academic Affairs Committee, which approves courses and develops and administers certain academic policies on behalf of the Faculty. Advising Faculty Members and Sessional Instructors about the course proposal process. Managing the Committee’s processes, including drafting and circulating minutes. Drafting various reports and proposals for consideration by the committee.

Member, Selection Committee, Montague Israels, Q.C. Prize (Law Society of Manitoba) 2019
The award is made to a student being called to the Manitoba Bar on the basis of performance in all aspects of the Manitoba Bar Admission Program, earlier academic record, likelihood of future professional and personal accomplishments, and other interests and achievements both within and outside the study and application of law.

Member, Associate Deans’ Unit, University of Manitoba 2018-present
Attending monthly meetings of Associate Deans Academic for the University of Manitoba, and provided input on important decisions considered by the University.

Member, Organizing Committee, Isaac Pitblado Lectures (Law Society of Manitoba, Manitoba Bar Association, and Faculty of Law of University of Manitoba) 2018
Met weekly; Planned lecture series; Invited speakers

CURRAN — 5

Faculty Representative, Selection Committee, Manitoba Law Students Association 2018-present
Worked with elected executive to review applications and then conduct interviews as basis for selecting law students for various committees at the Faculty of Law, University of Manitoba

Faculty Coordinator, Hockey Arbitration Competition of Canada (Faculty of Law, University of Manitoba) 2017-present

Helped to prepare problem for internal competition; Judged internal competition; Coordinated coaching of teams; Worked with University of Manitoba teams to obtain required funding

Member, Dean's Focus Group on Professional Practice and Employability (Faculty of Law, University of Manitoba) 2017-present

Member, Student Affairs Committee (Faculty of Law, University of Manitoba) 2017-present

Reviewer, Relations Industrielles/Industrial Relations 2017-present

Organizer, Robson Hall Negotiation Competition (Faculty of Law, University of Manitoba) 2016-present

Lead organizer of annual Robson Hall Negotiation Competition. Drafting role plays for each running of this competition. Inviting and training practising lawyers to be the judges. Overseeing all logistical arrangements, including scoring.

Member, Bursary Committee (Faculty of Law, University of Manitoba) 2016-present

Reviewing preliminary determinations for all bursary applications. Reaching consensus with fellow committee members regarding contentious issues. Reviewing bursary appeals. Revised rubric for standard allocations. Awarding scholarships under Schwartz/Reisman Scholars Program.

Member, Distinguished Visitors Committee (Faculty of Law, University of Manitoba) 2016-present

Attending regular meetings. Providing input on speakers to invite. Organizing visits of distinguished guest speakers and acting as key point of contact for these speakers. Hosting social events with speakers. Developing policy and procedures for this committee. Overseeing posting of recordings on University of Manitoba library website.

Organizer, Inaugural Canadian Negotiation Competition (Faculty of Law, University of Manitoba) 2016-2017

Twelve teams from nine Canadian Law Schools participated. Developed the format, rules, judging protocol, and role plays for the competition. Invited and trained practising lawyers to be the judges of these competitions. Oversaw all logistical arrangements of this competition, including the scoring.

Joint Working Group on Teaching Faculty Workload for the UOIT Faculty of Social Science & Humanities 2015-2016

Attended regular meetings. Provided input in drafting of report.

CURRAN — 6

Accreditation of UOIT Alternative Dispute Resolution Courses by ADR Institute 2015-2016
Based on student interest, advocated within UOIT to seek accreditation. Assisted in supplying ADR Institute with necessary documentation to successfully obtain this accreditation.

Legal Studies Program Committee 2015-2016

Attended monthly meetings. Provided input on initiatives of Legal Studies Program.

Faculty Council (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016

Provided input on initiatives of Faculty of Social Science and Humanities.

Legal Studies Program Review Committee (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016

Assisted in drafting report for External Review of Legal Studies Program. Made presentations to external reviewers, and met several times with them. Assisted in organization and logistics of External Review. Provided input in drafting of responses to report of external reviewers.

Student Retention Committee (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016

Provided input on and executed key initiatives designed to retain students and enhance student engagement.

Research Proposal Review Committee (University of Ontario Institute of Technology) 2014-2016
Evaluated research proposals from faculty members of Faculty of Social Science and Humanities.

Teaching Assistant Committee (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016

Led initiative to evaluate performance of Teaching Assistants. Involved in allocating Teaching Assistants assignments to Faculty. Assisted in the revision of the “TA Handbook”.

Perry Work Report Advisory Committee (Centre for Industrial Relations and Human Resources, University of Toronto) 2014

Executive Member: Provided strategic guidance to Centre for Industrial Relations and Human Resources on the direction of its weekly publication on important issues in employment relations, called the “Perry Work Report”. Co-drafted a report with a series of recommendations.

Canadian Industrial Relations Association (CIRA) 2012-2015

Executive Member: Provided input on potential initiatives of CIRA. Served on Membership Committee. Organized PhD Consortium for 50th and 51st Annual Conferences.

United Way Committee, Towers Perrin 2003-2006

Executive Member: Lead organizer for several successful charity fundraising events.

Association of Students in Industrial Relations, University of Toronto 2002-2003

President: Chaired meetings. Co-ordinated committees. Raised student concerns with University administration and negotiated satisfactory resolutions.

CURRAN — 7

Community Legal Services, London, Ont. 1996-98

Supervisor: Trained law students to do legal clinic work. Supervised students handling files. Reviewed and corrected law students' opinion letters, demand letters, and pleadings.
Caseworker: Carried heavy caseload. Assisted many clients with Criminal, Landlord/Tenant, Family, and Small Claims matters. Represented clients in numerous court appearances, including many criminal trials.

AWARDS & HONOURS

2020	Selected by Ms. Sara Reznik, one of my former students, for recognition at the Annual Students' Teacher Recognition Reception , University of Manitoba. The Students' Teacher Recognition Reception is an opportunity to celebrate teaching excellence. Recognizing that academic growth and development occurs over many years, each faculty nominates an outstanding graduating student, who then selects two teachers who have made important contributions to their education – one from Kindergarten to Grade 12 years and one from their years at the University of Manitoba.
2017, 2018	"Barney Schneiderman Award for Teaching Excellence" , Faculty of Law, University of Manitoba for 2016-2017 (Nominated) and 2017-2018 (Nominated). The nomination process is student-initiated and involves several letters of recommendation.
2017	"University of Manitoba/UMFA Merit Award for Teaching Excellence" , Humanities and Social Sciences section. The nomination process is colleague-initiated and involves several letters of recommendation.
2015	"Award of Teaching Excellence" , Faculty of Social Science and Humanities, UOIT for 2014-2015 (Won). This award is student-nominated and acknowledges the core faculty member who inspires students and enriches the quality of learning at UOIT.
2015, 2016	"Outstanding" designation (teaching and service) for performance at University Ontario Institute of Technology
2014	Allen Ponak Award , for best student paper, 51st Annual Conference of Canadian Industrial Relations Association (CIRA)
2013	Allen Ponak Award (Honourable Mention), for best student paper 50th Annual Conference of CIRA
2001, 2010, 2012, 2013	University of Toronto Fellowship (x4)
2002, 2011	Ontario Graduate Scholarship (x2)
2005	Towers Perrin award for client service
1998	Dean Rand Award , University of Western Ontario Law School, for meritorious academic standing and outstanding contributions in the service of law students G. J. Grant Prize in Community Legal Services , University of Western Ontario Law School
1996	Provigo Employee Scholarship
1995	Harold G. Fox Entrance Scholarship , University of Western Ontario Law School Peter Wright Graduate Award , Canadian Scholarship Trust Foundation
1993 - 1994	Dean's Scholarship , University of Guelph (x2) E.H. Stewart Scholarship , University of Guelph Dorothy Britton Memorial Scholarship , University of Guelph H.H. Harshman Foundation Scholarship , University of Guelph
1991	Canada Scholarship , Government of Canada

CURRAN — 8

SCHOLARSHIP

Peer Reviewed Journals

Bruce Curran, “Hugh A. Robson – A Labour Jurist Ahead of his Time” (Accepted and Forthcoming) MLJ.

Bruce Curran, “*Honda v. Keays*—Employer Shield or Employee Sword? An Empirical Analysis” (2018) 21:1 CLELJ 51.

Bruce Curran, “Event History Analysis of Grievance Arbitration in Ontario: Labour Justice Delayed?” (2017) 72:4 Relations Industrielles/Industrial Relations 621.

Bruce Curran & Sara Slinn, “Just Notice Reform: Enhanced Statutory Termination Provisions for the 99%” (2017) 20:1 CLELJ 229.

Bruce Curran, “*Alberta (Information and Privacy Commissioner) v. United Food and Commercial Workers, Local 401*: Case Comment” (2014) 52:1 Alta L Rev 185.

Bruce Curran & Scott Walsworth, “Can You Pay Employees to Innovate? Evidence from the Canadian Private Sector” (2014) 24:3 Human Resource Management Journal 290.

Casebooks

Sara Slinn & Bruce Curran, “The Right to Join a Union” in Kevin Banks, ed, *Labour and Employment Law: Cases, Materials, and Commentary*, 9th ed (Toronto: Irwin Law, 2018).

Chapters in Books

Bruce Curran, “Compensation for Responders to a Nuclear Accident: Where Should the Law Go?” in Jonathan Black-Branche and Dieter Fleck, eds, *Nuclear Non-Proliferation in International Law*, Volume IV (Hague: T.M.C. Asser Press, 2019).

Government Reports

Bruce Curran, *Benefits Appeals Committees: An Evaluation of the Processes and Procedures of the Ontario Government* (2011) [unpublished, confidential report archived with Ontario Government]. This report analyzed the systems in place for three committees that heard appeals related to the denial of group benefits.

Bruce Curran, *Evaluation Of Ministry Early Intervention Program' Pilot* (2008) [unpublished, confidential report archived with the Ontario Public Service Employees Union and the Ministry of Natural Resources]. This report assessed the impact of changes to the grievance procedure within the MNR.

CURRAN — 9

Conference Papers

Bruce Curran, “Compensation for Responders to a Nuclear Accident: Where Should The Law Go?” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 55th Annual Meeting, Université du Québec à Montréal, QC, May 4, 2018). Refereed by the Program Committee.

Bruce Curran, “The Use of Technology to Find Solutions to Delay in Grievance Arbitration” (Paper delivered at the Canadian Law and Society Association Mid-Winter Meeting, Technologies of Justice conference, University of Ontario Institute of Technology, Oshawa, ON, January 27, 2018). Non-refereed. Invited talk.

Bruce Curran, “Liability to Responders to a Nuclear Accident: Where Should The Law Go?” (Paper delivered at the “Human Dimensions and Perspectives in a Nuclear World: Legal Issues of Non-Proliferation, Disarmament and the Right to Nuclear Energy” conference, hosted by University of Manitoba, Faculty of Law and the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA), in conjunction with the Round Table Strategic Forum on Nuclear Non-Proliferation in International Law, Winnipeg, MB, October 12, 2017). Non-refereed.

Bruce Curran, “Follow the Leader: A Critique of Canadian Jurisprudence on Freedom of Association for Workers” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 53rd Annual Meeting, University of Saskatchewan, SK, June 2, 2016). Refereed by the Program Committee.

Bruce Curran & Sara Slinn, “Can we fly a middle course? Enhanced Statutory Termination Provisions for the 99%” (Paper delivered at the “Re-Imagining Forms & Approaches to Workplace Representation” Roundtable hosted by the Comparative Research in Law and Political Economy Forum, Osgoode Hall Law School, September 24, 2015). Non-refereed.

Bruce Curran, “Event History Analysis of Grievance Arbitration: Labour Justice Delayed?” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 51st Annual Meeting, Brock University, ON, May 25, 2014). Refereed by the Program Committee.

Bruce Curran, “*Honda v. Keays*—Employer Shield or Employee Sword? An Empirical Analysis” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 50th Annual Meeting, Ryerson University, ON, May 31, 2013). Refereed by the Program Committee.

Jeffrey Sack, Bruce Curran, & Jacob Barrett, “Independence in ‘Essential Services’ Interest Arbitration: The Canadian Experience in an International Context” (Paper delivered by Jeffrey Sack at the International Association of Labour Law Journals Annual Meeting, Université de Bordeaux, France, June 5, 2013). Non-refereed.

CURRAN — 10

Professional Journals

Bruce Curran, “Union Attitudes Toward Grievance Procedures: Empirical Support For The Donais Fairness Theory” (2011) 2 Workplace Fairness Institute Journal 23.

Blog Posts

Bruce Curran, “Environmental Law: What’s Criminal Law Got To Do With It?” (23 October 2016), *Robson Crim Legal Blog*, online: <www.robsoncrim.com/single-post/2016/10/23/Environmental-Law-What's-Criminal-Law-Got-To-Do-With-It>.

Media Citations

Jillian Austin, “Group wants neutral site for WIS investigation interviews” (10 March 2018), *Brandon Sun*, online: <<https://www.brandonsun.com/local/group-wants-neutral-site-for-wis-investigation-interviews-476444293.html>>.

Kristin Annable, “Terminated Winnipeg health authority workers must pay back part of severance, give monthly employment reports: Law prof calls the agreement unusual” (18 July 2017), *CBC News* (web publication), online: <<http://www.cbc.ca/news/canada/manitoba/wrha-severance-agreement-1.4211316>>.

Interview of Bruce Curran by Kristin Annable on Winnipeg Regional Health Authority settlement offers to dismissed managers (18 July 2017) on CBC Winnipeg News, CBWT, Winnipeg, CBC Digital Archives.

Kristin Annable, “WRHA seeks to recoup \$1.2M in overpayments” (12 January 2017), *Winnipeg Free Press*, online: <<http://www.winnipegfreepress.com>>.

Interview of Bruce Curran by Sean Kavanagh on Manitoba government considering legislating revisions to terms of public sector collective agreements (11 February 2017) on morning news, CBC Radio One, Winnipeg, CBC Radio Archives.

Jessica Lewis, “How Do You Get Your Employees To Be Innovative?” (18 December 2014), *Arts & Science News* (web publication), online: <<http://news.artsci.utoronto.ca/all-news/get-employees-to-be-innovative/>>.

Rachel Emma Silverman, “How to Pay Employees for Great Ideas” (4 December 2014), *Wall Street Journal, At Work* (blog), online: <<https://blogs.wsj.com/atwork/2014/12/04/paying-bonuses-for-innovation/>>.

Professional Development Courses, Workshops, and Seminars

Workshop on Law Student Engagement, Centre for the Advancement of Teaching and Learning, University of Manitoba, February 2018

Orientation Session for New Faculty, University of Manitoba, July 2016.

CURRAN — 11

Teaching Workshop for Junior Faculty, University of Ontario Institute of Technology, July 2015.

International Developments in Labour & Human Resource Policy, International Labour Organization & University of Toronto, June and July, 2013

Oral Presentation Skills, University of Toronto, Winter 2013

THE 500: Teaching in Higher Education, University of Toronto, Fall 2012

Becoming a Better Editor of Your Own Work, University of Toronto, Winter 2012

Writing Social Science and Humanities Research Council (SSHRC) Proposals, University of Toronto, Fall 2011

Thesis Writing in the Social Sciences, University of Toronto, Summer 2011

Research Ethics, University of Toronto, Winter 2011

Conference Organization

Chaired “Legal Perspectives on Justice and Access: Liminal Justice—Youth, Mental Health, and Roadside” panel, “Accessing Justice: interdisciplinary perspectives on access, justice, law & order” conference, University of Winnipeg, Winnipeg, MB, May 11, 2018.

Organized “Technology and Work: Justice Boom or Fissuring Bane?” plenary panel, Canadian Law and Society Association Mid-Winter Meeting, Technologies of Justice conference, University of Ontario Institute of Technology, Oshawa, ON, January 27, 2018.

Chaired “Legal Education” panel, Canadian Law and Society Association Mid-Winter Meeting, Technologies of Justice conference, University of Ontario Institute of Technology, Oshawa, ON, January 27, 2018.

PROFESSIONAL MEMBERSHIPS & ACADEMIC ASSOCIATIONS

ADR Institute

Canadian Bar Association

Ontario Bar Association

Canadian Industrial Relations Association

Law Society of Upper Canada, Called to the Bar in February 2000

CURRAN — 12

LANGUAGES

English (native language)

French (intermediate)

Cary Miller, Head of Native Studies Associate
Professor, Department of Native Studies
University of Manitoba

[REDACTED]
Cell: [REDACTED]
Email: [REDACTED]

EDUCATION

Ph.D University of North Carolina, 2004
Dissertation: "Ojibwe Leadership in the Early Nineteenth Century"

M.A. in Religious Studies, University of North Carolina, 1995
Thesis: "Rethinking Tradition: The Anishinaabeg Perception of Time and the
Jingle Dress Dance as a Traditional Practice"

Completed Ojibwe Language Summer Immersion Program, Sault College, Sault Ste.
Marie, Ontario, Canada in August 1994 and August 1995

Completed two years of the Nishinaabemwin Language Instructors Institute, Bay
Mills Tribal Community College, Brimley, Michigan, June-July 1994 and
June-July 1995

B.A. in Classics, minor in Religious Studies, University of Iowa, 1993

PROFESSIONAL EMPLOYMENT HISTORY

Associate Professor and Head of Native Studies, 2017 – present, University of Manitoba

Director of American Indian Studies, 2013-2017, University of Wisconsin-Milwaukee

American Indian Studies Coordinator, 2011-2013, University of Wisconsin-Milwaukee

Associate Professor, Department of History, 2010 – 2017, University of Wisconsin-Milwaukee

Assistant Professor, Department of History, 2002-2010, University of Wisconsin-Milwaukee

Assistant Professor of Native American Studies and Director of Activity II of Title III, Lake
Superior State University 1997-99

Instructor, Native American Studies, Lake Superior State University, 1996-7

Sessional Instructor, BRIDGE Fine Arts Program, Algoma University College, 1996, 1998-99

Sessional Instructor, School of Native Education and Training, Sault College, 1995-96

SCHOLARSHIP

Books

Ogimag: Anishinaabeg leadership 1760-1845. Norman: University of Nebraska Press, 2010.

Articles

No Time Like the Present: Living American Indian Languages, Landscapes, and Histories. Coauthored with Margaret Noodin and Bernard Perley. A chapter for the volume *Words and Relations*. Adrianna Link, Abigail Shelton, Patrick Spero eds. (University of Nebraska Press: Lincoln. Forthcoming)

“Every Dream Is a Prophecy: Rethinking Revitalization – Dreams, Prophets, and Routinized Cultural Evolution” in Jill Doerfler, Niigaanwewidam James Sinclair and Heidi Kiiwetinepinesiik Stark eds. *Centering Anishinaabeg Studies: Understanding the World through Stories.* (East Lansing: Michigan State University Press, 2013).

“Gifts” In *Encyclopedia of United States Indian Policy and Law*, vol1. ed. Paul Finkelman and Tim Alan Garrison, CQ Press. 2008.

“Gifts as Treaties: The Political Use of Received Gifts in Anishinaabe Communities 1820-1832,” *American Indian Quarterly*. 2002 26(2): 221-245.

Book Reviews

Review of Jennifer S.H. Brown ed. *Ojibwe Stories from the Upper Berens River: A. Irving Hallowell and Adam Bigmouth in Conversation.* (Lincoln: University of Nebraska Press and the American Philosophical Society, 2018) In *Manitoba History*, Spring 2019 89: 41-42.

Review of John Reda *Furs to Farms: the Transformation of the Mississippi Valley, 1762-1825* (DeKalb: Northern Illinois University Press, 2016) In *Journal of American History* March 2018 104 (4):1008.

Review of John P. Bowes *Land Too Good For Indians: Northern Indian Removal.* (Norman: University of Oklahoma Press, 2016) In *The Chronicles of Oklahoma*, Fall 2017 95 (3): 357-358.

Review of Michael A. McDonnell, *Masters of Empire: Great Lakes History and the Making of America.* In *Michigan Historical Review*. Fall 2016 42 (2): 118-119.

Review of Bethel Saler *The Settler's Empire: Colonialism and State Formation in America's Old Northwest.* In *Journal of American Ethnic History*. Fall 2016 36 (1): 91-92.

Review of Joan Jenson and Michelle Wick Patterson eds. *Travels with Frances Densmore: Her Life, Work and Legacy in Native American Studies*, in *Minnesota History*. Summer 2016 65 (2): 68.

Review of Murphey, Lucy Eldersveld. *Great Lakes Creoles: A French-Indian Community on the Northern Borderlands, Prairie du Chien. 1750-1860*. in *Ethnohistory*. April 2016 63 (2): 419-420.

Review of Redix, Erik. *The Murder of Joe White: Ojibwe Leadership and Colonialism in Wisconsin* in *Western Historical Quarterly*. Winter 2015 46 (4): 515.

Review of Bellfy, Phil. *Three Fires Unity: The Anishinaabeg of the Lake Huron Borderlands*. (Lincoln: University of Nebraska Press, 2011) in *American Historical Review*. April 2012, 516.

Review of Danziger, Edmund J. *Great Lakes Indian Accommodation and Resistance During the Early Reservation Years, 1850-1900*. (Ann Arbor: University of Michigan Press, 2009) in *Western Historical Quarterly*, 2011, 42 (1): 85-85.

Review of McNally, Michael D., *Honoring Elders: Aging, Authority and Ojibwe Religion* (Columbia University Press) in *American Indian Quarterly*, 2011 35 (3): 468-470.

Review of Gray, Susan Elaine, "I Will Fear No Evil": *Ojibwa-Missionary Encounters Along the Berens River, 1875-1940*. (Michigan State University Press, 2006) in *Michigan Historical Review*. Fall 2007 33(2): 173-4.

Review of Peacock, Thomas and Marlene Wisuri, Ojibwe Waasa Inabidaa: *We Look in All Directions*. (Afton, MN: Afton Historical Society Press, 2002), in *American Indian Culture and Research Journal*. 2002 26(4): 161-163.

Conference Presentations

"Developing Native and Indigenous Studies Initiatives at Colleges, Universities, Libraries, and Research Institutes: A Roundtable" with Christina Snyder, Penn State, Malinda Maynor Lowery, Univeristy of North Carolina-Chapel Hill, Alyssa Mt. Pleasant, University of Buffalo, Patty Loew, Northwestern University, and Laurie Arnold, Gonzaga University, American Society for Ethnohistory, Penn State, September 27, 2019

"That We Might One Day Be as One Body" Metis Nation-building in Canada and the US in the Nineteenth Century" NAISA Conference, Hamilton, New Zealand June 26-29, 2019

"Indigenous History Round Table" History Graduate Student Conference, May 2, 2019

"A Comparison of Canadian and US Indian Policy 1900 to the present," Fireside Chat, Miigizi Aagamik, January 29, 2019.

“Race and Whiteness: A Moderated Roundtable Discussion,” Institute for the Humanities, Nov. 2018

“Indigenous Language Program” scholars panel for Reconciliaction Forum, March, 2018

“A Comparison of Canadian and US Indian Policy,” Fireside Chat, Miigizi Aagamik, March 2018.

“A Comparison of Canadian and US Indian Policy to 1900,” Fireside Chat, Miigizi Aagamik, October 2018.

“The Future of Native Studies at the University of Manitoba,” UM Native Studies Colloquium Series, September, 2017

“The Gathering Continues: Contemporary Indigenous Plant Use in the Western Great Lakes” Presented at American Society for Ethnohistory, Nov. 2016.

“Researching Indigeneity” presented at IGHERT Workshop, UW-Milwaukee, May 8, 2016.

“Experiencing Native North America: An American Indian Studies Community Project,” with Bernard Perley, and Margaret Noodin presented at Landbody: Indigeneity’s Radical Commitments, A Center for 21st Century Studies Conference at UW-Milwaukee, May 6, 2016.

“Experiencing Native North America: Indigenous Pedagogy as Sovereign Practice” with Bernard Perley and Sommer Drake presented at the Educator’s Network for Social Justice Conference, Indian Community School, Franklin, WI, April 30, 2016.

“Experiencing Native North America: Indigenous Pedagogy as Sovereign Practice” with Bernard Perley presented at the Wisconsin Indian Education Conference, April 2, 2016.

“Murder at Leech Lake: the Confluence of Kinship, Legal Statutes and Perceptions of Race in Wisconsin Territory” presented at the American Society for Ethnohistory Conference, Nov. 6, 2015.

“Experiencing Native North America: The Intersection of History, Languages, Landscape and Spirituality” with Bernard Perley presented at the Wisconsin Indian Education Association Conference, Milwaukee, WI, March, 2015.

“Experiencing Native North America: The Intersection of History, Languages, Landscape and Spirituality” with Bernard Perley and Margaret Noodin at the Educator’s Network for Social Justice Conference, Indian Community School, Franklin, WI, April 25, 2015

“Translating Culture: ABCFM textbooks in Anishinaabeg communities, 1830-1845” presented at NAISA, Austin, TX, May 30, 2014.

“Origin of Early Literacy in Anishinaabemowin” with Margaret Noodin, presented at Anishinaabemowin Teg Conference, Sault Ste. Marie, MI, March 27, 2014.

“American Indian Activism,” Gilder Lehrman Institute of American History, Marquette University, February 13, 2013.

“Community and Indigenous Leadership,” Sequoyah American Indian Alumni Keynote Address, University of North Carolina-Chapel Hill, March 22, 2012.

“19th Century Travel Narratives in Indian Country,” Milwaukee Public Library’s Evening Spotlight Series, Richard E. and Lucile Krug Rare Books Room, November 14, 2011.

“American Indians in Milwaukee,” Doors Open Milwaukee, September 2011.

“Invitation sticks in Anishinaabeg Politics and Ceremony,” presented at Native American and Indigenous Studies Association Conference, Pasadena, California, May 2011.

“Ojibwe Leadership 1763-1845” hosted by University of Wisconsin-Whitewater, Thursday March 10, 2011.

“Anishinaabe Women and Political Authority: The Significance of Kinship and Local Organization” presented at American Society for Ethnohistory, Ottawa, Canada, October 2010.

“Use of Birchbark by Wisconsin Indians,” hosted by the Title 7 Indian Education Program, Appleton Area School District, Friday April 14, 2010.

“Lunch n Learn – Wisconsin Tribes,” hosted by the West Bend Mutual Insurance Company, West Bend, WI, November 19, 2009.

“Giving Thanks: To Be Native In America,” hosted by the UWM Sociocultural Programming and UWM American Indian Student Association, Multicultural Student Lounge, November 17, 2009.

Film Discussion for “Gaamiinigooyang: That Which is Given to Us” hosted by the UWM Multicultural Student Association as part of Love United Week, UWM Fireside Lounge, April 2, 2009.

“Lunch Keynote: Ojibwe Leadership in Historical Context” Niigaaniziwin – Building the Foundation Conference, Tuesday, March 10, 2009, Northern Great Lakes Visitor Center, Ashland, Wisconsin.

“The Truth About Thanksgiving: The early colonization experience and the interactions between American Indians and Africans” Co-hosted by the American Indian Student Association and the Africology Club. Nov. 18, 2008 6pm Greene Hall, UWM.

“The Case For American Indian Studies: A Panel Discussion” (Panel consisted of Don Green and myself) Marquette University October 14, 2008 7-9 pm

Conducted Breakout Session 1B, “Freedom and Sovereignty: The American Indian Experience” at the WASAH Summer Institute “Defining American Freedom” July 22, 2008 1:30 – 4:30pm at the UW-Marathon County campus.

“Teaching and Learning the Lac Courte Oreilles Indian Culture: A New Curriculum” (with Jennifer Bunker of Lac Courte Oreilles Ojibwe Community College) at the Educator’s Network for Social Justice Anti-racist Anti-bias Teaching Conference, Saturday May 3, 2008, Indian Community School, Franklin, WI

“The Future of American Indian Studies” (Panel consisted of myself, Leah Arndt, Donald Green, David Beaulieu) Friday April 18, 2008 10am – 2pm Green Hall UWM

“Ojibwe Leadership in the Early Nineteenth Century” presented at Lac Courte Oreilles Tribal Community College, (broadcast to additional learning sites at Bad River and Lac du Flambeau Reservations) February 27 & 28 2008

“Everyday Prophets: Rethinking Revitalization” presented at The American Society for Ethnohistory Conference, November 2007

“Charismatic Chiefs: Reassessing Leadership in Great Lakes Ojibwe Communities” presented at Harvard University, March 8, 2007

“Ojibwe History and Leadership” presented at University of California – Riverside, January 2007

“Ojibwe Land Use and Contending Claims to Chiefly Authority” presented at The American Society for Ethnohistory Conference, November, 2006

“Ojibwe Leadership in the Early Nineteenth Century” presented at 2006 Conference of Ford Fellows, October, 2006

“Wisconsin Indian History” presented for the Milwaukee County Historical Society, March, 2006

“Adoption and American Indians” presented at Marquette University, April, 2005

“American Indians and Milwaukee” with Donna Beckstrom of MATC presented at A Symposium on Milwaukee History, October 7-8, 2004 at the University of Wisconsin-Milwaukee

“Native American History and Culture” presented to a Master’s level diversity in education course at Cardinal Stritch University November 11, 2004

“Providers for the Trade: The Role of Ojibwe Women in the Fur Trade” presented at the International Federation for Research in Women’s History Conference August 2003 in Belfast, Ireland

"Women's Roles in Native Communities in Wisconsin and other Woodland Areas" presented at UW-Waukesha as a part of the speaker series sponsored by the American Indian Cultural Association, April 24, 2003

"Cross-cultural Confusion at Fond du Lac" presented on campus on April 8, 2003 as a part of UW-Milwaukee American Indian Awareness Days

"Gifts as Treaties: The Use of Received Gifts to Make Political Statements in Ojibwe Communities 1831-1832," American Society for Ethnohistory Conference, Oct. 2001

"Cultural and Historical Factors Effecting Sentencing of Native Americans" with Paige Gordier, Academy of Criminal Justice Science Annual Meeting, Mar. 1999

"Proposed degree in Native and Museum Studies - Community Feedback," Anishinaabemowin Teg Annual Ojibwe Language Conference, April 1997

"Four Seasons Anishinaabe Art Journey," Native American Studies Conference, Thunder Bay, Ontario, Oct. 1997

"Rethinking Tradition: The Anishinaabeg Perception of Time and the Jingle Dress Dance as a Traditional Practice," Native American Studies Conference, Sault Ste. Marie, MI, Apr. 1996

Other Conference Contributions

Attended Language Planning Retreat at the University of Winnipeg to look at ways to share resources across Manitoba to maximize language training resources Dec. 11-12

Attended Honouring our Languages Conference, and shared information about our Language programming Winnipeg Oct 23-25

Attended 5th Reconciliation Conference, and drove walking stick and paddles back to NCTR. Sault Ste Marie, October 8-10, 2019

Conference Organizer, Saving Indigenous Languages Society, Winnipeg MB, June 26-30 2019

Conference Organizer, American Society for Ethnohistory, Winnipeg, MB, Oct. 11-14 2017

Assisted Hope Longwell-Grice (UWM School of Education) with grant writing and delivery of the one day conference "Listening to and Learning from the Elders: Preparing Teachers to Represent Act 31 in Wisconsin Schools" April 5, 2008 9am – 3pm Union South, UW-Madison

Introduced Ned Blackhawk's talk "Violence Over the Land: Lessons From the Early American West" for the annual Carter G. Woodson lecture at UWM on April 7, 2008

History Panel Moderator at the 2008 National Academies Ford Foundation Conference, National Academy of Sciences, Washington, D.C. September, 2008

Panel Moderator New Directions in American Indian Research Conference 2005

Secured funding to send UWM graduate student Jessica Hale (anthropology) to attend New Directions in American Indian Research Conference 2004

Panel Moderator, NWSA Conference 2004

CAMPUS TRAINING

“Campus Decolonization – Conversation with Cary Miller” Faculty of Social Work Feb. 28, 2020

“Facilitated Discussion: White Fragility, Where Do We Go From Here?” LOD, Feb 26, 2020

“EDI 2.0” Faculty of Arts Recruitment Staff, Feb 21, 2020

“What Does Reconciliation Have to Do with Me?” Faculty of Arts Recruitment Staff, Feb 3, 2020

“Definition of Terms” for International Students, Jan 15, 2020

“Native Studies Drop-Ins” Alternate Thursdays Jan 16 – April 2020

“What Does Reconciliation Have to Do with Me?” for Recruitment Staff Jan 13, 2020

“Native Studies Book Club: Discussion of Ogimaag” Dec. 11, 2019

“Native Studies Drop-Ins” Alternate Tuesdays September 24 – Dec 10, 2019

“White Fragility” panel for CATL, December 13, 2019

“EDI 2.0” with Valarie Williams for LOD November 28, 2019

“Teach-In for Reconciliation Part 2”, Coordinator, Indigenous Engagement, Nov. 15, 2019

“Indigenous Training” LOD program for UM Leaders Learning alumni, Nov. 5, 2019

“White Fragility in the Classroom,” for Arts Faculty Oct. 17, 2019

Indigenous Leadership Panel, Asper School, Lombard Ave. October 4, 2019

“Looking Beyond Cultural Competency” Indigenous Scholar Speaker Series, Wednesday Oct 2, 2019

“Indigenous Diplomacy, Treaties, and the Indian Act” for LOD Learning Lab September 30, 2019

“What Doesn’t Reconciliation Have to do with Me?,” Senior Executive Retreat, September 12, 2019

“What Doesn’t Reconciliation Have to do with Me?,” Law Student Orientation, September 4, 2019

“What Does Reconciliation Have to do with Me?” Orientation presentation for international students August 27, 2019

“Dealing With Race in the Classroom” presentation for Arts Faculty Heads Retreat, August 20, 2019

“What Does Reconciliation Have to do with Me? Training for VP Administration and Executive Directors, July 24, 2019

“Faculty of Arts Summer Institute for Indigenizing Curriculum” Wednesdays April 19-June 26 2019

“Teach-In For Reconciliation” with Peter Kulchyski, Niigaan Sinclair, Fred Shore, Christopher Trott, June 21, 2019

“Equity, Diversity, and Inclusion 2.0” With Valarie Williams, June 20, 2019

“Indigenous.Women” for Library Indigenous Training June 19, 2019

“What Does Reconciliation Have to do With Me?” presentation for HR Department June 10, 2019

“Legal Foundations of Colonialism in the Americas” ISSIP Development Training, May 23, 2019

“What Does Reconciliation Have to do With Me?” presentation for Faculty of Engineering Retreat, May 1, 2019

“Indigenous Cultural Competency Training” for Library Indigenous Training, February 27, 2019

“What Does Reconciliation Have to do With Me?” presentation for executive assistants, November 2018.

“What Does Reconciliation Have to do With Me?” orientation presentation for international students, August 2018

“Indigenizing the Curriculum” CATL scholars panel for administrators, May 2018

CAMPUS CONSULTING

Meeting with Kinesiology regarding Land-based education December 5, 2019

Meeting with Marcia Anderson at RADY regarding Indigenous Content initiatives Dec. 3, 2019

Various consultations for Engineering Indigenous Teaching Café held on November 27, 2019

Consultation with Nursing regarding pre-recs for nursing November 26, 2018

Consultation with Anthropology regarding reconciliation IIF Nov. 18, 2019

Consultation with Economics re: Urban Additions to Reserce, Nov. 5, 2019

Consultation with Nursing Nov. 1, 2019

Indigenous perspectives on negotiation consultation, Asper, August 28, 2019

Meeting with Dan Henhawk, Kinesiology regarding cross-departmental opportunities August 13, 2019

LOD Workshop planning, August 12, 2019

Met with Daniel Jordan, UMSU, July 22, 2019 regarding interest in institute for UMSU directors

Met with Randy Herrmann, Engineering, March 18, 2019

Met with Lorena Fontaine, UW Indigenous Lead regarding Indigenous language programming

With Christine Cyr and Carl Stone, Met with Physical Plant personnel regarding smudging policy March 4, 2019

Consult with Johnathan Beddoes, Engineering regarding training, February 19, 2019

With Ruth Shead, met with UM Security regarding profiling of an Indigenous faculty member Feb. 15, 2019

Roisin Casar and Tina Chen, disciplinary matter, January-February 2019

OTHER TRAINING

“Fragility and Privilege” for Manitoba Department of Agriculture and Lands Management

RADIO AND TV INTERVIEWS

“Ogimaag: Anishinaabeg Leadership” KAXE, Monday, August 8, 2011.

“Wisconsin’s American Indian Heritage, Part I & II,” *I Remember*, Program numbers 1519 and 1521, Milwaukee Public Television, first aired April 13 and May 11, 2009.

Appeared on the 30 minute radio show Indian Uprising hosted by Rhianna Yazzie on radio station KFAI, Minneapolis Community Radio on Sunday January 19, 2009.

AWARDS AND HONORS

UWM SURF (Support for Undergraduate Research Fellows) Award with Nathon Breu for research project “The Gathering Continues: Indigenous Plant Use in the Western Great Lakes,” (Anishinaabe community focus) summer 2016

UWM SURF (Support for Undergraduate Research Fellows) Award with James Flores for research project “The Gathering Continues: Indigenous Plant Use in the Western Great Lakes,” (Oneida community focus) summer 2016

Awarded The Royster Society of Fellows Honorary Sequoyah Fellowship from the UNC Graduate School on March 22, 2012 “This award recognizes Dr. Cary Miller’s outstanding academic research and acknowledges with deep appreciation her instrumental work in creating First Nations Graduate Circle. Both sources of accomplishment are of enduring value to University students and our society”

NEH Summer Seminar Awardee June 14-July 9, 2010

National Academy of Sciences Ford Postdoctoral Fellowship, 2006-2007 academic year

Featured in UNC Native American Graduate Students Calendar 2006

Learning Disabilities Services Access Award, University of North Carolina, 2002

Boka Hodzija Award for Academic Excellence and Distinguished Service by a Graduate or Professional Student, 2000-2001 academic year

Mowry Award, University of North Carolina Department of History, 2001

Democracy in America Fellowship, University of North Carolina, 1999-2000

Outstanding Native Faculty, Native American Student Organization, Lake Superior State University, 1997

Outstanding Collegiate Academic Achievement Award, Carolina Indian Circle, University of North Carolina, 1995

CIC Summer Research Opportunities Program Grant, University of Iowa, 1990

Minority Achievement Scholarship, University of Iowa, 1988-1992

Undergraduate Student Assistantship, University of Iowa, 1988-1991

TEACHING EXPERIENCE

University of Manitoba 2017-present

NATV 2000 (Special Topics) Indigenous politics in the US

NATV 2510 Indigenous Experience in the US to 1860

NATV 4300/7220 (Special Topics) Indigenous politics in the US

NATV 7220 (Special Topics) How to Teach an Indigenous Studies Course

University of Wisconsin-Milwaukee, 2002-present

HIST 101 Western Civilization: Ancient World to 1500

HIST/AIS 262 North American Indian History to 1887

HIST/AIS 263 North American Indian History Since 1887

HIST 294 Seminar in History: Research Techniques

HIST/AIS 473 History of Wisconsin Indians

HIST/AIS 474 Topics in Native American History: Native American Women's History

HIST/AIS 475 American Indian History, Law and Government

HIST 699 Undergraduate Independent Study

HIST 713 Historical Research Methods (Graduate Level)

HIST 900 Seminar in American History: Issues in American Indian History

HIST 989 Masters Level Independent Work

AIS 203 American Indians of the Western Great Lakes

AIS 105 Great Lakes Ethnobotany

University of North Carolina Teaching Assistantship, 2000-02, 1994-95

Women in American History

Native America: the East

U.S. History to 1865

Introduction to World Religions

Old Testament Survey

Religion in America

Lake Superior State University, Assistant Professor of Native American Studies and Director of Activity II of Title III, 1997-99; Instructor, 1996-97.

Humanities I

Native Cultures of North America
Native Art and Culture
Native American Literature
Native History of North America
Contemporary Native American Issues
Seminar in Native American Studies

Algoma University College, Sessional Instructor, 1996, 1998-99
Courses Taught:
Introduction to North American Native Art
Ojibwe Art and Culture

Sault College, Sessional Instructor 1995-96
Courses Taught:
Native College Entrance
Treatment Process

COMMITTEES AND NETWORKING

Community
Manitoba Museum Advisory Committee 2018-present

University of Manitoba
President's Task Force on Equity, Diversity and Inclusion 2019-present
Environmental Scan subcommittee
Community Consultation subcommittee (chair)
Asper Indigenous Art Advisory Committee 2019-present
Faculty of Arts Diversity and Inclusion Committee 2019 - present
Senate Executive Committee 2019 - present
Senate Planning and Priorities Committee 2018-present
Faculty Senate 2018-present
Land Based Knowledge Initiative Committee 2018-present
Faculty of Arts Council Executive Committee 2018-present
Faculty of Arts Standing Committee, Indigenous Requirement, Chair, 2018-present
UM Native Studies Department Graduate Committee, 2018-present
UM hiring committee, Department of Native Studies, Open Field, (chair) 2019 - present
Faculty of Arts Tenure and Promotion Committee, 2018-2019
Gaa wii ji'I diyaang Committee 2018-present; Co-chair June 2018-present
UM President Search Committee 2018-Oct. 2019
Indigenous Governance Committee January – September 2019

UM hiring committee, Department of Native Studies, Indigenous Language position, 2018 – 2019, chair
UM hiring committee, Departments of Native Studies and History, Metis history, 2018-2019
UM hiring committee, Departments of Native Studies and History, spousal hire 2019, chair
UM hiring committee, Departments of Native Studies and History, spousal hire 2018-2019, chair
UM hiring committee, Departments of Native Studies and Women's and Gender Studies, 2018-2019
UM hiring committee, CTL Indigenous Education Search, 2018
UM hiring committee Chair, Indigenous language specialist, Department of Native Studies 2018
UM hiring committee, Department of History Chair, 2018
UM hiring committee, Department of City Planning, 2017-18
Ad Hoc Committee, Indigenous Requirement, Faculty of Arts 2017-2018

University of Wisconsin-Milwaukee

UWM L&S Dean Search Committee, Vice Chairman, 2017
UWM Fromkin Award Committee 2016-2017
UWM Paper Selection Committee, Landbody: Indigeneity's Radical Commitments, A Center for 21st Century Studies Conference Feb, 2016
UWM American Indian Advisory Committee to the Provost, 2014-present
UWM History Department Graduate Studies Committee 2014-present
UWM Faculty of Colour Committee, 2014-2015
NCAIS (Newberry Consortium for American Indian Studies) Advisory Committee 2008-present
UWM American Indian Studies Committee 2004-present
UWM Clear Sky Institute for Act 31 Compliance Committee 2005 - 2011
UWM History Department Library Committee 2008-9
UWM History Department Undergraduate Committee 2007-8
UWM History Department Library Committee, 2004-5
UWM History Department Undergraduate Committee, 2003-4
UW-System American Indian Studies Consortium, 2002-3
UWM History Department Awards Committee, 2002-3

Lake Superior State University

Native Studies BRIDGE committee linking Lake Superior State University, Sault College, and Algoma University College
NCA Criterion 3 committee to review the mission and goals of Lake Superior State University
1999 MICUP development team linking Lake Superior State University to Bay Mills Tribal Community College
1998 MICUP development team
Fine Arts Studies Advisory Committee
Four Seasons Art Journey Advisory Committee
Lake Superior State University Native Programs Committee
Symposium Committee for the 1994 University of North Carolina Graduate Student Symposium, "Teaching Religious Studies at a Secular Institution," Oct, 1994

GRANTS

Summer Institute Faculty Training Grant, IIF, University of Manitoba PENDING

Indigenous First Language Speaker Elders in Residence IIF Grant, University of Manitoba, 2018-9

IRE Grant, UW-System Institute on Race and Ethnicity, 2009-2010

Community-University Partnership Grant, Cultures and Communities, University of Wisconsin-Milwaukee, 2009-2010

4-S Minority Retention Grant, State of Michigan Department of Equity, 1996-97 and 1997-98

MICUP (Michigan College-University Partnership) Grant, State of Michigan Department of Equity, 1998-1999

Ontario Ministry of Education and Training Aboriginal Education and Training Strategy Proposals, Fall 1995 Funded programs included the following:

Ojibwe Language Multi-Partnership
Assistant Counselor / Activities Coordinator
Native Counselor - North Shore Campus
Minwaangozidaa Program
Native Outreach Support Services Officer
The Stepping Stone Approach Project
Aboriginal Resource Technician Program
Native Community Worker Program
Mino Maajitaadaa Native College Entrance Program

OTHER PROFESSIONAL EXPERIENCEProfessional Organizations

Secretary, American Society for Ethnohistory 2017-2018

Conference Organizing

American Indian Sovereignty and Natural Resource Management Conference, April 7-8, 2014

This conference included academic papers as well as presentations from Wisconsin Indian communities. Key Note speaker: Patty Loew and her film "Protect Our Future".

7th International Native American Studies Conference: Celebrating Artistic Expressions of First Peoples, Lake Superior State University, Sept 23-25, 1999

This conference included academic papers as well as workshops in traditional arts offered by local practitioners. Key-note speakers and performers: Gary Farmer, Chris Eyer, Shelly Niro, Alanis Obomsawin, and Bill Miller.

6th International Native American Studies Conference: Celebrating Native North American Languages, Lake Superior State University, April 2-4, 1998

This conference was offered with the annual Anishinaabemowin

Teg Ojibwe Language Conference to bring together academic presenters and Ojibwe language instructors. Key-Note Speakers: Jim Northrup and Mark Denning. Additional Key-notes were supported by Anishinaabemowin Teg.

Program Development

Contributed along with other UWM American Indian Studies faculty to the development and implementation of a CIM major in American Indian Studies. 2013, revised 2015.

Four Seasons Anishinaabeg Art Journey at Sault College: A program combining studio and academic courses focused on traditional and contemporary Ojibwe arts delivered by academic staff as well as community artists and elders with a College facilitator. 1996

Consultant

Historical Consultant and Expert Witness for Couchiching First Nation in the case Couchiching FN et al v. AG Canada et al, 2014 ONSC 1076 regarding Anishinaabeg treaty claims to property being used by the town of Fort Frances, ON, May 2012-March 2013.

Consultant for the for the Turning Points Exhibit at the Outagamie County Historical Society Museum in Appleton, Wisconsin 2004.

Compiled an External Review of the GED program for the Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, MI, June 1994.

LORNE NEUDORF

[REDACTED] | Ph: [REDACTED]

EDUCATION & QUALIFICATIONS

- 2015 **DOCTOR OF PHILOSOPHY**
University of Cambridge, Faculty of Law
- 2009 **BARRISTER AT LAW**
Law Society of Ontario
- 2009 **MASTER OF LAWS**
McGill University, Institute of Comparative Law
- 2007 **JURIS DOCTOR**
University of Victoria, Faculty of Law

ACADEMIC APPOINTMENTS

- 2017-present **UNIVERSITY OF ADELAIDE, ADELAIDE LAW SCHOOL**
Deputy Dean & Associate Professor

Responsible for key aspects of Adelaide Law School as part of the Law School's executive team. Collaborate with other senior academic and administrative leaders. Work with the Dean to develop the Law School's strategy and overall direction, serve as Acting Dean during the Dean's absence, chair board and committee meetings, plan and allocate academic workload, host events visitors and alumni, recruit academic and professional staff, plan the Law School budget with the School Manager, initiate and develop links with leading international law schools, review and develop Law School policy, maintain Law Society accreditation, represent the Law School at internal and external meetings and events, and resolve student appeals. As Associate Professor, coordinate and teach public law and comparative law courses in the undergraduate and post-graduate programmes. Member of the China Strategy Group and Deputy Director of the Public Law and Policy Research Unit (from July 2020). Supervise higher degree by research projects.

- 2017-present **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
Adjunct Professor

- 2013-17 **THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW**
Associate Professor (tenured and promoted 2017)
Assistant Professor (2013-17)
Founding Faculty

Taught Administrative Law, Comparative Law, Legislation Administration and Policy and Trusts. Supervised research projects and student law journal editors. Awarded five teaching excellence prizes by the law students for teaching in both the first year and upper year curriculum. Sat on numerous Faculty and University committees including recruitment committees for academic staff and the Dean of Law and chaired the Appeals Committee.

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- 2011-13 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Supervisor, Administrative Law
Supervised Administrative Law at Churchill (2011-13), Emmanuel (2012-13), Hughes Hall (2011-12), Lucy Cavendish (2011-12), Peterhouse (2011-13), and Wolfson (2011-12).
- 2011-12 **UNIVERSITY OF CAMBRIDGE, PEMBROKE AND KING'S COLLEGES**
Lecturer, Introduction to English Common Law
Developed course materials, lectured classes, and led seminars in an undergraduate course part of the Pembroke-King's Summer Programme.

SCHOLARSHIP

Books & Edited Volumes

- In progress **DELEGATED LAWMAKING IN COMPARATIVE PERSPECTIVE:
TOWARD A BETTER LAWMAKING PROCESS**
- In progress **DEMOCRATIC DECAY: CHALLENGES FOR CONSTITUTIONALISM AND THE
RULE OF LAW**
7 Canadian Journal of Comparative and Contemporary Law
Contributions from world-leading comparative constitutional law scholars including Rosalind Dixon, Tom Ginsburg, Ran Hirschl, David Landau, Sandy Levinson, Mark Tushnet and Mila Versteeg (among others).
- 2018-present **THE RULE OF LAW IN CONTEXT**
Hart (Bloomsbury)
General Editor of global book series examining the rule of law in different jurisdictions around the world (with G. Appleby); eight titles currently under development with expected publication in 2020-21.
- 2020 **THE CONSTITUTIONAL MODELS OF INDIA AND AUSTRALIA**
Bloomsbury
Contributions from scholars and jurists comparing different aspects of the Indian and Australian Constitutions (with V. Arora, P. Babie & A. Tomer).
- 2020 **THE FUTURE OF CHARITY LAW**
6 Canadian Journal of Comparative and Contemporary Law
Contributors from leading scholars in the field (with C. Hunt and R. Diab).
- 2019 **REFLECTIONS ON ANIMAL LAW**
5 Canadian Journal of Comparative and Contemporary Law
Contributions from 9 leading scholars in the field (with C. Hunt and R. Diab).
- 2018 **DATA PROTECTION AND PRIVACY**
4 Canadian Journal of Comparative and Contemporary Law
Contributions from 8 leading scholars in the field (with C. Hunt and R. Diab), foreword by Justice Rosalie Silberman Abella of the Supreme Court of Canada.
- 2018 **LEGISLATING STATUTORY INTERPRETATION: PERSPECTIVES FROM THE
COMMON LAW WORLD**
Carswell (Thomson Reuters)
Contributions from 16 international scholars reflecting on parliamentary attempts to regulate judicial interpretive discretion (with C. Hunt and M. Rankin), foreword by Justice Thomas Cromwell formerly of the Supreme Court of Canada.

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- 2017 **THE ANNOTATED GUIDE TO THE BC *INTERPRETATION ACT***
Carswell (Thomson Reuters)
Commentary on the *Interpretation Act* (BC) (with C. Hunt and M. Rankin), foreword by Justice Elizabeth Arnold-Bailey formerly of the Supreme Court of British Columbia.
- 2017 **PROBLEMS OF INTERPRETATION IN INTERNATIONAL LAW**
3 *Canadian Journal of Comparative and Contemporary Law*
Contributions from 10 leading scholars in the field (with C. Hunt and R. Diab), foreword by Justice Louis LeBel formerly of the Supreme Court of Canada.
- 2017 **THE DYNAMICS OF JUDICIAL INDEPENDENCE: A COMPARATIVE STUDY OF COURTS IN MALAYSIA AND PAKISTAN**
Springer
Monograph examining the independence of the judiciaries of Malaysia and Pakistan as part of developing a new theory of judicial independence. Endorsements from David Feldman (Cambridge), Tom Ginsburg (Chicago) and Ran Hirschl (Toronto).
- 2016 **EQUITY IN THE 21ST CENTURY: PROBLEMS AND PERSPECTIVES**
2 *Canadian Journal of Comparative and Contemporary Law*
Contributions from 29 leading scholars in the field across two volumes (with C. Hunt and R. Diab), foreword by Justice Russell Brown of the Supreme Court of Canada.
- 2015 **HEALTH LAW AND HUMAN RIGHTS**
1 *Canadian Journal of Comparative and Contemporary Law*
Contributions from 19 leading scholars in the field (with C. Hunt and R. Diab), foreword by Lorne Sossin former Dean of Osgoode Hall Law School.
- 2012 **THE UK SUPREME COURT YEARBOOK, VOL 2**
Appellate Press (originally published as a volume of the *Cambridge Journal of International and Comparative Law*)
Contributions from 29 scholars and judges including Lord Phillips former President of the Supreme Court of the United Kingdom, Justice Marie Deschamps formerly of the Supreme Court of Canada, and Justice Kenneth Hayne formerly of the High Court of Australia.

Articles, Chapters & Comments

- 2020 **THE LEGAL REGULATION OF A PANDEMIC: LEGISLATIVE DELEGATIONS IN TIMES OF CRISIS**
Forthcoming
- 2020 **BUILDING NATIONAL IDENTITY THROUGH THE CONSTITUTION: THE CANADIAN CHARTER EXPERIENCE**
***Constitutions and National Identity* (ANU Press)**
Examination of the relationship between Canada's *Charter of Rights and Freedoms* and Canadian national identity, and distilling comparative lessons to be learned from the Canadian experience.
- 2020 **SEPARATING POWERS THROUGH THE CONSTITUTION: A COMPARISON OF INDIA AND AUSTRALIA: PART I ORIGINS AND THE INDIAN JURISPRUDENCE**
***Comparative Reflections on the Constitutional Models of India and Australia* (Bloomsbury)**
Examination of the history of the separation of powers, its application in the United States and its transplant to India and Australia which have over time developed their own unique conceptions of the separation of powers.

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- 2020 **SEPARATING POWERS THROUGH THE CONSTITUTION: A COMPARISON OF INDIA AND AUSTRALIA: PART II THE AUSTRALIAN JURISPRUDENCE AND COMPARISONS WITH INDIA**
Comparative Reflections on the Constitutional Models of India and Australia
(Bloomsbury)
Examination of the history of the separation of powers, its application in the United States and its transplant to India and Australia which have over time developed their own unique conceptions of the separation of powers.
- 2019 **STRENGTHENING THE PARLIAMENTARY SCRUTINY OF DELEGATED LEGISLATION: LESSONS FROM AUSTRALIA**
42(4) Canadian Parliamentary Review 25
Examination of recent reforms to the Australian federal parliamentary scrutiny process.
- 2018 **REASSESSING THE CONSTITUTIONAL FOUNDATION OF DELEGATED LEGISLATION IN CANADA**
41 Dalhousie Law Journal 519
Critical examination of the constitutional authority for delegated legislation with a proposal for reform to strengthen lawmaking accountability.
- 2018 **LEGISLATING STATUTORY INTERPRETATION: THE PARLIAMENTARY REGULATION OF JUDICIAL DISCRETION**
Legislating Statutory Interpretation: Perspectives from the Common Law World
(Carswell)
Examining the concept of the legislative regulation of judicial interpretive discretion (with C. Hunt & M. Rankin).
- 2018 **CANADA'S FIRST ACT: THE HISTORY AND ROLE OF THE *INTERPRETATION ACT***
Legislating Statutory Interpretation: Perspectives from the Common Law World
(Carswell)
Historical overview of the *Interpretation Act* and its impact along with suggestions for future reforms to make it more effective.
- 2017 **TAKING COMPARATIVE LAW SERIOUSLY: RETHINKING THE SUPREME COURT OF CANADA'S MODERN APPROACH TO STATUTORY INTERPRETATION**
39 Statute Law Review 184
Numerical examination and analysis of the Supreme Court of Canada's use of foreign law in statutory interpretation cases with a proposal for a new approach to bolster the legitimacy of its use and maximise its value.
- 2017 **THE SUPREME COURT AND PARLIAMENT: EVOLVING ROLES AND RELATIONSHIPS**
78 Supreme Court Law Review 3
Examination of the Supreme Court of Canada's conception of parliamentary sovereignty, privileges and the unwritten conventions and practices of Parliament.
- 2016 **INADEQUATE REASONS: THE NEED FOR TRIBUNAL PARTICIPATION IN JUDICIAL REVIEW LITIGATION**
54 Alberta Law Review 219
Examination of the participation and role of administrative tribunals as litigation parties in judicial review.

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- 2016 **RULE BY REGULATION: REVITALIZING PARLIAMENT'S SUPERVISORY ROLE IN THE MAKING OF SUBORDINATE LEGISLATION**
(Spring) Canadian Parliamentary Review 29
Examination of Parliament's supervisory role of delegated legislation along with a comparative analysis of committee scrutiny in the United Kingdom.
- 2016 **JUDICIAL REVIEW REFORM: AVOIDING EFFECTIVE REVIEW THROUGH PROCEDURAL MEANS?**
16 Oxford University Commonwealth Law Journal 65
Comparative examination of the litigation procedure for judicial review in Australia, Canada and the United Kingdom to shed light on the relationship between procedural restrictions on access to judicial review and the rule of law (with J. McIntyre).
- 2016 **THE EXPERT WITNESS' DUTY OF IMPARTIALITY IN CANADA: A COMMENT ON WHITE BURGESS LANGILLE INMAN v ABBOTT AND HALIBURTON CO**
20 The International Journal of Evidence and Proof 72
Commentary on the impartiality of expert witnesses in Canadian law (with C. Hunt).
- 2015 **JUDICIAL INDEPENDENCE: THE JUDGE AS A THIRD PARTY TO THE DISPUTE**
Oxford University Comparative Law Forum 2
Conceptual and theoretical examination of the independence of the judiciary.
- 2014 **DECLARATORY LEGISLATION: LEGISLATURES IN THE JUDICIAL DOMAIN?**
47 UBC Law Review 313
Examination of the concept of declaratory legislation in light of recent jurisprudence along with a proposed reform to its judicial treatment to make it more coherent.
- 2014 **FORCE MAJEURE CLAUSES IN COMPARATIVE PERSPECTIVE: THE CANADIAN COMMON LAW APPROACH IN LIGHT OF RECENT DEVELOPMENTS IN THE COURTS OF SINGAPORE AND THE UNITED KINGDOM**
65 University of New Brunswick Law Journal 312
Comparative examination of how Canadian courts approach *force majeure* clauses in light of new cases in Singapore and the United Kingdom (with G. Hunnisett).
- 2013 **INTERVENTION AT THE UK SUPREME COURT**
2 Cambridge Journal of International and Comparative Law 16
Numerical and comparative analysis of intervention by third parties in cases before the Supreme Court of the United Kingdom and implications for the judicial role.
- 2012 **HOME INVASION BY REGULATION: TRUCKERS AND REASONABLE EXPECTATIONS OF PRIVACY UNDER SECTION 8 OF THE CHARTER**
45 UBC Law Review 551
Examination of the reasonable expectation of privacy doctrine under the *Charter of Rights and Freedoms* and the requirement for prior judicial authorization for searches along with a proposal to strengthen privacy protections.
- 2012 **PROMOTING INDEPENDENT JUSTICE IN A CHANGING WORLD**
12 Human Rights Law Review 107
Critical analysis of the work of the UN Special Rapporteur on the Independence of Judges and Lawyers.
- 2012 **THE SUPREME COURT AND THE NEW JUDICIAL INDEPENDENCE**
1 Cambridge Journal of International and Comparative Law 25
Critical analysis of the new Supreme Court of the United Kingdom and the effects of its institutional design on judicial independence.

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- 2010 **CANADIAN PLAN ADMINISTRATORS AND LEGAL LIABILITY**
15 Pensions: An International Journal 179
 Examination of the legal risks in the administration of Canadian pension plans and the investment of pension assets (with JP Laporte).
- 2010 **SHIFTING SANCTIONS AND PERSONAL RESPONSIBILITY**
73 Saskatchewan Law Review 131
 Examination of the philosophical underpinnings of the doctrine of *ex turpi* in relation to a case denying private law damages during a period of incarceration.
- 2007 **INDEPENDENCE AND THE PUBLIC PROCESS: EVOLUTION OR EROSION?**
70 Saskatchewan Law Review 53
 Examination of the constitutional doctrine of judicial independence and its compatibility with public hearings for nominations to the Supreme Court of Canada.
- 2007 **THE USE OF EVIDENCE OF TAINTED WITNESSES: INTERNATIONAL AND CANADIAN STANDARDS IN A STUDY ON PROCEDURAL LAW ISSUES IN UNTOC AND UNCAC**
United Nations Publications, 188
 Examination of how Canadian law treats the evidence of a 'tainted witness' (with G. Ferguson).

Parliamentary Evidence & Submissions

- Forthcoming **PARLIAMENT OF SOUTH AUSTRALIA**
COVID-19 Response Committee, Inquiry
- Forthcoming **PARLIAMENT OF AUSTRALIA**
Senate Select Committee on COVID-19, Inquiry
- Forthcoming **PARLIAMENT OF AUSTRALIA**
Senate Standing Committee for the Scrutiny of Delegated Legislation, Inquiry
- 2020 **PARLIAMENT OF NEW SOUTH WALES**
Regulation Committee, Inquiry
- 2020 **PARLIAMENT OF SOUTH AUSTRALIA**
Select Committee on Effectiveness of the System of Committees of the South Australian Parliament, Inquiry
- 2019 **PARLIAMENT OF AUSTRALIA**
Senate Standing Committee on Regulations and Ordinances, Inquiry
- 2019 **NEW ZEALAND PARLIAMENT**
Regulations Review Committee
- 2017 **PARLIAMENT OF CANADA**
Standing Joint Committee for the Scrutiny of Regulations

Book Reviews

- 2017 **REGULATING JUDGES: BEYOND INDEPENDENCE AND ACCOUNTABILITY BY RICHARD DEVLIN AND ADAM DOKEK, EDS. (Edward Elgar, 2016)**
76 Cambridge Law Journal 452

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- 2016 **THE POLITICS OF JUDICIAL INDEPENDENCE IN THE UK'S CHANGING CONSTITUTION** BY GRAHAM GEE, ROBERT HAZELL, KATE MALLESON AND PATRICK O'BRIEN (Cambridge University Press, 2015)
79 Modern Law Review 1144
- 2015 **COMPARATIVE MATTERS: THE RENAISSANCE OF COMPARATIVE CONSTITUTIONAL LAW** BY RAN HIRSCHL (Oxford University Press, 2014)
74 Cambridge Law Journal 621
- 2014 **THE CONSTITUTION OF CHINA** BY QIANFAN ZHANG, **THE CONSTITUTION OF INDONESIA** BY SIMON BUTT AND TIM LINDSEY, **THE CONSTITUTION OF MALAYSIA** BY ANDREW HARDING (Hart, 2012)
73 Cambridge Law Journal 443
- 2014 **AUTHORITARIAN RULE OF LAW: LEGISLATION, DISCOURSE AND LEGITIMACY IN SINGAPORE** BY JOTHIE RAJAH (Cambridge University Press, 2012)
73 Cambridge Law Journal 206
- 2013 **POLITICIZED JUSTICE IN EMERGING DEMOCRACIES: A STUDY OF COURTS IN RUSSIA AND UKRAINE** BY MARIA POPOVA (Cambridge University Press, 2012)
72 Cambridge Law Journal 461
- 2013 **THE CULTURE OF JUDICIAL INDEPENDENCE: CONCEPTUAL FOUNDATIONS AND PRACTICAL CHALLENGES** BY SHIMON SHETREET AND CHRISTOPHER FORSYTH, EDS. (Nijhoff, 2011)
76 Modern Law Review 181
- 2012 **CHINESE JUSTICE: CIVIL DISPUTE RESOLUTION IN CONTEMPORARY CHINA** BY MARGARET Y.K. WOO AND MARY E. GALLAGHER, EDS. (Cambridge University Press, 2011)
71 Cambridge Law Journal 454
- 2011 **THE DISENCHANTMENT OF SECULAR DISCOURSE** BY STEPHEN D. SMITH (Harvard University Press, 2010)
48 Osgoode Hall Law Journal 681
- 2011 **JUDICIAL INDEPENDENCE IN CHINA: LESSONS FOR GLOBAL RULE OF LAW PROMOTION** BY RANDALL PEERENBOOM, ED. (Cambridge University Press, 2010)
70 Cambridge Law Journal 267

Newspaper Op-Eds

- 2016 **REGULATIONS GONE WILD**
Financial Post (28 January 2016)
- 2015 **REJECT THIS BID FOR LAW SCHOOL**
The Winnipeg Free Press (20 February 2015)
- 2014 **IN DEFENCE OF FIXED ELECTION DATES**
National Post (8 October 2014)
- 2013 **CRITICISM OF RUSSIA OVER GAY RIGHTS: NO REAL THREAT TO HARPER**
The Globe and Mail (13 August 2013)

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- 2012 **BANISHMENT IS PART OF THE JUDICIAL TOOLKIT**
The Globe and Mail (25 July 2012)
- 2012 **ABORIGINAL REPRESENTATION AT THE SUPREME COURT**
Toronto Star (June 2012)
- 2011 **ENGLISH COURTS PROVIDE SWIFT JUSTICE**
Toronto Star (6 November 2011)
- 2010 **A CABINET MANUAL COULD PROTECT US AGAINST ABUSES OF POWER**
The Globe and Mail (6 December 2010)
- Other**
- 2019 **THE CONSTITUTIONAL POSITION OF DELEGATED LEGISLATION AFTER CHERRY/MILLER (No 2)**
UK Constitutional Law Association Blog
- 2018 **SCRUTINISING LEGISLATIVE REFORM ORDERS: THE CASE OF THE HORSERACE BETTING LEVY**
UK Constitutional Law Association Blog
- 2011 **THE UNITED NATIONS AND JUDICIAL INDEPENDENCE IN THE DEVELOPING WORLD: CHALLENGES AND OPPORTUNITIES**
Cambridge University United Nations Association
- 2010 **AVOIDING LIABILITY FOR PENSION PLAN INVESTMENTS**
8th Annual Pension and Benefits Hot Spots: Updates on Key Legal Issues
Ontario Bar Association
- 2010 **EMPLOYEES BLOCK ATTEMPT BY EMPLOYER TO HIKE PENSION CONTRIBUTIONS**
Ultimate HR Manual, Western Edition (CCH)
- 2009-10 **PENSION & BENEFITS LAW BLOG**
Osler, Hoskin & Harcourt LLP
- 2005 **BACK TO THE BASICS: THE ROLE OF TIME, TRAINING AND INFRASTRUCTURE**
The World Summit in Reflection (Harvard Law School, Berkman Center for Internet and Society)

RESEARCH PRESENTATIONS

- 2020 **AMITY UNIVERSITY, FACULTY OF LAW**
The Legal Regulation of a Pandemic: Legislative Delegations in Times of Crisis
- 2019 **UNIVERSITY OF ADELAIDE, ADELAIDE LAW SCHOOL**
Guest lecture on delegated legislation
- 2019 **THE AUSTRALIAN NATIONAL UNIVERSITY, COLLEGE OF LAW**
Strengthening Transparency and Accountability: Lessons from the Parliamentary Scrutiny of Delegated Legislation in Canada and the UK
- 2019 **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
Guest lecture on delegated legislation

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- 2019 **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
Legislating with Integrity? Comparative Reflections on the Parliamentary Scrutiny of Delegated Legislation
- 2019 **VICTORIA UNIVERSITY OF WELLINGTON, FACULTY OF LAW**
Legislating with Integrity? Delegated Lawmaking in Australia, Canada and the United Kingdom
- 2019 **UNIVERSITY OF ADELAIDE, ADELAIDE LAW SCHOOL**
Constitution and National Identity Workshop
Building National Identity Through the Constitution: The Canadian Charter Experience
- 2018 **GILBERT + TOBIN CENTRE OF PUBLIC LAW, UNSW LAW SCHOOL**
Uncloaking the Judiciary: The Judicial Role, Style and Image
- 2018 **UNIVERSITY OF HONG KONG, FACULTY OF LAW**
The International Society of Public Law Conference
Lawmaking in 21st Century Canada: Executive Power and the Search for Accountability
- 2018 **UNIVERSITY OF OXFORD, FACULTY OF LAW**
Regulations Discussion Group
Lessons from the Parliamentary Scrutiny of Regulations in Comparative Perspective: Canada and the UK
- 2017 **SANT'ANNA SCHOOL OF ADVANCED STUDIES**
The Constitution of Canada: History, Evolution, Influence and Reform
Executive Erosion of Parliamentary Sovereignty: Comparative Perspectives on Lawmaking in Canada and the United Kingdom
- 2016 **HUMBOLDT UNIVERSITY, FACULTY OF LAW**
The International Society of Public Law Conference
Chaired Comparing Law(s) and Institutions panel
Presented Taking Comparative Law Seriously: Rethinking the Supreme Court of Canada's Modern Approach to Statutory Interpretation
- 2016 **THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW**
Graduate Studies and Pathways to the Legal Academy
- 2015 **NATIONAL UNIVERSITY OF SINGAPORE, FACULTY OF LAW**
Centre for Asian Legal Studies Conference
Judicial Independence and the Evolution of Courts
- 2015 **NEW YORK UNIVERSITY, SCHOOL OF LAW**
The International Society of Public Law Conference
Chaired New Perspectives on Judicial Independence
Presented Courts in Comparative Perspective: The Dynamics of Judicial Independence
- 2015 **THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW**
Reflections on Judicial Independence.
- 2015 **THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW**
Judicial Independence and Beyond

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- 2015 **STANFORD UNIVERSITY, FACULTY OF LAW**
Conference for Junior Researchers
The Evolution of Judicial Institutions: A Comparative Study of Courts in England, Malaysia, and Pakistan
- 2014 **YALE UNIVERSITY, FACULTY OF LAW**
Doctoral Scholarship Conference
Judicial Institutions and Responsibility: A Comparison of Courts in England, Malaysia, and Pakistan
- 2014 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Public Law Conference
Judicial Review: Avoiding Substantive Review through Procedural Reform? (with J. McIntyre).
- 2013 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Moderated 'The State as a Legal Tradition' (HP Glenn).
- 2013 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Centre for Public Law
Judicial Independence in Pakistan
- 2013 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Comparative Law Discussion Group
Comparing the Legal Principle of Judicial Independence: a Pragmatic and Context-Sensitive Approach
- 2012 **UNIVERSITY OF BRITISH COLUMBIA, FACULTY OF LAW**
Graduate Student Conference
The UN Special Rapporteur on Judicial Independence: Implications for the Developing World
- 2011 **UNIVERSITY OF CAMBRIDGE, CLARE HALL**
Research Day
The Legal Principle of Judicial Independence in an Age of Judicial Power
- 2011 **UNIVERSITY OF CAMBRIDGE, CLARE HALL LAW SOCIETY**
Judicial Independence in China: A New Approach to the Role of Courts in Economic Development?
- 2011 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
PhD Seminar
The World Bank and Independent Courts: Challenges and Opportunities

RESEARCH VISITS

- 2020 **NEW YORK UNIVERSITY, SCHOOL OF LAW**
Visiting Scholar
- 2019 **THE AUSTRALIAN NATIONAL UNIVERSITY, COLLEGE OF LAW**
Visiting Scholar
- 2019 **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
Visiting Scholar
- 2019 **VICTORIA UNIVERSITY OF WELLINGTON, FACULTY OF LAW**
Visiting Scholar

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2018	BINGHAM CENTRE FOR THE RULE OF LAW BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW Visiting Fellow
2018	UNIVERSITY OF CAMBRIDGE, CLARE HALL Visiting Researcher
2017	UNIVERSITY OF OTTAWA, FACULTY OF LAW (COMMON LAW SECTION) Visiting Scholar
2015	UNIVERSITY OF CAMBRIDGE, CLARE HALL Visiting Researcher
2012	MAX PLANCK INSTITUTE FOR COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW Visiting Researcher

OTHER PROFESSIONAL WORK

2013-present	CANADIAN JOURNAL OF COMPARATIVE AND CONTEMPORARY LAW Co-Founder and Editor in Chief
2012-present	EXPERT REVIEWER Academic book publishers including Hart and journals including <i>Alberta Law Review</i> , <i>Alternative Law Journal</i> , <i>American Journal of Comparative Law</i> , <i>Cambridge Journal of International Law</i> , <i>Federal Law Review</i> , <i>Melbourne University Law Review</i> , <i>New Brunswick Law Journal</i> , <i>Ottawa Law Review</i> , <i>Queen's Law Journal</i> , <i>UBC Law Review</i> , and the <i>University of New South Wales Law Journal</i>
2020	EXPERT CONSULTANT Advised a foreign government on matters relating to the judiciary.
2018	AMITY UNIVERSITY, AMITY LAW SCHOOL Co-Convener, Comparing and Contrasting the Constitutional Models of India and Australia
2011-12	CAMBRIDGE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW Managing Editor, <i>UK Supreme Court Yearbook</i>
2011-12	UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW Co-Convener, Agents of Change: The Individual as a Participant in the Legal Process
2011-12	SOUTH AFRICAN DEVELOPMENT COMMUNITY TRIBUNAL Consultant
2008-10 2006	OSLER, HOSKIN & HARCOURT LLP (Toronto) Associate Lawyer; Student-at-Law

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CITATIONS AND IMPACT

More than 100 citations in published books, journal articles and book chapters. Cited by the Ontario Superior Court of Justice, the United Nations Special Rapporteur on the Independence of Judges and Lawyers and former Supreme Court of Canada Justice Thomas Cromwell. Research introduced in evidence before a parliamentary committee of the House of Lords, discussed by the Canadian Parliament's Standing Joint Committee for the Scrutiny of Regulations and cited by the Australian Parliament's Senate Standing Committee on Regulations and Ordinances inquiry into delegated legislation.

MEDIA

Interviews with CBC's *The National*, CBC Radio, *Canadian Lawyer*, *Maclean's Magazine*, the *Ottawa Citizen*, the *Georgia Straight*, Radio NL (Kamloops), *The Lawyers Weekly*, *The National Post*, the *Prince George Citizen*, and the *Winnipeg Free Press*.

FUNDING & AWARDS

- | | |
|---------|--|
| 2017-19 | INSIGHT DEVELOPMENT GRANT
Awarded by the Social Sciences and Humanities Research Council of Canada for a comparative study of delegated legislation in Australia, Canada, New Zealand and the United Kingdom: value \$68,000. |
| 2019 | UNIVERSITY OF ADELAIDE, GRANT SUPPORT FUNDING
Awarded by the Faculty of Professions to support an ARC research grant application: value \$1,500. |
| 2019 | UNIVERSITY OF ADELAIDE, PROFESSIONAL DEVELOPMENT GRANT
Awarded by the Faculty of Professions to support a visit to the University of Victoria, Faculty of Law to discuss teaching indigenous law: value \$2,500. |
| 2019 | ADELAIDE LAW SCHOOL, ARC SUPPORT GRANT
Awarded by the Adelaide Law School to support an ARC research grant application: value \$5,000. |
| 2018 | RESEARCH UNIT ON MILITARY LAW & ETHICS
Awarded by the University of Adelaide's Research Unit on Military Law & Ethics to bring guest speaker Dean Jonathan Black-Branche (Manitoba) to Adelaide for a talk and meeting with students: value \$1,000. |
| 2018 | PROFESSIONS AIM FOR THE STARS (INDIGENOUS)
Awarded by the University of Adelaide, Faculty of Professions to bring guest speaker Prof John Borrows (Victoria) to Adelaide for a public talk and meeting with research students: value \$1,000. |
| 2018 | PROFESSIONS RESEARCH ASSISTANCE PROGRAM
Awarded by the University of Adelaide, Faculty of Professions for a preliminary study of comparative research methodologies: value \$4,500. |
| 2014-17 | THOMPSON RIVERS UNIVERSITY
Awarded by the Associate Vice-President of Research and Graduate Studies to support ongoing legal research projects: value \$18,000. |

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2017	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE PRIZE Annual prize as selected by students for teaching excellence in the first year curriculum.
2017	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE PRIZE Annual prize as selected by students for teaching excellence in the upper year curriculum.
2016	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE AWARD Annual prize as selected by students for teaching excellence in the first year curriculum.
2016	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE AWARD Annual prize as selected by students for teaching excellence in the upper year curriculum.
2016	THE FOUNDATION FOR LEGAL RESERCH (CANADA) Awarded to support "The Annotated Guide to the BC Interpretation Act" research project (with C. Hunt and M. Rankin): value \$10,000.
2016	THOMPSON RIVERS UNIVERSITY, INTERNAL RESEARCH AWARD Awarded to support "Parliament's Supervisory Role in Lawmaking by Regulation" legal research project: value: \$5,000.
2016	THOMPSON RIVERS UNIVERSITY, SSHRC ACCELERATOR FUND GRANT Award to support a SSHRC application for "Parliamentary Supervision of Executive Lawmaking: Comparative Perspectives from Canada, the United Kingdom, Australia and New Zealand": value: \$2,500.
2016	THOMPSON RIVERS UNIVERSTY, STUDENT APPRENTICESHIP AWARD Awarded to support "Supervising Executive Lawmaking: A Comparative Study of Canada and the United Kingdom" legal research project: value \$3,000.
2015	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE PRIZE Annual prize as selected by students for teaching excellence in the upper year curriculum.
2015	THOMPSON RIVERS UNIVERSITY, OFFICE OF RESEARCH & GRADUATE STUDIES Awarded to support the publication of the inaugural issue of the <i>Canadian Journal of Comparative and Contemporary Law</i> on "Health Law and Human Rights": value \$5,000.
2015	THOMPSON RIVERS UNIVERSITY, INTERNAL RESEARCH AWARD Awarded to support "Comparing Courts: A Study of Judicial Independence in Context" legal research project: value \$5,000.
2015	THOMPSON RIVERS UNIVERSTY, STUDENT APPRENTICESHIP AWARD Awarded to support "Rethinking the 'Modern Approach' to Statutory Interpretation" legal research project: value \$3,000.
2013	THOMPSON RIVERS UNIVERSITY RESEARCH AWARD Awarded by the Dean of the Faculty of Law: value \$12,000.
2012 2011	MODERN LAW REVIEW SCHOLARSHIP Awarded by the Modern Law Review for doctoral research in law upon recommendation by the Faculty of Law, University of Cambridge: value \$16,500.

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2012	PROFESSOR MIKIKO ISHII BURSARY
2011	Awarded by Clare Hall at the University of Cambridge to a student of outstanding academic merit in the arts or humanities: value \$8,250.
2012	SIR JAMES LOUGHEED AWARD OF DISTINCTION
2011	Awarded by the Alberta Government to a doctoral researcher for academic excellence: value \$40,000.
2011	GRADUATE FELLOWSHIP
2010	Awarded by the Law Foundation of British Columbia for graduate research in law:
2007	value \$44,500.
2007	JOSEPH-ARMAND BOMBARDIER CANADA GRADUATE SCHOLARSHIP
	Awarded by the Social Sciences and Humanities Research Council of Canada for graduate studies in the social sciences and humanities: value \$17,500.
2007	GRADUATE SCHOLARSHIP
	Awarded by the Law Society of British Columbia for graduate legal studies: value \$12,000.
2007	RECRUITMENT EXCELLENCE FELLOWSHIP
	Awarded by McGill University, Faculty of Law: value \$5,000.
2007	FASKEN MARTINEAU DUMOULIN LLP PRIZE
	Awarded for academic excellence in Real Property at the University of Victoria.
2006	DONOVAN AND MARYLA WATERS AWARD
	Awarded for academic excellence in Trusts at the University of Victoria.
2006	PROFESSOR JIM ELLIS MEMORIAL PRIZE
	Awarded for academic excellence in Advanced Taxation at the University of Victoria.
2005	ACHESON & COMPANY PRIZE
	Awarded for academic excellence in Torts at the University of Victoria.
2005	ANNIE CADBY MEMORIAL SCHOLARSHIP
	Awarded for the highest standing in Constitutional Law at the University of Victoria.
2005	BORDEN LADNER GERVAIS LLP FIRST YEAR MEDAL
	Awarded to the student of the first year law class at the University of Victoria who has exhibited the highest qualities of community service, student leadership, and academic excellence over the course of the year.
2005	CANADA LAW BOOK COMPANY PRIZE
	Awarded for the highest standing in Legal Research and Writing at the University of Victoria.
2005	THE PRESIDENT'S SCHOLARSHIP
	Awarded by the University of Victoria to the top three percent of full-time students.
2004	CANADA BAR ASSOCIATION STUDENT AWARD
	Awarded for public service, contributions to the legal community, and the promotion of justice and law reform.

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STUDENT SUPERVISION

Supervised more than 150 student editors as Editor in Chief of the *Canadian Journal of Comparative and Contemporary Law* (with C. Hunt and R. Diab). Supervised numerous research assistants, teaching assistants and higher degree by research students.

AFFILIATIONS

THE AMERICAN SOCIETY OF COMPARATIVE LAW (Elected Associate Member)

AUSTRALASIAN LAW ACADEMICS ASSOCIATION (Member)

BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW (Member)

CLARE HALL, UNIVERSITY OF CAMBRIDGE (Life Member)

COMMONWEALTH ASSOCIATION OF LEGISLATIVE COUNSEL (Associate Member)

LAW SOCIETY OF ONTARIO (Barrister & Solicitor)

THE CANADIAN ASSOCIATION OF COMPARATIVE AND CONTEMPORARY LAW (Founding Director)

THE INTERNATIONAL SOCIETY OF PUBLIC LAW (Member)

THE SOCIETY OF LEGAL SCHOLARS (Member)

MELISSA SERBIN B. Comm. (Honours), J.D.

Cell:
Work:

Highly driven and accountable litigator, skilled in developing case strategies, preparing persuasive briefs, and delivering successful workshops and presentations. Exceptional analytical, problem solving, negotiation, and decision making skills. Outstanding leadership, communication and interpersonal skills for effective teamwork.

PROFESSIONAL EXPERIENCE

Crown Attorney Manitoba Prosecution Service (Winnipeg, Manitoba) July 2009 to Present

- Community Prosecutor (2020 to present)
 - Firearms Working Group (2018 to present)
 - Training and Development Mentor (2016 to present)
 - Educational Presenter (2011 to present)
 - Education Committee (2016 to 2019)
 - Law Day Volunteer (2010 to 2015)
- Over ten years prosecuting criminal and statute offences from beginning to conclusion in the Provincial Court of Manitoba, the Manitoba Court of Queen's Bench and the Manitoba Court of Appeal. Extensive knowledge of the *Criminal Code of Canada*, the *Youth Criminal Justice Act*, Manitoba Provincial Statutes and Regulations and the *Charter of Rights and Freedoms*. Excellent comprehension of legal ethics, criminal law, evidence and criminal procedure. Administered prosecution cases for the General Prosecutions Trial Unit, the Winnipeg Auto Theft Suppression Strategy (WATSS), the Gang Response and Suppression Plan (GRASP), the Youth Prosecutions Unit, and the Intensive Case Assessment Process Unit (ICAP). Participated in circuit work in the regions of Manitoba, as well as project work with Manitoba Public Insurance, the Winnipeg Police Service, and the Royal Canadian Mounted Police.
- Offered assistance to law enforcement agencies and justice system participants by designing, coordinating and delivering presentations and educational workshops. Successfully assisted in the organization of multiple Manitoba Prosecution Service Crown Conferences.

Practicing Professional University of Manitoba, Robson Hall Faculty of Law January 2012 to Present

- **Intensive Criminal Law:** This course develops the skills required to effectively practice criminal law. Students are introduced to the procedural aspects of criminal law from the initial charge through to sentencing. The course also is concerned with the ways in which the values and principles governing criminal law are reflected in these procedures, as well as with the development of negotiation and advocacy skills transferable to all areas of general litigation. (2012 to present)
- **Indigenous People and the Criminal Justice System:** The seminar assists students and lawyers in learning about Indigenous cultures and understanding the interplay between Indigenous legal orders and the Canadian legal system. The class engages in a critical analysis of the relationship between Indigenous accused and the Courts through multiple stages of the justice system. (2020 to present)

Articling Student. Brodsky & Company Barristers (Winnipeg, Manitoba) May 2008 to June 2009
Criminal Law Student May 2006 to Sept 2007

- Conducted trials, bail hearings, sentencing hearings, and remands in the Provincial Courts of Manitoba and Ontario. Assisted in preparing for trials in the Manitoba Court of Queen's Bench. Interviewed and thoroughly prepared clients and witnesses for court. Reviewed and wrote motions, factums, and constitutional challenges. Recognized for work performance, dedication and relationship building abilities.

PROFESSIONAL ENGAGEMENT

➤ Manitoba Prosecution Service Educational Calendar Workshops:

- Created and delivered multiple full day seminars and workshops on judicial interim release, forensic fingerprint evidence, and Indigenous people and the criminal justice system, including Indigenous identity, the Truth and Reconciliation Commission and the principles articulated in *R. v. Gladue* and *R. v. Ipeelee*, to Crown Attorneys ranging in experience from one to thirty years of practice. (2017 to present)

➤ Manitoba Prosecution Service Crown Conferences:

- Designed and delivered lectures to educate Crown Attorneys across Manitoba on various topics including the legal principles in *R. v. Gladue*, *R. v. Ipeelee*, Winnipeg Police Service Air 1 helicopter evidence, and the integrated Winnipeg Auto Theft Suppression Strategy. (2011 to 2018)
- Developed a presentation with the Winnipeg Police Service Centreline program, the Social Planning Council of Winnipeg, and Make Poverty History Manitoba that discussed community-based policing, restorative justice, poverty, income supports and housing programs in Winnipeg. (2017)

➤ University of Manitoba, Faculty of Law:

- Guest lecturer for first year law Legal Methods course. Developed a two-part lecture on Indigenous legal content including Indigenous identity, lawyer-client relationships in Indigenous communities, the impact of colonization, and the legal principles in *R. v. Gladue*, *R. v. Ipeelee* and subsequent Manitoba caselaw. (2020)

➤ Canadian Centre for Professional Legal Education (CPLED):

- Criminal law section Learning Group Facilitator for the Law Society of Manitoba. (2016 to 2019)

➤ Public Prosecution Service of Canada:

- Created and delivered presentations to Federal Crown Counsel on Criminal Code firearms offences, motor vehicle offences and escalating sentence penalties. (2018)

➤ Law Enforcement Workshops:

- Developed and delivered workshops to the Winnipeg Police Service Forensic Identification Unit (officer and civilian members) on trial preparation and expert evidence. (2016 to present)
- Developed and delivered workshops to the Winnipeg Police Service Direct Voice Entry Unit, the Winnipeg Police Service Training Academy Recruit program, the Winnipeg Police Service Station Duty program, and the Winnipeg Police Service General Patrol officers on the role of the Crown, trial preparation, statement taking (youth and adult), identification evidence, search and seizure laws, and disclosure. (2011 to present)
- Developed and delivered a multiday workshop for Winnipeg Police Service Crowd Management Unit on public order and civil disobedience, civil injunctions as they relate to riots, police powers at common law, and police enforcement of injunctions. (2019)
- Created and delivered a workshop for the Firearms Investigative Analysis Section on trial preparation and the presentation of police expert testimony. (2017 to 2018)
- Created moot court workshops for various units in the Winnipeg Police Service. Led a team of Crown Attorneys and defence lawyers in the delivery of these workshops. (2011 to 2018)
- Designed and delivered workshops for the integrated Winnipeg Police Service Stolen Auto Unit, including Probation Services, on the admissibility of youth and adult statements, police officer identification evidence, note taking, uncooperative witnesses, trial preparation, and a variety of Criminal Code Offences. Also detailed the role of the Crown in an integrated unit. (2010 to 2016)
- Designed and delivered a lecture for the Royal Canadian Mounted Police D-Division officers on the role of the Crown and trial preparation. (2011 to 2012)

EDUCATION AND PROFESSIONAL DEVELOPMENT

Juris Doctor Faculty of Law, University of Toronto 2005 to 2008
 Toronto, Ontario

- Associate Editor, Indigenous Law Journal (2005 to 2007)
- Student Affairs Representative, University of Toronto Student Law Society (2006 to 2007)
- Competitive Mooting Team, Callaghan Moot Court Competition (criminal moot) (2006 to 2007)
- Orientation Leader, Student Law Society Orientation Committee (2006 to 2007)
- Panel Chair and Moderator, Canadian International Law Students' Conference (2005 to 2006)
- International Human Rights Program Working Group: Access to Drugs Initiative (2005 to 2006)
- Associate Editor, Journal of International Law and International Relations (2005 to 2006)

Comparative Law Student School of Law, University of Edinburgh 2007 to 2008
 Edinburgh, Scotland, United Kingdom

- Completed the International Comparative Criminal Law Program
- Telders International Law Moot Court Competition: International Air Space and Aviation Law, achieved the Pels Rijcken & Droogleever Fortuyn Award for Best Oral Argumentation (The Hague, Netherlands)
- Edinburgh University Mooting Society: LexisNexis Butterworth's Moot Competition

Bachelor of Commerce I.H. Asper School of Business, University of Manitoba 2001 to 2005
 Honours (with distinction) Winnipeg, Manitoba

- I.H. Asper School of Business Program Gold Medal (2005)
- Double Major in Management of Organizations and Marketing
- Beta Gamma Sigma Honours Society for Scholastic Achievement (Top 5% of Class)
- Arthur Pigott Award (promoting excellence in higher education) (2005)
- Dean's Honour List (2002 to 2005)
- Senate Planning & Priorities Committee, University of Manitoba Student Union Senate (2004 to 2005)
- Associate Director, 2005 Manitoba International Marketing Competition (2004 to 2005)
- Vice President, University of Manitoba Marketing Association (2004 to 2005)
- I.H. Asper School of Business Athletic and Recreation Council (2004 to 2005)
- Ambassador, 2004 Manitoba International Marketing Competition (2003 to 2004)
- Director of Programming, University of Manitoba Marketing Association: (2003 to 2004)
- Manitoba Competitor, World University Debating Championships (2001 to 2002)

Continuing Legal Education

- In-House Education Seminars – Manitoba Prosecution Service, Winnipeg, Manitoba (2009 to present)
- Crown Conferences – Manitoba Prosecution Service, Winnipeg, Manitoba (2009 to present)
- Law Society Workshops and Seminars – Law Society of Manitoba, Winnipeg, Manitoba (2009 to present)
- Forensic Identification Workshops – Winnipeg Police Service, Winnipeg, Manitoba (2016 to present)
- Firearms Training – RCMP & Winnipeg Police Service, Winnipeg, Manitoba (2013, 2015, 2017, 2019, 2020)
- Latent Fingerprint Expert Testimony Workshop – FBI Fingerprint Section, Winnipeg, Manitoba (2016)
- National Criminal Law Program - Federation of Law Societies of Canada, Halifax, Nova Scotia (2014)
- Crown Defence Conferences - Manitoba Crown Defence Committee, Winnipeg, Manitoba (2009 to 2013)
- Gang Expert Training - Winnipeg Police Service, Winnipeg, Manitoba (2013)
- Manitoba Public Insurance Stolen Auto Training – Winnipeg Police Service, Winnipeg, Manitoba (2011, 2012)

PERSONAL STRENGTHS

- Strong interpersonal skills with a demonstrated ability for effective communication.
- Excellent ability to multi-task, to follow through on complex assignments, and to meet high work standards.
- Demonstrated competence in practical thinking, analyzing, prioritizing, problem solving, and decision making.
- Highly developed skills to conceptualize, research, organize, and write detailed briefs, reports, and papers.
- Effective presentation, lecturing, counselling, mentoring, and coaching abilities.
- Managed difficult situations with sensitivity and tact, as well as adhered to personal confidentiality and privacy policies.
- Positive, committed, and adaptable team leader who promotes a collaborative and respectful workplace environment.
- Proven ability to liaise and build relationships with justice system participants and government agencies, as well as with people from diverse cultures and life experiences.
- Perceptive intuition with the ability to council, mediate, negotiate, and resolve conflict.
- Computer experience with Microsoft Word, Excel, Outlook, PowerPoint, and PRISM.

COMMUNITY INVOLVEMENT

- Volunteer, Winnipeg Harvest (2020 to present)
- Recipient, Marian Award (for excellence in advancing the rule of law through advocacy, teaching and commitment to legal education), St. Mary's Academy (2018)
- Co-Organizer, Winnipeg VegFest (2017 to 2019)
- Volunteer Artist and Member, Mentoring Artists for Women's Art Gallery (MAWA) (2017 to 2019)
- Artist, Winnipeg VegFest, University of Winnipeg (2017, 2018)
- Artist, Nuit Blanche Winnipeg (2016 to 2019)
- Board Member, Canadian Friends of Hebrew University, Winnipeg Chapter (2012 to 2016)
- Committee Member, P2G (Partnership2gether), Jewish Federation of Winnipeg (2012 to 2015)
- Committee Member, Canada Israel Hockey School, Jewish Federation (2012)
- Lecturer (High School law classes), Sisler, Oak Park, West Kildonan Collegiate (2011 to 2018)
- Board Member, Women's Legal Education and Action Fund (LEAF) (2011 to 2012)
- Lecturer, Community Legal Education Association (2010 to 2013)
- Volunteer Lawyer/Recruitment Committee, Legal Help Centre (assisted in the early development of the Centre offering access to legal and social services for disadvantaged members of the community) (2010 to 2012)
- Legal Workshop Facilitator (domestic violence), Fort Garry Women's Resource Centre (2009 to 2011)
- Volunteer, Winnipeg Art Gallery (2003 to 2005, 2010)
- Public Speaking and Debating Judge, Manitoba Speech and Debate Association (2000 to 2015)
- Tennis Instructor: River East School Division, Tennis Manitoba (1999 to 2011, 2014, 2015)

PROFESSIONAL ASSOCIATION

Manitoba Association of Crown Attorneys

CURRICULUM VITAE**WENDY J. WHITECLOUD****PERSONAL INFORMATION:**

Home Address: 

Telephone: 

EDUCATION:

Bachelor of Arts: History
University of Calgary
Calgary, Alberta
1977

Bachelor of Law
Queen's University
Kingston, Ontario
1984

EMPLOYMENT HISTORY:**September 1991 to Present**

*Faculty of Law
University Manitoba
Winnipeg, Manitoba
R3T 2N2*

Director - Academic Support Program

Primary responsibility for the management of a program of support for Aboriginal and Special or Individual Consideration students.

A program priority is the provision of various forms of academic support to students.

The Program provides other forms of social support for the students, including employment and articling references.

An integral component of the Program is recruitment of Aboriginal students into the study of law.

Maintain a co-ordination role with regard to admissions and bursary and other forms of funding for students attending the Faculty.

I was also responsible for teaching two upper year seminar courses: Aboriginal Peoples and the law, Aboriginal People and Land Claim and for coaching the National Aboriginal Moot program.

In addition, I have taught first year courses during the last ten years or so- constitutional law, property law and Legal methods/legal writing. (September 2010-2019).

January 2000 – June 2001

**Aboriginal Justice Implementation Commission Manitoba
Co-Commissioner**

The appointment as a Commissioner was on a part time basis. The mandate for the Commission was to review and provide updated recommendations regarding the Aboriginal Justice Inquiry Report tabled in 1991.

As Commissioners, we reviewed and updated the recommendations tabled in the original report. One of the initial recommendations was for the transfer of authority for child and family services to First Nations controlled Child and Family Services Agencies.

A final report was issued by the Commission in June 2001

Various initiatives by the provincial government continue to evolve due in part to the Commission's final report.

March 1991 - September 1991

*Indigenous Law Program
Faculty of Law
University of British Columbia
Vancouver, British Columbia*

Director

As Director, I was responsible for a program of support to the Aboriginal law students in the law school. Support included financial and other social support mechanisms.

April 1988 - October 1990

*Tyendinaga Mohawk Council
Mohawks of the Bay of Quinte
R.R. #1, Deseronto, Ontario*

Chief Executive Officer

As the Chief Executive Officer, I reported to and was responsible for the management and co-ordination of the activities of the Tyendinaga Mohawk Council.

I had direct responsibility for the supervision and management of the activities of 32 staff members.

Responsible for program development with direction provided by Council. Program development included initial consultations with funding agencies, analysis of community needs and documentation to substantiate the Program request. Retained responsibility for the implementation of the Programs and revising criteria as required. As examples, the Council initiated and began its own Child and Family Services; there was a construction training project whereby the Council constructed a major sub-division thereby increasing its housing stock by 60 units; a major addition to the local school was negotiated and built; a library was built and providing service to the community. The Council probably had one of the best housing programs in the country and awarded on average fifty units for construction; part of the CEO's function was to supervise the provision of funds to the homeowners and to constantly monitor the various phases of construction; the Council maintained responsibility for roads and maintenance and were often engaged in construction of new roads and bridges;

Financial management was a critical aspect of my role as Chief Executive Officer and was well versed in reading financial statements and was also responsible for oversight during the annual audit process

October 1987 - March 1988

*Secretary of State
Toronto, Ontario*

**Ontario Regional Office
Co-Ordinator: Native Programs**

As co-ordinator, I was responsible to the Regional Director for the management and administration of Native programs decentralized to the region.

May 1986 - September 1987

*Secretary of State
Hamilton, Ontario.*

Social Development Officer

Maintained the lead role for the management and administration of the Multiculturalism program.

May 1984 - May 1986

*Aboriginal Women's Program
Ottawa, Ontario.*

Co-Ordinator

As co-ordinator of the program, I was responsible to the Chief of Program Support and the Director of the Native Citizen's Directorate for the management and administration of the program.

September 1981 - 1984

Attended law school and was assigned special projects during each summer.

February 1978 - 1981

*Aboriginal Women's Program
Native Social and Cultural Development Program
Ottawa, Ontario.*

- Maintained program responsibilities for both programs.

COMMUNITY INVOLVEMENT:

Chairperson- 2007 to the present: Southern Authority for Southern First Nations Child and Family Agencies of Manitoba. I have been a board member since 2003. The Authority is the oversight organization for the child and family agencies in Southern Manitoba.

Manitoba Legal Aid Society Board Member: 2001- board member, Vice Chairperson since 2005 and Chair for the Program and Policy Committee .

Winnipeg Inner City Mission- Presbyterian Church- board member 2003-2010

First Nations Statistical Institute; appointed December, 2010 – Board Member for the national statistical institute which has the mandate for the provision of relevant statistics for First Nations communities and institutions. Appointment term: 2 years.

My community involvement includes the critical task of overseeing the financial health of the various organizations. The Authority oversees funding in the millions of dollars for the agencies inclusive of operational issues.

APPENDIX C

The Rights, Roles and Responsibilities of a Senator:

**Building Cultural Competence and Social Literacy for Reflection and Renewal
Regarding Race Relations with Indigenous Peoples**

**An Educational Program
for The Hon. Senator Lynn Beyak**

by Dr. Jonathan L. Black-Branch

An Educational Program for Hon. Senator Lynn Beyak**Note**

This document is confidential until the program is delivered to Senator Beyak and it is made public by the Senate Standing Committee on Ethics and Conflict of Interest for Senators.

Background

This Educational Program, entitled: *The Rights, Roles and Responsibilities of a Senator: Building Cultural Competence and Social Literacy for Reflection and Renewal Regarding Race Relations with Indigenous Peoples*, has been developed and designed specifically for the Honourable Senator Lynn Beyak (Non-Affiliated Senator of Ontario) as requested by the Senate Ethics Officer, Me Pierre Legault.

Deliverables

To develop and deliver an Educational Program specifically for Senator Beyak related to her role and responsibilities as a Senator, with a focus on racism against Indigenous peoples in Canada and the particular responsibility of legislators in this regard, as well as how this relates to her past actions.

To provide a written and objective evaluation of Senator Beyak's performance and attendance in the educational program to the Senate Ethics Officer within 10 calendar days of the program's completion.

To provide an assessment of whether Senator Beyak has

- (a) successfully completed the course;
- (b) learned and was willing to learn; and
- (c) understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

Educational Program, Methodology and Delivery

The Educational Program consists of a series of interactive seminar-workshop modules. The program will be delivered over 3 full days, consisting of 1, 2 or 3-hour blocks, under various sessions per day; it will be followed by an interactive, participatory review and final assessment session on the fourth day (3 hours in total). The program is offered to Senator Beyak on an individual basis. It is designed to provide a focused learning experience allowing for the flow of information with her full engagement and open participation. This is to be achieved individually with no other participants or observers present as the main objective is to establish an educational setting conducive to learning which is not impeded by others so as to create a responsive teaching-learning environment which encourages an open exchange and the exploration of the information, concepts and ideas presented and discussed. The program is not to be recorded, documented or reproduced in any form or format, including electronically or otherwise in order to foster open learning that is not impeded or contrived.

Educational Team

The Educational Program will be delivered through a series of interactive seminar-workshop modules delivered by Dr. Black-Branch and associates, as follows:

Dr. Jonathan Black-Branch, Dean of Law, Professor, Faculty of Law, University of Manitoba.
Elder Norman Meade, Elder in Residence, University of Manitoba.

Wendy Whitecloud, Director of the Academic Support (Indigenous) Program, and Retired Senior Instructor, Faculty of Law, University of Manitoba.

Dr. Cary Miller, Head of Native Studies, Department of Native Studies, University of Manitoba
Melissa Serbin, Senior Crown Attorney, Manitoba Prosecutions Service and Sessional Lecturer, Faculty of Law, University of Manitoba.

Dr. Bruce Curran, Associate Dean (Academic), Faculty of Law, University of Manitoba.

Dr. Lorne Neudorf, Deputy Dean, Faculty of Law, University of Adelaide and Adjunct Professor, Faculty of Law, University of Manitoba.

Instructors' Biographies and Background Information**Dr. Jonathan Black-Branch**

Dr. Jonathan Black-Branch is Dean of Law, Faculty of Law, University of Manitoba; and a Bencher of the Law Society of Manitoba sitting on the Equity Committee and the Access to Justice Committee. He is a lawyer in Manitoba and a Barrister in England and Wales where he is also a Justice of the Peace and has previously sat as a Magistrate on a part-time basis. He has a doctorate in Law from the University of Oxford and also has a Ph.D. from the University of Toronto completing a thesis on the influence of the Canadian Charter of Rights and Freedoms on the Administration of Education in Canada. Dr. Black-Branch previously taught school in Northern Manitoba and inner-city Toronto where he saw first-hand issues regarding race and community relations. In his work as Dean at the University of Manitoba, he has fostered Indigenous community outreach. He convenes a special Dean's Committee on TRC Call to Action examining Indigenous scholarship and achievement to implement CTA #28 focusing on curriculum and the learning environment. He initiated the introduction of Gladue training for law students as well as a special program in Manitoba to train lawyers and judges how Indigenous history and culture affect the criminal justice system. As well, this year he hosted the Kawaskimhon National Aboriginal Moot. He has written on Indigenous topics and has provided human rights training on discrimination and substantive equality to numerous individuals, groups and organizations as well as professional development training. He has organized or co-organized various conferences, including most recently: "Reimagining Justice: Trust, Truths and Transformation(s)" (2018); and an Indigenous Law Program "Tebwetibajimowin - To Tell the Truth" (2018).

Elder Norman Meade

Elder Meade is an Elder-in-Residence and a Pastor who provides cultural and spiritual guidance to students and staff of the University of Manitoba, based in Migizii Agamik – Bald Eagle Lodge at the Fort Garry Campus. Elder Meade was born in Bissett, Manitoba, but grew up in the Metis settlement of Manigotagan. In the early 1960's, Norman was hired at the gold mine in Bissett where he worked as a labourer and eventually became a full-fledged miner. Elder Meade worked for the Wanipigow Producer's Co-op in Manigotagan for five years, first as one of the pulp wood

cutters and then later as the manager. In the mid 1970's, Elder Meade was hired by the Manitoba provincial government where he would spend a total of 26 years working in various positions including: employment consultant, local development officer, co-op development officer, and consumer services officer. He also spent four years with the Northern Association of Community Councils as a field worker and later as the Executive Director. He also worked for the Manitoba Metis Federation for two years as a Metis Services Officer. In his later years, he continues to be active in the community serving as an Elder and a Pastor. He serves on various boards in the city of Winnipeg. He is also an avid curler and is the founder of the Aboriginal Curling League of Winnipeg.

Dr. Cary Miller

Head of Native Studies, Associate Professor, Department of Native Studies, University of Manitoba. Dr. Miller is Anishinaabe and descends from St. Croix and Leech Lake communities. She has conducted workshops on a range of Indigenous Cultural Competency Training and Indigenous race relations issues and topics including: Equity, Diversity, and Inclusion, Indigenous Women, Legal Foundations of Colonialism in the Americas, Fragility and Privilege, as well as White Fragility. From 2013 she was the Director of American Indian Studies at the University of Wisconsin-Milwaukee and since 2010 has been Associate Professor in the Department of History at the University of Wisconsin-Milwaukee (starting there in 2002). Her book *Ogimag: Anishinaabeg leadership 1760-1845* was published with the University of Nebraska Press in 2010 and she previously has published in books such as *Centering Anishinaabeg Studies: Understanding the World through Stories* and the *Encyclopedia of United States Indian Policy and Law*. Her research is in Anishinaabe leadership in the early 19th century, Anishinaabe women's history, Treaties and sovereignty, Wisconsin Indian History, and Cultures of the Great Lakes Region.

Dr. Lorne Neudorf

Professor Neudorf (JD (Vic), LLM (McGill), PhD (Cambridge)), is an Adjunct Professor of Law at Robson Hall, Faculty of Law at the University of Manitoba. His current research focuses on questions relating to the lawmaking process, and is funded by the Social Sciences and Humanities Research Council. He has published more than 40 books, edited collections, journal articles and reviews on a variety of topics including administrative law, constitutional law and the institutions of government. He has presented his work at leading law schools including those at Cambridge, Oxford, Yale, Stanford, the National University of Singapore, Hong Kong University, New York University and Humboldt University. He has made submissions to a number of parliamentary inquiries and has advised both governments and international tribunals. In 2017, Lorne was appointed as Deputy Dean of Adelaide Law School in Australia.

Melissa Serbin

Melissa Serbin is a Crown Attorney with the Manitoba Prosecution Service. She focuses on criminal law and has represented the Crown at all levels of court in Manitoba. She has a Bachelor of Commerce Honours degree from the University of Manitoba, I.H. Asper School of Business and a Juris Doctor from the University of Toronto, Faculty of Law. She also completed a comparative criminal law program at the University of Edinburgh, School of Law. Throughout her career as a Prosecutor, Melissa has lectured extensively and has created a multitude of workshops and seminars for the Manitoba Prosecution Service, the Winnipeg Police Service, the

Royal Canadian Mounted Police, the Public Prosecution Service of Canada, Manitoba Corrections, and other justice system participants. Melissa is a sessional instructor for the University of Manitoba, Faculty of Law's Intensive Criminal Law course and has developed a seminar for lawyers and students focusing on Indigenous people and the criminal justice system.

Dr. Bruce Curran

Professor Bruce Curran is the Associate Dean Academic at the Faculty of Law, University of Manitoba, where he has been instrumental in facilitating a number of indigenous initiatives, including orientation events for law students in indigenous legal traditions and aboriginal treaty law, and assisting with the development and approval of two new courses involving indigenous legal issues. In addition to his teaching there, he has also taught at Osgoode Hall Law School, the University of Toronto, and at the Legal Studies program at the University of Ontario Institute of Technology. He has won numerous awards for his teaching, and has taught a wide range of courses, including those dealing with trust & fiduciary relationships, contracts, labour & employment law, and negotiation. Professor Curran's research focuses on labour & employment law and dispute resolution, and emphasizes the use of empirical methods to better understand issues in these areas. He has published a number of articles in prominent peer-reviewed law and human resource journals, including one on damages for employer bad faith. In 2015, he completed his doctorate at the University of Toronto's Centre for Industrial Relations and Human Resources. Before commencing his doctorate, he practised employment law for 10 years, and earned a Master of Laws from Osgoode Hall Law School, and a Master of Industrial Relations and Human Resources (MIRHR) from the University of Toronto.

Wendy Whitecloud

Indigenous Liaison Officer, Faculty of Law University of Manitoba, Retired Senior Instructor and Director of the Indigenous Academic Support Program.

Originally from Sioux Valley, a Dakota community in southern Manitoba, her work focuses on issues related to Aboriginal Law and its effect on First Nations, Metis and Inuit peoples and their lives in Canada. She serves with a number of Aboriginal and non-Aboriginal community service organizations that address issues related to justice, women, and children. Having studied Law at Queen's University, she taught Aboriginal Law for over two decades and has served as a commissioner for the Aboriginal Justice Implementation Commission which issued its report in June 2001 (a follow up to the Aboriginal Justice Inquiry Report of 1991). Professor Whitecloud serves on a number of Aboriginal and non-Aboriginal community service organizations which seek to address issues related to justice, women and children and is a past board member with the Elizabeth Fry Society and Acting Chair for the Winnipeg First Nations Local Area Management Board, devoted to providing employment training for First Nations people. Professor Whitecloud teaches on the Indigenous Law Centre's Summer Program in Property and Customary Law at the University of Saskatchewan.

Educational Program Objectives

The purpose of this Educational Program is to deliver knowledge, develop skills and advance understandings and reflective practice relating to the rights, roles and responsibilities of a senator and to build cultural competence and social literacy regarding race relations with Indigenous peoples in Canada. Emphasis is given to the unique responsibilities of serving as a Senator and the need to uphold the dignity, honour and integrity of the office and of Parliament. It focuses on

the foundations of Colonialism, exploring the history and experience of Indigenous peoples and the historical legacies including residential schools, exploring various historical, cultural, legal, social and political perspectives pertaining to race relations with Indigenous peoples.¹

A particular focus is to build cultural literacy by developing awareness of race relations in Canada and its relationship with Indigenous peoples and communities, understanding social and political relations with Indigenous Peoples and interactions. It is to build Indigenous cultural competency regarding the foundations of Canada and the lingering legacy today.

Key Concepts, Aims, Objectives and Learning Outcomes:

Building Knowledge, Understanding and Skills for Reflective Practice

The purpose of this Educational Program is to build on Senator Beyak's existing knowledge and to develop further information and key concepts relating to her role as a Senator, particularly as it relates to race relations with Indigenous peoples. Aside from knowledge acquisition, an emphasis will be on skills development with the view to stimulating reflective practice. In particular, the interactive sessions will incrementally build on imparting knowledge while enhancing skills development for reflective practice, relating to key understandings, attitudes, behaviours and thinking patterns with the view to attitudinal reflection and practice-development. While some of the various aims and objectives are knowledge-orientated, others are skill-based and some are attitudinal in focus. Some cover content and information; others are more skills-focused to develop frameworks to build understanding; others promote and foster personal reflection and personal growth.

Educational Program Overview*

Welcome, Introduction and Program Overview Dr. Jonathan Black-Branch
Legal, Constitutional and Institutional Developments: In Search of Reconciliation Melissa Serbin with Dr. Jonathan Black-Branch
Historical Context of Crown Indigenous Relations in Canada Dr. Cary Miller with Dr. Jonathan Black-Branch
Racism, Indigenous Social Literacy and Indigenous Race Relations in Canada Dr. Cary Miller with Dr. Jonathan Black-Branch
Legal, Political and Constitutional Considerations: The Indian Act, the Constitution, Residential Schools and Indigenous Peoples Wendy Whitecloud with Dr. Jonathan Black-Branch
Dignity, Honour and Integrity: The Responsibilities of Serving as a Senator Dr. Lorne Neudorf with Dr. Jonathan Black-Branch

¹ Note: references to ethics codes and guidelines, legislation and jurisprudence will be included where appropriate and useful.

Duty of Government and Legislators Towards Indigenous Peoples
Dr. Bruce Curran with Dr. Jonathan Black-Branch
Personal Experiences of an Elder: Growing up as a Métis-Indian in Manigotagan and overcoming Racism
Elder Norman Meade with Dr. Jonathan Black-Branch
Personal Experiences of an Elder: Truth, Reconciliation, Hurt and Healing
Elder Norman Meade with Dr. Jonathan Black-Branch
Hurt and Harm in Relation to the Senator's Personal Conduct
Dr. Jonathan Black-Branch

* Please note that these are the main areas of focus but may not be exhaustive. Some points may be explored in more depth or detail than others, delivered in a different sequence, or presented in outline only as per this overview. Some topics may be explored in various sessions. The program is subject to changes and modifications as deemed relevant, necessary or appropriate.

In particular, the Educational Program seeks to accomplish the following objectives under the following categories:

Legal, Constitutional and Institutional Developments: In Search of Reconciliation

- Examine the discriminatory objectives of the Indian Act, 1876 and its lingering legacies.
- Develop understandings of racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations.
- Explore the importance of the role of the Truth and Reconciliation Commission and its Final Report and its significance for Indigenous peoples and Canada.
- Analyze the Calls to Action of the Truth and Reconciliation Commission of Canada and their value for Indigenous peoples and Canadian society moving forward.
- Assess the concept of cultural oppression imposed by the Residential School System.
- Examine the need for the Commission on Missing and Murdered Indigenous Girls and Women MMIGW.
- Examine legal barriers for Indigenous peoples.
- To examine the relevance of the case of *Ipeelee* where the Supreme Court reminded trial judges: "To the extent that current sentencing practices do not further these objectives, those practices must change so as to meet the needs of Aboriginal offenders and their communities." (para. 66-67).
- To explore the significance of the case of *Gladue* within criminal justice which is about finding a different approach to sentencing Indigenous offenders whereby it is not just about an offender's "Indigenousness" amounting to a mitigating factor on the length of sentence.
- Discuss the legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law such as the Indian Act 1876, and Aboriginal-Crown relations.

- Understand and appreciate the conclusions and recommendations in the Final Report of the Truth and Reconciliation Commission of Canada (2015) with 94 calls to action to for reconciliation with Indigenous peoples.

Historical Context of Crown Indigenous Relations in Canada

- Examine the political and legal foundations of Colonialism.
- Explore the intersection of race and Colonialism.
- Discuss how racism is a deeply embedded historical system of institutional power.
- Discuss the history of Indigenous peoples.
- Build understanding of Indigenous culture, and social, relations with Indigenous peoples.
- Explore historic political relations with Indigenous peoples.
- Examine Canada's Residential Schools.
- Explore some of the legacies of Canada's Residential Schools and its impact on Indigenous peoples and communities.

Racism, Indigenous Social Literacy and Indigenous Race Relations in Canada

- Discuss the broader need for inter-cultural competency and anti-racism.
- Explore the concept of Settler-Colonial Privilege.
- Examine the intersection of race, Colonialism and institutional power.
- Develop Indigenous awareness and race relations with Indigenous peoples and their communities.
- Develop Indigenous cultural competency relating to Indigenous race relations issues, including equity, diversity and inclusion.
- Assess the need for a deeper understanding and more meaningful inclusion of the Indigenous Peoples of Canada, across all sectors and regions.
- Develop cultural competency and awareness, exploring the history and legacy of history such as from residential schools.

Legal, Political and Constitutional Considerations: The Indian Act, the Constitution, Residential Schools and Indigenous Peoples

- Examine the discriminatory objectives of the Indian Act, 1876 and its lingering legacies.
- Assess the concept of cultural oppression imposed by the Residential School System.
- Examine the unique rights guaranteed under Section 35 of the Constitution Act, 1982 that recognizes and affirms the existing Aboriginal and treaty rights of Indigenous peoples.
- Explore how Section 35 rights are protected under "the doctrine of the duty to consult" and, where appropriate, to accommodate Indigenous groups, as developed by Canadian courts.
- Explore the concept of land and landownership.
- Critically analyze the role of law, legal powers and political institutions regarding Indigenous history and their relationship with the Crown and Canadians today.

Dignity, Honour and Integrity: The Responsibilities of Serving as a Senator

- Evaluate the essential constitutional role played by a Senator in conducting legislative review.
- Explore how Senators hold a duty to promote such core principles and values of our democratic system, especially given the Senate's traditional role in acting on behalf of groups under-represented in the House of Commons, whereby the Supreme Court of Canada has noted in *Reference re Senate Reform, 2014*: "Over time, the Senate also came to represent various groups that were under-represented in the House of Commons. It served as a forum for ethnic, gender, religious, linguistic, and Aboriginal groups that did not always have a meaningful opportunity to present their views through the popular democratic process." (at 16).
- Discuss that Senators hold a unique public office that requires them as parliamentarians to confront racism without reservation and to ensure the integrity of the institution.
- Examine how the Senate as a House of Parliament must defend the principle that all persons are equal in law and in dignity whereby the suitability of a senator to remain a member is linked to the recognition and respect of this principle.
- Discuss how the Ethics and Conflict of Interest Code for Senators constitutes an exercise of the Senate's parliamentary privilege to govern its internal affairs including to discipline its members, of which both privileges are inherent to the Senate as a legislative and deliberative body that have been explicitly conferred on the Senate pursuant to Section 18 of the *Constitution Act, 1867* and Section 4 of the *Parliament of Canada Act*.
- Develop and appreciation of the privilege of serving Canadians as a Senator to represent regional and minority views, with an emphasis on Indigenous peoples and their relationship to Canada as a nation.
- Explore the weight of responsibilities that flow from holding public office.
- Assess the role of trust from law-makers.
- Evaluate the unique role of an appointed Senator as compared to an elected legislator.
- Examine responsibilities that are inherent to the position of Senator, including:
 - Expectations of the highest standards of conduct as a role model to maintain public confidence and trust;
 - Communicating and engaging in public debates, while seeking to genuinely understand and respect the views of others;
 - Carrying out senatorial duties with diligence and in the public interest; and,
 - Promoting constitutional legal requirements, values and goals, including equality and freedom from unlawful discrimination.
- Consider senatorial responsibilities and to maintain the dignity, honour and integrity of Parliament, the Senate and the position of Senator, individually and collectively.
- Explore the concept of free speech balanced against responsible speech.

Duty of Government and Legislators Towards Indigenous Peoples

- Explore some of the duties that the Federal Government and its legislators have towards Indigenous peoples.

- Examine the extent to which the Federal Government has fiduciary duties in relation to Indigenous peoples.
- Review the case of *Guerin v. The Queen*, wherein the Supreme Court of Canada established the principle that the Crown is obliged to deal with land surrendered by Indigenous people in their best interests.
- Discuss the concept of the “honour of the Crown”
 - When the government contemplates conduct that might adversely affect Aboriginal or treaty rights, the honour of the Crown gives rise to a duty to consult and accommodate.
- Examine the 2018 SCC case of *Mikisew Cree First Nation v. Canada*, and its implications for legislators’ duties to consider the impact of bills on Indigenous peoples.
- Discuss that the Supreme Court in *Reference re Secession of Quebec, 1998*, has underscored that the protection of minority rights is one of the essential constitutional principles that inspire our whole structure of government, stating: “We emphasize that the protection of minority rights is itself an independent principle underlying our constitutional order. The principle is clearly reflected in the Charter’s provisions for the protection of minority rights.” (at 80).

Personal Experiences of an Elder: Growing up as a Métis-Indian in Manigotagan and overcoming Racism

- Explore the personal experiences of an Elder, growing up as a Métis-Indian in Manigotagan.
- Reflect on the impact of a racist community on the Elder.
- Discover the Elder’s journey to live with racism and his plight to overcome it.
- Explore select Indigenous teachings to build understanding.
- Draw on Indigenous teachings to inspire reflection towards renewal.

Personal Experiences of an Elder: Truth, Reconciliation, Hurt and Healing

- Explore the concepts of truth, reconciliation, hurt and healing.
- Examine the position of Indigenous peoples and their social and cultural concerns.
- Raise awareness, recognition and understanding of the reality of racism towards Indigenous peoples in Canada.
- Discuss Indigenous teachings towards healing and renewal.

Hurt and Harm in Relation to the Senator’s Personal Conduct

- Explore truth, reconciliation, hurt and healing.
- Explore the hurt and harm experienced by the Senator’s individual conduct.
- Reflect on the contextual comprehension of the Senator’s conduct and why it was unbecoming of a senator and the Senate.
- Reflect on the privilege of serving in Canada’s Upper House and the obligations of senators to defend the principles of the Constitution and to uphold the values of the Charter of Rights and Freedoms.

- Understand a senator's obligations under the Ethics and Conflict of Interest Code for Senators -in the course of such service and particularly under paragraph 47(2)(b) of the Code and especially how Senator Beyak has acted.
- Evaluate the rights, obligations, and responsibilities including limitations, as a senator and to foster an understanding of the institution in relation to its ethics regime.
- Discuss constitutional responsibilities, representing minority interests and how racism of any kind is incompatible with senators' roles and responsibilities.
- Discuss the privilege of serving in the Senate.
- Examine that there is no place for racism within the institutions of Parliament.
- Evaluate how actions, attitudes and inactions can cast doubt on the integrity of the Senate and how this is to the detriment to the Senate as an institution, to all senators, and to all Canadians.
- Reflect why Canadians need to have confidence in their democratic institutions and those who serve in them.

Delivery Schedule, Participation and Successful Completion

The Educational Program will be delivered during the week of May 18-22, 2020 with specific details of the complete schedule and delivery framework to be confirmed.

Full Attendance is compulsory. Senator Beyak must complete any pre-assigned readings as well as exercises. The Educational Program is to be conducted in the form of inter-active sessions and the Senator's full and active participation is required where her personal performance will be monitored and assessed throughout.

While it would be preferable to deliver the Educational Program to Senator Beyak in person, due to the COVID-19 pandemic, it will be delivered to the Senator by interactive video link, with both visual and audio participation features as mandatory. Again, the program is offered to Senator Beyak individually, with no other participants or observers present or for it to be recorded or streamed in any fashion. No part, segment or portion of the program is to be recorded, documented or reproduced in any form or format whatsoever, including electronically, digitally, written, by shorthand, notes or otherwise. Notwithstanding any final assessment or report, information or evidence that Senator Beyak acted contrary to these requirements will be deemed as her having acted contrary to her expected performance and attendance requirements in the educational program and her having successfully completed the course with a willingness to learn and to understand her responsibilities as a Senator.

Day 1	Day 2	Day 3	Day 4
May 19, 2020.	May 20, 2020.	May 21, 2020.	May 22, 2020.
Schedule to follow.	Schedule to follow.	Schedule to follow.	Schedule to follow.

Select References, Cases and Readings

Indian Act, 1876.

<http://nctr.ca/assets/reports/Historical%20Reports/1876%20Indian%20Act.pdf>

National Inquiry Into Missing And Murdered Indigenous Women And Girls: Executive Summary Of The Final Report

https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf

Truth and Reconciliation Commission of Canada: Calls to Action

http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf

Mikisew Cree First Nation v. Canada (Governor General in Council)

<https://www.scc-csc.ca/case-dossier/cb/37441-eng.aspx>

Reference re Secession of Quebec, 1998 2 S.C.R. 217.

Reference re Senate Reform, 2014 SCC 32.

R. v. Gladue, [1999] 1 SCR 688.

R. v. Ipeelee, [2012] 1 SCR 433.

See Also:

Honouring the Truth, Reconciling for the Future Summary of the Final Report of the Truth and Reconciliation Commission of Canada 2015

http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf

Canada's Residential Schools: The History: See Volumes 1 to 6.

http://nctr.ca/assets/reports/Final%20Reports/Volume_1_History_Part_1_English_Web.pdf

The Role of the RCMP During the Indian Residential School System 2011

<http://nctr.ca/assets/reports/Modern%20Reports/RCMP-role-in-residential-school-system-Oct-4-2011.pdf>

What We Have Learned - Principles of Truth and Reconciliation 2015

http://nctr.ca/assets/reports/Final%20Reports/Principles_English_Web.pdf

The Survivors Speak - A Report of the Truth and Reconciliation Commission of Canada. 2015

http://nctr.ca/assets/reports/Final%20Reports/Survivors_Speak_English_Web.pdf

APPENDIX D

The Rights, Roles and Responsibilities of a Senator:

**Building Cultural Competence and Social Literacy for Reflection and Renewal
Regarding Race Relations with Indigenous Peoples**

Educational Program Schedule*

Day 1	Day 2	Day 3	Day 4
Tuesday May 19, 2020.	Wednesday May 20, 2020.	Thursday May 21, 2020.	Friday May 22, 2020.
9:00 - 5:00	9:00 - 5:00	9:00 - 5:00	9:00 - 12:00
Session 1 Introduction and Program Overview 9:00 -10:00 am Dr. Jonathan Black-Branch (1 hour)	Session 4 9:00 am -12:00 Dr. Cary Miller with Dr. Jonathan Black-Branch (3 hours)	Session 7 9:00 am -12:00 Dr. Lorne Neudorf with Dr. Jonathan Black-Branch (3 hours)	Session 10 9:00 am -12:00 (3 hours) Dr. Jonathan Black-Branch
Session 2 10:00 am -1:00 pm Dr. Cary Miller with Dr. Jonathan Black-Branch (3 hours)	Session 5 1:00 - 3:00 pm Wendy Whitecloud with Dr. Jonathan Black-Branch (2 hours)	Session 8 1:00 - 3:00 Dr. Bruce Curran with Dr. Jonathan Black-Branch	
Session 3 3:00 - 5:00 pm Melissa Serbin with Dr. Black-Branch (3 hours)	Session 6 3:00 - 5:00 pm Elder Norman Meade with Dr. Black-Branch (2 hours)	Session 9 3:00 - 5:00 pm Elder Norman Meade with Dr. Black-Branch (2 hours)	

* Please note that the schedule is subject to changes as deemed appropriate.

APPENDIX E

May 2020.

Me Pierre Legault
Senate Ethics Officer
Senate of Canada

RE: Assessment Report - Educational Program for Senator Lynn Beyak -
The Rights, Roles and Responsibilities of a Senator: Building Cultural Competence and Social Literacy for Reflection and Renewal Regarding Race Relations with Indigenous Peoples

Dear Me Pierre Legault,

I write to submit the Assessment Report regarding the Educational Program developed for and delivered to Senator Beyak, as requested and approved by your office in response to Recommendation 2 of the Senate Standing Committee on Ethics and Conflict of Interest for Senators of January 31, 2020.

I would be happy to provide any additional information regarding the Educational Program and its delivery to Senator Beyak.

Respectfully Submitted,



Dr. Jonathan L. Black-Branch

Assessment Report
- Educational Program for Senator Lynn Beyak -

The Rights, Roles and Responsibilities of a Senator: Building Cultural Competence and Social Literacy for Reflection and Renewal Regarding Race Relations with Indigenous Peoples

Background and Objective

This Report is in response to Recommendation 2 of the Senate Standing Committee on Ethics and Conflict of Interest for Senators of January 31, 2020 (at page 11). I was asked to develop and deliver an Educational Program, designed specifically for Senator Beyak related to racism, with a focus on racism against Indigenous peoples in Canada and the particular responsibility of legislators in this regard, as well as how this relates to her past actions, which was sent to and approved by the Senate Ethics Officer.

Following the delivery of the Program, I am to provide an independent written and objective evaluation of Senator Beyak's performance and attendance in the Educational Program to the Senate Ethics Officer within 10 calendar days of the program's completion.

This report is to include an assessment of whether Senator Beyak:

- (a) successfully completed the course;
- (b) learned and was willing to learn; and
- (c) understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

Educational Program

The Educational Program developed is entitled: *The Rights, Roles and Responsibilities of a Senator: Building Cultural Competence and Social Literacy for Reflection and Renewal Regarding Race Relations with Indigenous Peoples*.

It has been designed specifically for the Honourable Senator Lynn Beyak (Non-Affiliated Senator of Ontario) as requested and approved by the Senate Ethics Officer, Me Pierre Legault.

Methodology and Delivery

The Educational Program consisted of a series of 10 sessions in total. The first session, served as an introductory session followed by 8 substantive sessions focusing on a combination of knowledge content as well as skills-building exercises. Two sessions were specifically dedicated to developing reflective practice regarding race relations with Indigenous peoples involving the participation of an Elder and applying the information explored throughout the sessions to Senator Beyak's role as a senator and her past actions. Sessions were interactive in nature

delivered as seminar-workshop modules, conducted over 3 full days (with 7 dedicated teaching contact hours per day). Each session was designed to be interactive and participatory in nature. The Educational Program concluded with a review and final assessment session on the fourth day examining key learning points, understandings and reflections from the information and content explored throughout the course of the Program (three hours in length).

The program was offered to Senator Beyak on an individual basis and was designed to provide a focused learning experience allowing for the flow of information with her full engagement and open participation with no other participants or observers present in order to establish an educational setting conducive to learning within a responsive teaching-learning environment that encouraged an open exchange and the exploration of the information, concepts and ideas presented and discussed. Due to the COVID-19 pandemic, the program was delivered through an on-line interactive video platform using both visual and audio participation features.

Educational Team

The Educational Program was delivered through a series of interactive seminar-workshop modules designed and delivered by Dr. Black-Branche and instructors, as follows:

Dr. Jonathan Black-Branche, Dean of Law, Professor, Faculty of Law, University of Manitoba.
Elder Norman Meade, Elder in Residence, University of Manitoba.

Ms. Wendy Whitecloud, Director of the Academic Support (Indigenous) Program, and Retired Senior Instructor, Faculty of Law, University of Manitoba.

Dr. Cary Miller, Head of Native Studies, Department of Native Studies, University of Manitoba.

Ms. Melissa Serbin, Senior Crown Attorney, Manitoba Prosecutions Service and Sessional Lecturer, Faculty of Law, University of Manitoba.

Dr. Bruce Curran, Associate Dean (Academic), Faculty of Law, University of Manitoba.

Dr. Lorne Neudorf, Deputy Dean, Faculty of Law, University of Adelaide and Adjunct Professor, Faculty of Law, University of Manitoba.

Educational Program Overview:

Building Knowledge, Understanding and Skills for Reflective Practice

The purpose of the Educational Program was to deliver knowledge, develop skills and advance understandings and reflective practice relating to the rights, roles and responsibilities of a senator and to build cultural competence and social literacy regarding race relations and their historical context with Indigenous peoples in Canada. Emphasis was given to the unique responsibilities of serving as a senator and the need to uphold the dignity, honour and integrity of the office and of Parliament. Sessions focused on the foundations of Colonialism, exploring the history and experience of Indigenous peoples and the historical legacies including Residential Schools, exploring various historical, cultural, legal, social and political perspectives pertaining to race relations with Indigenous peoples. References to ethics codes and guidelines, legislation and jurisprudence were included where appropriate and useful, as were reports, historical accounts and academic literature in relevant areas.

A particular focus was to build cultural literacy by developing awareness of race relations in Canada and its relationship with Indigenous peoples and communities for understanding social and political relations with Indigenous Peoples and interactions. It was to build Indigenous

cultural competency regarding the historical foundations of Canada and that legacy today. It sought to foster broader legal knowledge and deeper understandings of constitutional principles and obligations pertaining to Indigenous concerns within the broader Canadian legal, social and political context.

The main purpose of the Educational Program was to build knowledge content, create awareness and to develop understandings as well as to building skills for reflective practice for Senator Beyak. The key concepts, main aims, and specific objectives and learning outcomes are laid out below for each of the various sessions.

Overview and Assessment

Session 1: Welcome, Introduction and Program Overview

Dr. Jonathan Black-Branch (Day 1: 1 Hour)

The purpose of the first session was to provide an introduction to the Educational Program. It gave a general overview of the content and key learning objectives of the overall program as well as the expectations for attendance, participation and engagement, including the intended learning objectives and outcomes.

Senator Beyak was asked what she wanted to achieve from the Program. Together, we explored the Senator's learning needs and what would be most beneficial to her progress in relation to these matters. She was encouraged to suggest other related subjects or key learning objectives that might assist her, including additional information-sets or learning needs that were not addressed that would be helpful for her in relation to her past actions. The session provided an introduction to the materials discussing their importance and relevance to her role as a Senator and her actions.

Senator Beyak expressed her interest in the content and that she could see how it would be beneficial to her learning. She stated how impressed she was with the overall Educational Program as a package and that she was very much looking forward to the various sessions and the discussions. She said she thought the program was appropriate as it stood and that she could not think of anything that could be added to the program, but she was encouraged to do so as the program progressed. It was explained to Senator Beyak how the assessment would be conducted, and she had no questions or concerns with what was outlined.

Session 2: Legal, Constitutional and Institutional Developments: In Search of Reconciliation, Melissa Serbin with Dr. Jonathan Black-Branch (Day 1: 3 Hours)

This session, focused on various legal and constitutional principles and institutional responses and developments regarding reconciliation for past wrongs, intended to:

- Examine the discriminatory objectives of the *Indian Act, 1876* and its lingering legacies.
- Develop understandings of racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations.

- Explore the importance of the role of the Truth and Reconciliation Commission and its Final Report and its significance for Indigenous peoples and Canada.
- Analyze the Calls to Action of the Truth and Reconciliation Commission of Canada and their value for Indigenous peoples and Canadian society moving forward.
- Assess the concept of cultural oppression imposed by the Residential School System.
- Examine the need for the Commission on Missing and Murdered Indigenous Girls and Women (MMIGW).
- Examine legal barriers for Indigenous peoples.
- Examine the relevance of the case of *Ipeelee* where the Supreme Court reminded trial judges: “To the extent that current sentencing practices do not further these objectives, those practices must change so as to meet the needs of Aboriginal offenders and their communities.” (paras. 66-67).
- Explore the significance of the case of *Gladue* within criminal justice which is about finding a different approach to sentencing Indigenous offenders whereby it is not just about an offender’s “Indigenousness” amounting to a mitigating factor on the length of sentence.
- Discuss the legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law such as the *Indian Act 1876*, and Aboriginal-Crown relations.
- Understand and appreciate the conclusions and recommendations in the Final Report of the Truth and Reconciliation Commission of Canada (2015) with 94 calls to action for reconciliation with Indigenous peoples.

One of the principal aims of this session was to set the stage for deeper understandings of reconciliation and the need for revising legal, constitutional and institutional approaches to Indigenous matters. From the outset it was recognized that these are sensitive topics requiring reflection and taking an introspective approach.

From the beginning, Senator Beyak indicated a willingness to learn and she took many notes on the topics discussed. Throughout the session the Senator expressed an interest in the topics covered which included an in-depth exploration of racism and oppression, colonization, the *Gradual Civilization Act*, the *Indian Act* and the 1969 White Paper, Indigenous identity, the Truth and Reconciliation Commission, Residential Schools, the National Inquiry into Missing and Murdered Indigenous Women and Girls, the Supreme Court decisions in *Gladue* and *Ipeelee*, and moving forward with reconciliation while considering displacement, colonialism and racism.

Senator Beyak was particularly interested in Indigenous women’s rights and related the discussion to her own experience, drawing references to her younger foster sister, and the *Indian Act* (which she indicated she did not support). She spoke of her personal recollection of the White Paper and asked questions about it, indicating that she wanted to know more about it and whether it would have been beneficial for people such as her Indigenous foster sister.

The Senator appeared to have a basic knowledge of some areas of discussion on the topics covered in the seminar but also acknowledged that information presented was new to her, especially regarding the *Gradual Civilization Act* as well as some facts regarding Residential

Schools, the White Paper, and the Supreme Court decisions - both the legal principles and the underlying facts, where her participation consisted of asking questions to gain further information.

She expressed enthusiasm and gratitude for the topics covered. Her engagement with the material focused mainly on a level that would suggest that she understood historical inequities or that racism towards Indigenous people has produced a society in which Indigenous people have systemically had less access to resources, power, security and well-being.

The exploration of Residential Schools as a cultural genocide invoked a deeper discussion requiring a broader examination of terms and how they applied within various contexts. She explained that she needed to know how to respond to such questions and approach them when discussed amongst her broader constituents. Time was spent evaluating how to position the experience of specific individuals who attended Residential Schools against its overall intention. This was discussed within the context of the historical treatment of Indigenous peoples, including those within the criminal justice system and recent Supreme Court developments. She seemed understanding of and receptive to the need for change and why the Court was moving in this direction.

Overall, the Senator appeared grateful for the information provided and listened throughout the session, taking notes and trying to engage where she could with the information presented. It would seem that much of the information explored seemed new to her which indicates that if nothing else she will have benefited from expanding her knowledge base and receiving different perspectives that challenge racist views regarding Indigenous peoples.

Session 3: Historical Context of Crown Indigenous Relations in Canada, Dr. Cary Miller with Dr. Jonathan Black-Branch (Day 1: 3 Hours)

The purpose of this session was to examine the historical background within the Canadian and broader North American context exploring pervading political underpinnings regarding Colonization and Crown - Indigenous Relations in Canada with a particular focus to:

- Examine the political and legal foundations of Colonialism.
- Explore the intersection of race and Colonialism.
- Discuss how racism is a deeply embedded historical system of institutional power.
- Discuss the history of Indigenous peoples.
- Build understanding of Indigenous culture, and social, relations with Indigenous peoples.
- Explore historic political relations with Indigenous peoples.
- Examine Canada's Residential Schools.
- Explore some of the legacies of Canada's Residential Schools and its impact on Indigenous peoples and communities.

This session provided an overview of the intellectual history that gave rise to colonialism, and the history and context of Indigenous people across three centuries in Canada. Needless to say, this was done in very broad strokes omitting much contextual detail.

Dr. Miller provides her feedback on the session stating:

“I found Senator Beyak to be very willing to engage – she asked questions, and I frequently observed her taking notes - and we were successful in establishing a welcoming and safe environment within which she could ask questions about some of her past actions that have brought widespread criticism.

In particular, she probed why it was a problem to post letters from people who had not had abusive experiences in the residential schools on her website. I discussed Residential School denialism and how some people could interpret presenting only those letters as contributing to the denialism narrative as well as the reality that given how recently the Residential School system ended, we still have many colleagues and co-workers let alone elders whose lives were profoundly changed in negative ways by the experience and whose trauma is still deeply felt. Her response to this was “Oh – so it’s just too soon.” While there is a degree of truth in that, we also discussed my experience as a sixties scoop survivor, and she shared the experiences of her adopted sister who is also Indigenous.

On the first day, I very much had the impression that she has been of the opinion that the success stories of a few served as justification for the pain of the experience with regard to Residential Schools and 60's scoop in particular. I hope that it is widely recognized that just because one has survived a painful ordeal and had a successful life afterward, does not justify the pain one endured or demonstrate that the pain was necessary for the success to be achieved.

Indeed, Historical Trauma scholarship suggests that refusal to recognize and/or validate the trauma is a trigger likely to deepen the trauma, which I think is directly related to the issues with her website.

I hope we made an impact with her on this, but without the time between sessions to engage in thought and for reflection, it is difficult to say. I do think she may understand the perspective of those who objected to the posts a bit better.”

**Session 4: Racism, Indigenous Social Literacy and Indigenous Race Relations in Canada,
Dr. Cary Miller with Dr. Jonathan Black-Branch (Day 2: 3 Hours)**

This session explored the concept of racism against Indigenous peoples seeking to build social understandings and knowledge (literacy) as it relates to Indigenous race relations in Canada from the past through to present day society, endeavouring to:

- Discuss the broader need for inter-cultural competency and anti-racism practice.
- Explore the concept of Settler-Colonial Privilege.
- Examine the intersection of race, Colonialism and institutional power.
- Examine the Settler-Colonial inventory, things that are taken for granted (privilege).

- Develop Indigenous cultural competency relating to Indigenous race relations issues, including equity, diversity and inclusion and the tools necessary to engage in respectful discussions of these topics.
- Assess the need for a deeper understanding and more meaningful inclusion of the Indigenous peoples of Canada, across all sectors and regions.
- Develop cultural competency and awareness, exploring the history and legacy of history such as from Residential Schools.

Dr Miller's second session focused on training in privilege, fragility, microaggressions, triggers, and anti-racism practice. She states:

"We made more progress with her on the point regarding Residential Schools experiences on the second day, but I fear that the underlying belief has not been wholly dispelled. On the second day we got into the brass tacks of systemic racism, the need to view intention separately from impact, and the way people who have been unaware of systemic racism can react with fragility when faced with the information."

Fragility reactions are characterized by deflections to avoid discussing or otherwise addressing the issue of concern. We talked about 5 different types of deflection, the common phrasing that characterizes them, and how to redirect the discussion – she seemed very interested in this discussion, particularly in relation to how this can help her to communicate with her constituents, which I take as a very positive sign that at the very least she wants to improve the tenor and content of her public communications.

We also discussed privilege and how it blinds you to the oppressions experienced by those who do not have access to the same privileges and engaged in a Settler-Colonial privilege inventory that also sparked some good discussions.

We also explored in great detail the ways in which colonialism as an ideology always relies on systemic racism to justify displacement, extraction, theft, and psychic or physical violence. Racism can exist without colonialism but colonialism is always accompanied with a prejudicial narrative, often encoded in law, to justify colonial acquisition.

In the end, I must conclude that she was taking public criticism of her actions seriously, and did attempt to glean from the trainings ways that she could improve her public communications.

She did reach out to me as an individual – we frequently chatted through portions of breaks – and relationship-building is a really important piece of anti-racism training.

Another question she asked me related to the *Indian Act*, and why people protested getting rid of it. While I had gone over some of the enormous problems with the *Indian Act* in the historical presentation the day before, I pointed out to her that eliminating the *Act* without concurrent legislation maintaining the few protections within the *Act* would remove the limited self-governance now in place, and leave people even more bereft. We

then discussed the value in approaching future legislation with a scalpel rather than a sledgehammer.

We also had a discussion about the obligation to take responsibility for not only one's actions, but the actions of anyone in your employ. Hopefully this will also have a lasting effect, but again, it is too soon to be able to tell.

We have definitely given her more tools to use to improve her public communications and I think she is interested in implementing them. How transformational we were in other areas I am unsure as to the long-term impact. That said, I think it is important to remark that my time with the Senator was during the first two days of her training, she was clearly engaged with the material, and as a result there may have been more demonstrable evidence of transformation through her interactions later in the week."

Session 5: Legal, Political and Constitutional Considerations: *The Indian Act*, the Constitution, Residential Schools and Indigenous Peoples, Ms. Wendy Whitecloud with Dr. Jonathan Black-Branch (Day 2: 2 Hours)

This session focused on various legal, political and constitutional considerations examining the *Indian Act* and the Canadian Constitution as well as exploring the effects of Residential Schools on Indigenous peoples and communities with the view to:

- Examine the discriminatory objectives of the *Indian Act, 1876* and its lingering legacies.
- Assess the concept of cultural oppression imposed by the Residential School System.
- Examine the unique rights guaranteed under Section 35 of the *Constitution Act, 1982* that recognizes and affirms the existing Aboriginal and treaty rights of Indigenous peoples.
- Explore how Section 35 rights are protected under "the doctrine of the duty to consult" and, where appropriate, to accommodate Indigenous groups, as developed by Canadian courts.
- Explore the concept of land and landownership.
- Critically analyze the role of law, legal powers and political institutions regarding Indigenous history and their relationship with the Crown and Canadians today.

Leading on from previous sessions, this proved to be a very open and frank discussion spanning a detailed and substantive discussion of the Royal Proclamation of 1763 and Section 35 relating to Aboriginal and treaty rights of Indigenous peoples, including the cases of *Calder* and *Sparrow* as well as the doctrine of the duty to consult and specific legacies of the *Indian Act* and oppression imposed by the Residential School system. To that end Ms. Whitecloud states:

"My initial response to my time with Senator Beyak is that she seemed to be open and was willing to learn. I was somewhat prepared for her to be aloof and unwilling to accept a new or different perspective. She did not appear to do that with me. She commented and accepted the material I was able to provide to her."

“Although it may be said that it is very clear to her the critical role the program would play for her future, I thought that she was engaging with the materials and it was also interesting that she did respond at points where she was recalling material from other sessions and doing some analysis.

She has, at the minimum absorbed some materials. I am hopeful she has and is able to approach her task in her position in a more rounded manner.”

Senator Beyak later followed up in an e-mail requesting further information and links to some of the information discussed during the session including the link to a video relating to an Indigenous woman’s experience in Residential School and further readings on UNDRIP, United Nations Declaration on the Rights of Indigenous Peoples.

Session 6: Personal Experiences of an Elder: Growing up as a Métis-Indian in Manigotagan and overcoming Racism, Elder Norman Meade with Dr. Jonathan Black-Branch (Day 2: 2 Hours)

This session was convened with the participation of Elder Meade to explore his personal experiences of growing up as a Métis-Indian in Manigotagan and to discuss issues of racism he experienced and how he worked to overcome racism; in particular, to:

- Explore the personal experiences of an Elder, growing up as a Métis-Indian in Manigotagan.
- Reflect on the impact of a racist community on the Elder.
- Discover the Elder’s journey to live with racism and his difficult journey to overcome it.
- Explore Indigenous awareness and race relations with Indigenous peoples.
- Explore select Indigenous teachings to build understanding.
- Draw on Indigenous teachings to inspire reflection towards renewal.

During this session Elder Meade was open and frank in exploring his experiences as a youth and adult within the broader community. Senator Beyak expressed her sadness that the Elder had experienced such overt racism and that she would never condone such behaviour. The degree to which she actually understood the depth of the Elders experience is impossible to judge, but she spoke of the need for open communication and understanding and to share in “love”, regardless of background.

She highlighted her foster sister’s experience in dealing with overt racism as an Indigenous person and how that bothered her. Drawing on her personal experience seemed to indicate her listening to Elder Meade’s experiences and reflecting on how damaging such behaviours are to individuals affected and overall communities.

Session 7: Dignity, Honour and Integrity: The Responsibilities of Serving as a Senator, Dr. Lorne Neudorf with Dr. Jonathan Black-Branche (Day 3: 3 Hours)

The purpose of this session was to explore various responsibilities relating to the duties of serving as a senator, examining the dignity, honour and integrity of the position as well as public perception and confidence pertaining to a senator's responsibilities in the office as a Canadian law-maker in the Upper House. It focused on fundamental responsibilities that come with the office specifically looking to:

- Evaluate the essential constitutional role played by a senator in conducting legislative review.
- Explore how senators hold a duty to promote such core principles and values of our democratic system, especially given the Senate's traditional role in acting on behalf of groups under-represented in the House of Commons, whereby the Supreme Court of Canada has noted in *Reference re Senate Reform, 2014*: "Over time, the Senate also came to represent various groups that were under-represented in the House of Commons. It served as a forum for ethnic, gender, religious, linguistic, and Aboriginal groups that did not always have a meaningful opportunity to present their views through the popular democratic process." (at 16).
- Discuss that senators hold a unique public office that requires them as parliamentarians to confront racism without reservation and to ensure the integrity of the institution.
- Examine how the Senate as a House of Parliament must defend the principle that all persons are equal in law and in dignity whereby the suitability of a senator to remain a member is linked to the recognition and respect of this principle.
- Discuss how the Ethics and Conflict of Interest Code for Senators constitutes an exercise of the Senate's parliamentary privilege to govern its internal affairs including to discipline its members, of which both privileges are inherent to the Senate as a legislative and deliberative body that have been explicitly conferred on the Senate pursuant to Section 18 of the *Constitution Act, 1867* and Section 4 of the *Parliament of Canada Act*.
- Develop an appreciation of the privilege of serving Canadians as a Senator to represent regional and minority views, with an emphasis on Indigenous peoples and their relationship to Canada as a nation.
- Explore the weight of responsibilities that flow from holding public office.
- Assess the role of trust from law-makers.
- Evaluate the unique role of an appointed Senator as compared to an elected legislator.
- Examine responsibilities that are inherent to the position of senator, including:
 - Expectations of the highest standards of conduct as a role model to maintain public confidence and trust;
 - Communicating and engaging in public debates, while seeking to genuinely understand and respect the views of others;
 - Carrying out senatorial duties with diligence and in the public interest; and,
 - Promoting constitutional legal requirements, values and goals, including equality and freedom from unlawful discrimination.
- Consider senatorial responsibilities and to maintain the dignity, honour and integrity of Parliament, the Senate and the position of senator, individually and collectively.
- Explore the concept of free speech balanced against responsible speech.

Senator Beyak participated actively in this session asking questions and discussing points relating to her role as a senator. At various points she initiated discussion based on the information presented, linking it to main objectives of the Educational Program and at times to her past conduct. She commented on a number of occasions how she found the information useful and how it went beyond her initial background training when first appointed as a senator. It seemed clear that she was challenged to think in different ways, and it was evident that she genuinely engaged with these challenges: for example, she avidly engaged when we discussed the Senator's role in embodying and advancing constitutional values in her work instead of relying on courts to enforce constitutional rights. She appeared to learn a lot from this discussion and was especially interested in the metaphor of the constitution as a living tree.

In this session we discussed the *Charter* equality guarantee at length, reiterating its status as a fundamental constitutional value. We also discussed the Senate's tradition of giving a voice in the legislative process to historically under-represented groups. In relation to the session, Professor Neudorf states: "I believe that from her responses to the discussion questions, the Senator understands her obligations in relation to racial discrimination."

The session explored the Ethics and Conflict of Interest Code for Senators. She openly recognized her failings for her conduct and stated that she took full responsibility for her past actions and accepted that she had breached 7.1 and 7.2 of the Ethics and Conflict of Interest Code for Senators. She mentioned that she wanted to learn how to communicate better to become a more effective legislator in relation to the issues she cares about.

Professor Neudorf notes: "From our discussion, she understood her unique role as an appointed, and not elected, legislator. She accepted that a Senator's privileges are qualified by their obligations, including those relating to decorum and ethics."

During the session, the importance of public perceptions to public confidence, was reiterated, even when those perceptions may seem unfair or unjustified. We explored how negative perceptions about a Senator's conduct can harm public confidence in the Senate as an institution more broadly. Senator Beyak said that she understood and accepted this point and realized how her actions affect the perception of the Senate and Parliament as-a-whole.

We reviewed the relevant portions of the Ethics and Conflict of Interest Code for Senators, discussing on a comparative basis ethical obligations for other professionals such as judges and lawyers. Professor Neudorf asked the Senator whether it would be acceptable for a Senator to maintain "minimum standards", and she responded that it would "not" be acceptable as Senators are required to live up to the "highest standards" of dignity in relation to their office. He notes from the session: "In my view, the Senator understands her obligations and responsibilities."

Session 8: Duty of Government and Legislators Towards Indigenous Peoples, Dr. Bruce Curran with Dr. Jonathan Black-Branch (Day 3: 2 Hours)

The main purpose of this session was to explore the duty of Government and legislators towards Indigenous peoples seeking to:

- Explore some of the duties that the Federal Government and its legislators have towards Indigenous peoples.
- Examine the extent to which the Federal Government has fiduciary duties in relation to Indigenous peoples.
- Review the case of *Guerin v. The Queen*, wherein the Supreme Court of Canada established the principle that the Crown is obliged to deal with land surrendered by Indigenous people in their best interests.
- Discuss the concept of the “honour of the Crown”
 - When the government contemplates conduct that might adversely affect Aboriginal or treaty rights, the honour of the Crown gives rise to a duty to consult and accommodate.
- Examine the 2018 Supreme Court of Canada case of *Mikisew Cree First Nation v. Canada*, and its implications for legislators’ duties to consider the impact of bills on Indigenous peoples.
- Discuss that the Supreme Court in *Reference re Secession of Quebec, 1998*, has underscored that the protection of minority rights is one of the essential constitutional principles that inspire our whole structure of government, stating: “We emphasize that the protection of minority rights is itself an independent principle underlying our constitutional order. The principle is clearly reflected in the Charter’s provisions for the protection of minority rights.” (at 80).

Again, Senator Beyak actively engaged in this session openly discussing the concepts and at time linking them to previous sessions as well as to her own work in the Senate. She seemed to enjoy this session and asked many questions, initiating discussion and probing deeper on constitutional points. In relation to this session, overall Professor Curran notes:

“I had a very favourable impression of Senator Beyak’s performance during the session today focusing on the *Duty of Government and Legislators Towards Indigenous Peoples*. Throughout the session, she demonstrated conduct befitting of a Senator, and did not say or do anything that I would characterize as inappropriate or racist against Indigenous peoples.

The Senator was earnestly engaged throughout the entire two-hour session, and asked intelligent questions. Her questions suggested to me that she now understands the rights of Indigenous people, and was interested in upholding them.

During the session, she gave no impression that she was philosophically opposed to the various duties that government and the legislature have to Indigenous people. Quite the contrary, she appeared to have a keen interest in understanding the role she could play as a Senator in respecting and upholding these rights.”

Overall, Senator Beyak seemed very comfortable in participating in the sessions 7 and 8 probing deeply into the law-making process, the role of the courts and the position of the Constitution in that regard. She also linked some of the points in this session to those in the session with Ms. Whitecloud. She seemed to benefit greatly from these sessions, openly acknowledging how much she enjoyed them and learned from them.

**Session 9: Personal Experiences of an Elder: Truth, Reconciliation, Hurt and Healing,
Elder Norman Meade with Dr. Jonathan Black-Branch (Day 3: 2 Hours)**

To this point Senator Beyak had participated in eight sessions focused on developing knowledge and skills, including Elder Meade sharing his own experience of racism as an Indigenous person in Session 6. Based on this, the purpose of this session was to follow-up on his personal experiences, focusing on truth and reconciliation, as it relates to hurt and the need for healing while exploring Indigenous sacred teachings to build understanding; namely to:

- Explore the concepts of truth, reconciliation, hurt and healing.
- Examine the position of Indigenous peoples and their social and cultural concerns.
- Develop Indigenous awareness and race relations with Indigenous peoples and their communities.
- Raise awareness, recognition and understanding of the reality of racism towards Indigenous peoples in Canada.
- Discuss Indigenous teachings towards healing and renewal.

During this session Elder Meade delved further into issues of racism towards Indigenous people and the harm it causes both to individuals as well as to whole communities. He spoke of the importance of the apology in the House of Commons for Residential Schools and its significance for Indigenous peoples as well as for all Canadians.

He outlined and discussed the Seven Sacred teachings (Love, Respect, Courage, Honesty, Wisdom, Humility and Truth) and the need for reconciliation and healing. He highlighted the importance of being guided by such teachings. Senator Beyak responded to this discussion and seemed engaged with the various teachings, expressing her hope to move forward in a positive manner.

Elder Meade's observations/comments are as follows:

"What I had heard from the Senator is that she is wanting to make a change in how she sees Indigenous people.

However, having said that, I think the Senator, like many people in positions of authority and responsibility will have difficulty "shaking off" or "changing an attitude" that is embedded in a governing system of colonialism for as many years as Canada is old.

Systemic (colonial) influences spreads like an addiction, once you have it, it is hard to shake. To become healthy again, you have to have to admit you have a problem and then have the heart and will to change it.”

Session 10: Review and Assessment: Hurt and Harm in Relation to the Senator’s Personal Conduct, Dr. Jonathan Black-Branche (Day 4: 3 Hours)

The focus of this last session was to provide a final review and assessment of Senator Beyak’s overall learning experience. Specifically, it explored her personal conduct examining the hurt and harm caused in relation to Indigenous people, as well as to broader communities and to Canadians generally. It examined how her actions reflect negatively on the reputation of the Senate and all senators. Specifically, it was designed to:

- Explore truth, reconciliation, hurt and healing.
- Explore the hurt and harm experienced by the Senator’s individual conduct.
- Reflect on the contextual comprehension of the Senator’s conduct and why it was unbecoming of a senator and the Senate.
- Reflect on the privilege of serving in Canada’s Upper House and the obligations of senators to defend the principles of the Constitution and to uphold the values of the *Charter of Rights and Freedoms*.
- Understand a senator’s obligations under the Ethics and Conflict of Interest Code for Senators – in the course of such service and particularly under paragraph 47(2)(b) of the Code and especially how Senator Beyak has acted.
- Evaluate the rights, obligations, and responsibilities including limitations, as a senator and to foster an understanding of the institution in relation to its ethics regime.
- Discuss constitutional responsibilities, representing minority interests and how racism of any kind is incompatible with senators’ roles and responsibilities.
- Discuss the privilege of serving in the Senate.
- Examine that there is no place for racism within the institutions of Parliament.
- Evaluate how actions, attitudes and inactions can cast doubt on the integrity of the Senate and how this is to the detriment to the Senate as an institution, to all senators, and to all Canadians.
- Reflect why Canadians need to have confidence in their democratic institutions and those who serve in them.

This proved to be an open and frank session which seemed beneficial in terms of the Senator’s progress in the Program. The Assessment is discussed below, including more general points as well as drawing on specifics from individual sessions delivered throughout the Program. First, it is fitting to revisit the main purpose and objectives of the Educational Program.

Purpose and Objective of the Educational Program

The purpose of this work was to develop and deliver an Educational Program tailored to the specific needs of Senator Beyak, with the primary objective of providing an independent and objective educational opportunity for her to understand every senator's responsibilities in relation to racism; how this aligns with her past conduct; the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect to racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

To that end, a general needs assessment was conducted to match the Senate Ethic Committee request (Recommendation 2 of January 31, 2020) with the learning and skills requirements relating to Senator Beyak's past conduct. The Educational Program was developed on that basis and approved by the Senate Ethics Officer.

Assessment Criteria

While it may seem impossible to ignore the Senator's past conduct and any previous misgivings leading to the development of this Program, Recommendation 2 of the Senate Standing Committee on Ethics and Conflict of Interest for Senators of January 31, 2020 called for an independent and objective assessment based on the approved Educational Program delivered and the Senator's participation therein.

The assessment of Senator Beyak is based on the key concepts, aims, objectives and learning outcomes presented in the various sessions with the view to building knowledge, understanding and skills for reflective practice. The assessment process focused on mapping the specific objectives and materials presented and explored throughout the various sessions to the knowledge and information she engaged with and acquired throughout, including her general reception to the information, ideas and the learning process as assessed by the team of instructors involved in the Program.

At the conclusion of Session 9, Senator Beyak was asked to prepare her "key learning take aways and reflections". She presented these during the final review and assessment during Session 10.

In providing an overall final assessment, as previously outlined, this report focuses exclusively on the criteria set out in Recommendation 2 of the Senate Standing Committee on Ethics and Conflict of Interest for Senators of January 31, 2020 (at page 11) of whether Senator Beyak:

- (a) successfully completed the course;
- (b) learned and was willing to learn; and
- (c) understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

Each of these will be addressed in turn followed by a Summary and Conclusion.

A. Successfully completed the course.

Senator Beyak attended all 10 sessions of the Educational Program in their entirety as required. She was prepared to begin on time and remained present throughout each session, concluding a total of 24 hours of educational contact time altogether.

She was asked to review some materials in advance. At the end of her sessions she was asked to prepare and present her “key take-aways and reflections” during the final session.

To that end, the Senator has successfully participated in and completed all aspects of the Educational Program as required.

B. Learned and was willing to learn.

From the outset of the Program, Senator Beyak expressed her enthusiasm for the Educational Program and stated that she was looking forward to the various sessions. She expressed her willingness to attend and her desire to learn from the various instructors delivering the content highlighting that she was looking forward to the Educational Program and learning from what she described as an impressive group of people.

In the first session, we examined the program syllabus, during which time we explored her development needs and what would be most beneficial to her regarding information, subject areas and key learning objectives that would assist her most in her work and progress. She highlighted several areas across various sessions of the Educational Program that she was looking forward to, demonstrating that she had studied the Program syllabus in advance thinking about its content, and suggesting from the outset that she was open and willing to learn more about these areas within the context of her work, and in particular her past conduct.

Throughout the sessions, Senator Beyak demonstrated a good level of participation. She took notes during the discussions and at times she referred back to them in both asking questions as well as in making reference to various points highlighting her willingness to participate and to learn.

During sessions, she engaged in discussion, asked questions and offered comments, relating them to her personal experiences and to her work as a Senator. In many sessions she also initiated discussions based on the information presented to her and asked questions which showed that she was endeavouring to link the discussion and materials to her work and experience.

Again, Ms. Whitecloud noted that Senator Beyak “seemed to be open and was willing to learn. I was somewhat prepared for her to be aloof and unwilling to accept a new or different perspective. She did not appear to do that with me. She commented and accepted the material I was able to provide to her.”

In sessions where the information or materials were new to her, the Senator indicated so. Sometimes she would say that she was trying to learn more and she appeared to try to develop deeper understandings by asking questions as well as taking notes to which she would refer back to on occasion. To that end, Senator Beyak sent an e-mail requesting further information and links regarding some of the information discussed during several sessions including a video relating to an Indigenous woman's experience in Residential School as well as further readings, academic literature and also information on UNDRIP, United Nations Declaration on the Rights of Indigenous Peoples. This gesture in and of itself would suggest an interest in further developing her knowledge and thus her willingness to learn by pursuing further independent study.

In some circumstances Senator Beyak highlighted her need to know how to respond to questions from her constituents on these matters indicating an attempt to connect the Educational Program materials to her practice as a senator. Senator Beyak was particularly interested in Indigenous women's rights and related the discussion to her own experience, drawing references to her younger foster sister, and the *Indian Act* which again, she indicated that she did not support.

At times, it was evident that she was challenged to think in different ways where she openly engaged with new ideas. For example, we discussed the Senator's role in embodying and advancing constitutional values in her work, and she appeared to learn a lot from this discussion and was especially interested in the metaphor of the constitution as a living tree.

In the final assessment session, she drew upon and recounted many of the discussions, explaining various points and positions explored throughout the Program. She reiterating that she accepted responsibility for her past conduct and actions, expressing how she wanted to move forward.

Overall, it would seem that Senator Beyak has learned and was willing to learn throughout the course of the Educational Program.

C. Understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

Taken together as an overall package, Senator Beyak seemed to work to develop and expand her understanding of her responsibilities as a senator in relation to racism. While it is impossible to say for certain that Senator Beyak has fully internalized the full breath and scope of all the information covered throughout the various sessions, on the face of it, it would seem that she worked with each instructor to comprehend the materials, engaging in discussion and taking notes, often probing follow-up questions in relation to the components of this criterion. While at times she may have struggled with new concepts or perspectives different from her own views, she presented herself as open to exploring different points of view and overall seemed receptive to learning and developing new understandings; sometimes asking how she would be able to communicate such information to her constituents. As the sessions progressed, she seemed far

more comfortable in exploring topics and seemed open to the content and information presented. A more in-depth assessment is presented below.

- ***Understands every senator's responsibilities in relation to racism.***

Discussion throughout the sessions focused on the concept of racism and the harm it causes to Indigenous peoples and communities as well as to Canada as-a-whole. Time was spent exploring the concept in depth and how it is systemically embedded and entrenched within social, political and legal institutions. She actively engaged in trying to understand issues of racism, equality and non-discrimination and how they relate to her duties as a senator.

Particular components of sessions focused on Senator Beyak's responsibility in relation to racism and her obligations to Parliament and Canadians generally. For example, within the context of the session on the *Responsibilities of Serving as a Senator*, Professor Neudorf states: "I believe that from her responses to the discussion questions, the Senator understands her obligations in relation to racial discrimination."

From her responses to questions in sessions as well as her final assessment, where she presented her key learning points and final reflections, it would seem that Senator Beyak understands her obligations in relation to racism as a senator.

- ***How this aligns with her past conduct.***

Past actions and conduct formed a substantive focus during many of the sessions, including during those on racism with Dr. Miller who states: "We also had a discussion about the obligation to take responsibility for not only one's actions, but the actions of anyone in your employ. Hopefully this will also have a lasting effect, but again, it is too soon to be able to tell."

Later, during the session on the *Responsibilities of Serving as a Senator* reflecting on her actions, Senator Beyak affirmed how her past conduct did not align with her obligations as a senator in relation to racism. She noted how it has caused hurt and harm for Indigenous peoples and communities. She expressed her sorrow as she sees how this is wrong.

In the session on the *Responsibilities of Serving as a Senator* as well as her final assessment the Senator stated that she took full responsibility for her past actions and accepted that she had breached sections 7.1 and 7.2 of the Ethics and Conflict of Interest Code for Senators.

It would seem that Senator Beyak sees a senator's responsibilities in relation to racism and how this aligns with her past conduct.

- ***The need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism.***

Various sessions including her final assessment explored the need to refrain from acting in a way that could reflect adversely on the position of senator as well as the Senate as an institution, in respect of racism. During the session on the *Responsibilities of Serving as a Senator*, in particular, the importance of public perceptions and public confidence was reiterated and how negative perceptions about a senator's conduct can harm public confidence in individual senators as well as to the Senate as an institution more broadly.

Senator Beyak affirmed that she understood this point and that she accepted it. She stated that she understands and accepts the need to refrain from acting in a manner that could reflect adversely on the position of her as an individual senator or potentially on the Senate more broadly.

In exploring the concept of public perception, she noted how important this was drawing analogies to negative perceptions relating to issues regarding senators' expenses and how damaging that had been.

In evaluating her obligations as a senator in term of racism, she spoke of how her actions reflect adversely on the position of senator as well as on the institution of the Senate as-a-whole in respect of racism.

From her responses to questions in the sessions as well as her final assessment, it would seem that Senator Beyak understands and accepts the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism.

- ***The need to uphold the highest standards of dignity inherent to the position of senator.***

During various sessions we examined the importance of maintaining the highest standards of dignity as a senator, both in regard to the integrity of the office and again relating to perceptions to public confidence. We reviewed the relevant portions of the Ethics and Conflict of Interest Code for Senators, discussing comparative ethical obligations for other professionals.

We explored the difference between the minimal standards and the highest standards.

Professor Neudorf asked the Senator whether it would be acceptable for a Senator to maintain minimum standards, and she responded that it would not be acceptable as Senators are required to live up to the highest standards of dignity in relation to their office. He notes: "In my view, the Senator understands her obligations and responsibilities."

From the questions in the sessions, particularly the *Responsibilities of Serving as a Senator* as well as her final assessment it would seem that Senator Beyak understands and accepts the need to uphold the highest standards of dignity inherent to the position of senator.

Summary and Conclusion

In summary, Senator Beyak participated in 24 hours of education, consisting of 21 hours of direct interactive seminar sessions followed by a 3-hour review and assessment component. There was an assignment relating to her key take-away learnings and reflections that was discussed within the context of the Senator's overall learning and educational experience.

Again, the main purpose of this Educational Program was to deliver knowledge, develop skills and advance understandings and reflective practice designed specifically for Senator Beyak relating to the rights, roles and responsibilities of a senator. It sought to build cultural competence and social literacy regarding race relations with Indigenous peoples in Canada. It explored the unique responsibilities of serving as a senator and the need to uphold the dignity, honour and integrity of the office and of Parliament, including Senator Beyak's responsibility for her past conduct.

Sessions focused on the foundations of Colonialism, examining the history and experience of Indigenous peoples and the historical legacies including Residential Schools, exploring various historical, cultural, legal, social and political perspectives pertaining to race relations with Indigenous peoples. References to ethics codes and guidelines, legislation and jurisprudence were included, as were reports, historical accounts and academic literature. A particular focus was to build cultural literacy by developing awareness of race relations, seeking to advance broader legal knowledge and deeper understandings of constitutional principles and obligations to Indigenous peoples and communities within the Canadian context.

In conclusion, on a holistic level it would seem from the findings from the Educational Team involved in delivering this Educational Program that Senator Beyak has met the criteria set out in Recommendation 2 of the Senate Standing Committee on Ethics and Conflict of Interest for Senators of January 31, 2020 (at page 11). In particular, Senator Beyak has (a) successfully completed the course; (b) learned and was willing to learn; and (c) understands every senator's responsibilities in relation to racism, how this aligns with her past conduct, the need to refrain from acting in a way that could reflect adversely on the position of senator or on the institution of the Senate in respect of racism, and the need to uphold the highest standards of dignity inherent to the position of senator.

As a final note, it should be said that throughout this Program, in addition to knowledge content, an emphasis was on skills development with the view to stimulating reflection. While the nature and focus of the interactive sessions incrementally built on imparting knowledge, it also focused on enhancing skills development for reflective practice relating to key understandings, attitudes, behaviours and thinking patterns with the view to practice reflection and attitudinal-development. So, while some of the various aims and objectives were knowledge-specific and content-orientated, others focused on skills-development of which some were attitudinal in

scope. In other words, some covered content and information; others sought to develop frameworks to build understanding as well so as to promote professional reflection and to foster personal growth.

There is a difference between knowledge and beliefs. There is a marked difference between behaviours and attitudes. Attitudinal change on Indigenous issues, as with cultural and social change more generally, is often slow in progress, requiring deliberate interventions and taking successive and progressive steps that are unlikely to be ascertained within one stand-alone educational unit. That said, knowledge and information are key components for making more informed behavioural changes, as well as for reflecting on one's basic assumptions, personal beliefs and attitudes based on stereotypes. With this in mind, educational interventions of this nature can be effective in providing tools for behavioural change as well as for developing different perspectives towards attitudinal growth and change.

Here, Senator Beyak has accepted the opportunity to gain more knowledge, explore new ideas and to reflect on her conduct as a Senator and its impact on the Senate, Parliament and Canadian society as-a-whole. She leaves the program with further knowledge, ideas and understandings, equipped with new tools for approaching her professional work and her personal beliefs.

Respectfully Submitted,

Dr. Jonathan L. Black-Branch
May 2020.

APPENDIX F

From: Lynn Beyak [REDACTED]
Sent: Thursday, June 4, 2020 12:29 AM
To: Legault, Pierre [REDACTED]
Cc: Palumbo, Deborah [REDACTED]
Subject: Response to Program Evaluation of Senator Beyak

Pierre Legault, Senate Ethics Officer

Deborah Palumbo, Assistant Senate Ethics Officer

Dear Pierre and Deborah,

The purpose of this letter is to ask you to convey my gratitude to the Senate Ethics Committee for the opportunity to experience the meaningful and superior training I received May 19 - 22, 2020.

I would also like to thank you both for taking the time to follow the committee's recommendations so thoroughly, ensuring a professional and expert educational forum, delivered by Zoom conference. I appreciate your extra effort in ensuring I could take unlimited notes.

Finally I would like to commend the University of Manitoba, Dean of Law Dr. Jonathan Black-Branch and his knowledgeable and professional team for a thoughtful, fair, comprehensive, and accurate report concerning my training. It was an honour and a privilege to work with so many, who are specialists in their fields, impartial and distinguished.

The Dean and his associates' knowledge and expertise were incomparable, and invaluable.

Sincerely,

Hon. Lynn Beyak

Senate of Canada



Faits nouveaux et mesures prises concernant le cinquième rapport du comité de la 42^e législature au sujet de la sénatrice Beyak

Rapport du Comité permanent sur l'éthique et les
conflits d'intérêts des sénateurs

L'honorable Murray Sinclair, *président*

L'honorable Dennis Patterson, *vice-président*

JUIN 2020



Renseignements :

Par courriel : conf@sen.parl.gc.ca

Par la poste : Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs
Sénat, Ottawa (Ontario), Canada, K1A 0A4

Le rapport peut être téléchargé à l'adresse suivante : www.sencanada.ca/CONF

Le Sénat est présent sur Twitter : @SenatCA,
suivez le comité à l'aide du mot-clic #CONF

This report is also available in English.

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Introduction

En avril 2019, votre comité s'est penché sur le rapport d'enquête du conseiller sénatorial en éthique portant sur la sénatrice Lynn Beyak. Celui-ci concluait dans ce rapport que la sénatrice Beyak avait enfreint les articles 7.1 et 7.2 du *Code régissant l'éthique et les conflits d'intérêts des sénateurs* (le Code) en publiant sur son site Web du Sénat cinq lettres contenant des propos racistes à l'égard des peuples autochtones.

Le 30 avril 2019, au cours de la 1^{re} session de la 42e législature, votre comité a présenté au Sénat son rapport sur le rapport d'enquête du conseiller sénatorial en éthique au sujet de la sénatrice Lynn Beyak (cinquième rapport). Dans ce rapport, votre comité se disait troublé que la sénatrice Beyak ait refusé d'admettre que le contenu des lettres en question était raciste, qu'elle n'ait pas voulu reconnaître le tort causé par ses actes et qu'elle n'ait pas respecté le processus d'application des dispositions du Code. Il recommandait aussi plusieurs mesures correctives ainsi que la suspension de la sénatrice Beyak du Sénat.

Le Sénat a adopté le cinquième rapport du comité le 9 mai 2019 et suspendu le jour même la sénatrice Beyak. La dissolution de la 42^e législature a mis fin à cette suspension.

Dans son cinquième rapport, votre comité soulignait que tout refus, par la sénatrice Beyak, de se conformer aux mesures correctives énumérées dans ses recommandations ou de respecter l'esprit de la décision du Sénat constituerait une violation continue du Code. Le 10 décembre 2019, le Sénat a adopté une motion demandant au comité d'entreprendre une étude sur les faits nouveaux et les mesures prises concernant le cinquième rapport du comité. Cette motion autorisait le comité à présenter plusieurs rapports, et lui demandait de produire son rapport final au plus tard le 30 juin 2020. Le 31 janvier 2020, votre comité a déposé son premier rapport (rapport intérimaire) auprès du greffier du Sénat, conformément à l'ordre adopté le 10 décembre 2019. Dans son rapport intérimaire, il analyse les mesures prises par la sénatrice Beyak concernant les conditions de sa suspension définies dans le cinquième rapport et approuvées par le Sénat.

Le comité en a conclu que la sénatrice Beyak n'avait pas respecté l'esprit de certaines recommandations et, par conséquent, qu'elle contrevenait toujours au Code. Plus précisément, votre comité a déterminé qu'elle n'avait pas réussi les programmes de sensibilisation approuvés par le conseiller sénatorial en éthique et qu'elle n'a pas présenté d'excuses suffisantes pour ce qu'elle avait fait, comme l'exigeaient les recommandations 3 et 5 du cinquième rapport. À la lumière de ces conclusions, votre comité a jugé que d'autres mesures devaient être prises pour faire face à la situation et préserver la dignité du Sénat. Il a donc fait trois recommandations.

Premièrement, que la sénatrice Beyak soit suspendue de nouveau afin de lui accorder la possibilité de réfléchir au privilège que représente son siège au Sénat et à ses obligations découlant de ses fonctions de sénatrice.

Deuxièmement, qu'elle suive un programme de sensibilisation qui l'éclairera sur sa conduite et sa compréhension à l'égard des questions autochtones, et que la réussite de ce programme soit une condition nécessaire à sa présence au Sénat.

Troisièmement, que la sénatrice Beyak, après avoir suivi le programme de sensibilisation décrit dans la recommandation 2, écrive une lettre d'excuses qui serait publiée dans les *Journaux du Sénat*.

Le Sénat a adopté le rapport intérimaire le 27 février 2020. Le même jour, le Comité permanent de la régie interne, des budgets et de l'administration s'est réuni et il a publié un communiqué annonçant qu'il mettait immédiatement en œuvre les mesures que votre comité recommandait dans son rapport intérimaire en ce qui concerne la suspension de la sénatrice Beyak¹.

L'étude menée par le comité

Pendant la période prolongée d'ajournement du Sénat en raison de la pandémie de la COVID-19, votre comité a reçu des mises à jour du conseiller sénatorial en éthique concernant l'exécution de son mandat conformément au rapport intérimaire. Après avoir obtenu du Sénat l'autorisation de se réunir par voie électronique, votre comité a tenu une vidéoconférence, le 1^{er} juin 2020, au sujet des derniers développements dans ce dossier, y compris de la correspondance du conseiller sénatorial en éthique et de l'avocat de la sénatrice Beyak.

Le 9 juin 2020, le conseiller sénatorial en éthique, conformément à la recommandation 2 du rapport intérimaire du comité, a transmis au comité son rapport, *le Rapport du conseiller sénatorial en éthique concernant le programme de sensibilisation au racisme envers les peuples autochtones offert à la sénatrice Beyak*, qui porte sur l'évaluation du programme de formation offert à la sénatrice. Par la suite, votre comité s'est réuni le 12 juin 2020 pour étudier le rapport du conseiller sénatorial en éthique.

Faits nouveaux et mesures prises

a. *Le programme de sensibilisation*

Dans son rapport intérimaire, votre comité soulignait qu'il y avait lieu de prévoir d'autres programmes de formation et de sensibilisation, avec l'espoir et l'attente que la sénatrice Beyak prenne conscience du racisme, le reconnaîsse et comprenne la réalité du racisme envers les peuples autochtones. Votre comité espérait et anticipait aussi que cette formation permettrait à la sénatrice Beyak de mieux comprendre le tort causé par ses actes aux peuples autochtones, à ses collègues et à la réputation du Sénat.

La recommandation 2 du rapport intérimaire offrait ainsi d'autres précisions concernant la réussite du programme de sensibilisation. Elle prévoyait que le conseiller sénatorial en éthique choisisse et approuve le fournisseur du programme de sensibilisation, qu'il approuve le programme offert et que ce programme soit conçu expressément pour la sénatrice Beyak.

La recommandation 2 du rapport intérimaire imposait d'autres conditions précises d'évaluation des progrès de la sénatrice Beyak à partir de sa volonté d'apprendre et des résultats obtenus. Le fournisseur du programme de sensibilisation devait donc remettre au conseiller sénatorial en éthique un document évaluant si elle avait réussi le programme, si elle avait appris quelque chose, si elle avait manifesté une volonté d'apprendre et si elle comprenait qu'en tant que sénatrice, elle avait une responsabilité face au

¹ Comité de la régie interne, des budgets et de l'administration, [Le Comité de la régie interne prend des mesures à l'égard de la sénatrice Beyak](#), communiqué, 27 février 2020.

racisme et qu'elle devait s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat.

i. Les difficultés éprouvées par le conseiller sénatorial en éthique

Après l'adoption du rapport intérimaire, le conseiller sénatorial en éthique a informé votre comité des faits nouveaux concernant la mise en œuvre de la recommandation 2. Dans sa correspondance avec le comité, il mentionne avoir eu de la difficulté à s'acquitter de certaines obligations découlant de la recommandation.

Le conseiller sénatorial en éthique a d'abord eu de la difficulté à trouver un fournisseur de programme de sensibilisation pendant la pandémie de la COVID-19. Il a tout de même réussi à faire appel à une équipe de spécialistes chevronnés de l'Université du Manitoba, où un département des études autochtones est établi depuis longtemps, et il en a informé le comité. Cette équipe de spécialistes était dirigée par le doyen de la Faculté de droit et professeur de droit de l'Université du Manitoba, M. Jonathan Black-Branch.

Votre comité précise avoir été impressionné par la qualité du programme de sensibilisation approuvé par le conseiller sénatorial en éthique. Les curriculums vitae des éducateurs (figurant en annexe du rapport du conseiller sénatorial en éthique joint au présent rapport) témoignent de leur riche expertise et de leur vaste expérience dans les questions autochtones, qui leur donnent amplement les qualifications nécessaires pour dispenser cette formation. Votre comité est ravi qu'une équipe de ce calibre ait pu être constituée malgré la pandémie actuelle et les difficultés qui l'accompagnent.

Après la création du programme, l'avocat de la sénatrice Beyak et deux autres sénateurs ont demandé s'il était possible que les séances soient enregistrées ou qu'elles fassent l'objet d'une surveillance. Le conseiller sénatorial en éthique et votre comité se sont opposés à toute mesure de contrôle ou d'enregistrement, surtout parce que de telles mesures auraient risqué de compromettre le contexte d'apprentissage et de politiser inutilement le processus, qui devait être évalué par un acteur impartial et indépendant. Votre comité a estimé que les qualifications des spécialistes leur permettaient de fournir au comité une évaluation professionnelle impartiale et éclairée après la formation.

ii. Le rapport du conseiller sénatorial en éthique sur la formation reçue par la sénatrice Beyak

Comme indiqué précédemment, le conseiller sénatorial en éthique a transmis, le 9 juin 2020, un rapport à votre comité concernant l'évaluation des progrès de la sénatrice Beyak. Ce rapport comprend une évaluation faite par le fournisseur du programme de sensibilisation, conformément à la recommandation 2. Il comprend aussi les commentaires de la sénatrice Beyak sur l'évaluation faite par le fournisseur du programme de sensibilisation.

Dans son rapport, le conseiller sénatorial en éthique décrit les démarches qu'il a faites pour trouver et engager le fournisseur du programme de sensibilisation, ainsi que les difficultés qui sont survenues pendant celles-ci. Le 12 mai 2020, M. Black-Branch a proposé au conseiller sénatorial en éthique un programme de formation. Le jour même, ce dernier l'a approuvé et a communiqué avec l'avocat de la sénatrice Beyak afin de s'entendre sur d'autres dispositions. Dans son rapport, le conseiller sénatorial en éthique qualifie le programme d'élaboré et de recherché et juge qu'il répond à toutes les conditions définies dans la recommandation 2 du rapport intérimaire.

La sénatrice Beyak a suivi le programme de sensibilisation de quatre jours du 19 au 22 mai 2020. Cette formation a été donnée par vidéoconférence, parce que la pandémie de la COVID-19 et les exigences de distanciation physique ne permettaient pas de l'offrir en personne.

Comme il l'indique dans son rapport, le conseiller sénatorial en éthique a reçu le rapport d'évaluation de M. Black-Branch le 31 mai 2020 et il l'a transmis le lendemain à l'avocat de la sénatrice Beyak. La sénatrice Beyak a communiqué sa réponse par courriel le 3 juin 2020. Dans sa réponse, elle ne commente pas le rapport d'évaluation en détail, mais exprime sa gratitude pour la formation reçue et félicite M. Black-Branch et l'équipe de spécialistes de leur rapport « réfléchi, juste, complet et précis ».

Dans son rapport, le conseiller sénatorial en éthique écrit que le rapport d'évaluation de M. Black-Branch est « approfondi, exhaustif et irréfutable ». Il est donc d'avis que l'évaluation des progrès répond à toutes les conditions de la recommandation 2.

iii. Le rapport d'évaluation du fournisseur du programme de sensibilisation

Dans son rapport d'évaluation, M. Black-Branch confirme que la sénatrice Beyak a assisté aux 10 séances de formation, qui représentent 24 heures de cours (y compris une période de 3 heures de révision et d'évaluation). Il confirme aussi qu'elle a réussi le programme et qu'elle en a complété tous les volets comme il se doit. Il déclare qu'il lui est impossible de confirmer que la sénatrice Beyak a pleinement intégré l'information donnée pendant la formation, mais qu'elle a bel et bien appris, qu'elle était disposée à apprendre et qu'elle semblait vouloir mieux comprendre les responsabilités que doivent assumer les sénateurs et les répercussions de ce qu'elle avait fait.

Pour étayer les conclusions de son rapport, M. Black-Branch donne des exemples de la coopération de la sénatrice Beyak et de sa volonté d'apprendre. Il ajoute que les réponses données par la sénatrice Beyak pendant les séances de formation et son évaluation finale laissent croire qu'elle semble accepter « la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme » et qu'elle comprend les responsabilités des sénateurs en matière de racisme.

Dans sa conclusion, M. Black-Branch affirme que la sénatrice semble avoir répondu aux critères définis dans la recommandation 2 du rapport intérimaire de votre comité. Malgré ce constat, il fait observer que le changement d'attitude par rapport aux questions socioculturelles prend souvent beaucoup de temps et des efforts « qu'un seul programme de sensibilisation ne peut vraisemblablement pas accomplir à lui seul ». Il mentionne tout de même que les programmes de sensibilisation de ce genre peuvent contribuer efficacement à changer les comportements, à développer différents points de vue et à susciter une réflexion professionnelle, et que la sénatrice Beyak est maintenant mieux outillée pour « s'acquitter de son rôle professionnel et forger ses convictions personnelles ».

iv. Les conclusions du comité

Votre comité accepte le rapport du conseiller sénatorial en éthique et il lui est reconnaissant des efforts considérables qu'il a déployés pour organiser la prestation de ce cours en dépit des difficultés causées par la pandémie de la COVID-19. D'après l'évaluation faite par le fournisseur du programme de sensibilisation et les commentaires du conseiller sénatorial en éthique et de la sénatrice Beyak, votre comité est d'avis que la sénatrice a répondu aux conditions de la recommandation 2 de son rapport intérimaire.

Votre comité est d'accord avec M. Black-Branche lorsqu'il dit qu'un seul cours n'est peut-être pas suffisant pour entraîner un changement de comportement ou d'attitude sur les questions autochtones. Cependant, dans son rapport intérimaire, votre comité précisait que la sénatrice Beyak devait suivre d'autres cours particuliers pour lui permettre de mieux comprendre le racisme à l'égard des peuples autochtones du Canada et les responsabilités des sénateurs à cet égard. Votre comité estime donc qu'elle a suivi le programme requis, qu'elle était disposée à apprendre et qu'elle a effectivement amélioré ses connaissances.

Votre comité estime de façon générale que l'éducation peut contribuer grandement à la réconciliation. En effet, la Commission de vérité et réconciliation du Canada reconnaît que l'éducation est la clé de la réconciliation avec les peuples autochtones : « L'éducation doit combler les lacunes en matière de connaissances historiques qui perpétuent l'ignorance et le racisme² ». Fournir l'occasion de suivre une formation spécialisée sur l'histoire et les réalités actuelles des peuples autochtones fait donc partie intégrante du processus général de réconciliation.

Le rapport du conseiller sénatorial en éthique figure en annexe du présent rapport. Pour protéger la confidentialité des personnes participant à la formation, certains renseignements ont été supprimés conformément à l'usage établi par le comité. Sauf ces exceptions, le rapport est reproduit intégralement.

b. La lettre d'excuses

La recommandation 3 du rapport intérimaire exigeait que la sénatrice Beyak :

a) écrire une lettre d'excuses comprenant :

- (i) des excuses pour les répercussions de sa conduite sur les Autochtones au Canada, ainsi que sur l'institution et la réputation du Sénat;
- (ii) ses réflexions sur le programme de sensibilisation, y compris ce qu'elle y a appris;
- (iii) la confirmation qu'elle comprend les rôles et les responsabilités des sénateurs à l'égard des droits des minorités;

b) remette la lettre d'excuses au greffier du Sénat, qui veillera à ce qu'elle soit publiée dans les *Journaux du Sénat* soit :

- (i) le jour de séance suivant la réception de la lettre d'excuses; ou
- (ii) le dernier jour de séance, si la lettre d'excuses est reçue entre l'ajournement du Sénat et la prorogation ou la dissolution du Parlement.

Le 5 juin 2020, la sénatrice Beyak a transmis une lettre d'excuses au greffier du Sénat. Conformément à la recommandation 2, celui-ci l'a fait publier dans les *Journaux du Sénat* de la séance suivante, qui a eu lieu le mardi 16 juin 2020³.

² Commission de vérité et réconciliation, *Rapport final de la Commission de vérité et réconciliation du Canada, volume 6*, 2015, p. 131.

³ Sénat, *Journaux*, 1^{re} session, 43^e législature, n° 22, 16 juin 2020, p. 503-505.

Il incombe à tous les sénateurs de juger si elle sera suffisante, mais votre comité estime que la sénatrice Beyak y admet les conséquences de sa conduite et les comprend bien, et qu'elle y fait état d'une mûre réflexion sur sa formation et sur ce qu'elle en a retiré.

Votre comité est aussi d'avis que la lettre de la sénatrice Beyak témoigne d'une meilleure compréhension du rôle qu'ont les sénateurs de défendre les droits des minorités. Étant donné cette lettre et le discours que la sénatrice elle a fait au Sénat pendant le débat sur le rapport intérimaire⁴, votre comité estime que l'esprit et l'intention de sa recommandation ont été respectés. La sénatrice Beyak a admis ses torts et elle a promis de s'améliorer. La publication de sa lettre d'excuses dans les *Journaux du Sénat* rappelle à tous les sénateurs la nécessité d'assumer la responsabilité de leurs actes et démontre que le Sénat considère que les sénateurs doivent répondre de leurs agissements.

Autres réflexions

Le présent rapport est l'aboutissement d'un processus qui a été amorcé il y a plus d'un an, lors de la législature précédente. Bien que la plainte d'origine ayant mené à l'enquête du conseiller sénatorial en éthique soit traitée depuis longtemps, votre comité profite de l'occasion qui s'offre à lui pour rappeler à l'ensemble des sénateurs qu'ils doivent être soucieux du Code et de leurs obligations, notamment celle de représenter les groupes minoritaires et de défendre leurs intérêts. Tous les sénateurs doivent contribuer à la lutte contre le racisme et la discrimination, sous toutes leurs formes, dans la société canadienne. Le Sénat aussi doit contribuer activement à ce que les voix sous-représentées aient leur juste place et puissent se faire entendre dans les institutions démocratiques du Canada.

L'éducation est le projet de toute une vie. Les sénateurs, tout comme l'ensemble des Canadiens, doivent s'interroger et remettre en question leurs idées préconçues et leurs possibles préjugés. Le Code exige des sénateurs d'adopter « une conduite qui respecte les normes les plus élevées de dignité inhérentes à la charge de sénateur », c'est-à-dire de reconnaître notamment la valeur inhérente de chaque personne. Bien que le Code ne serve pas expressément à lutter contre le racisme et les autres formes de discrimination, votre comité estime que le racisme est incompatible avec les valeurs du Sénat qui sont exprimées dans le Code. Il prend aussi au sérieux son devoir de se pencher sur les questions de ce genre lorsqu'elles surviennent.

Recommandations

À la lumière de ce qui précède, votre comité recommande :

Que le Sénat lève la suspension pesant sur la sénatrice Lynn Beyak, tel qu'ordonné le 27 février 2020; et qu'il soit entendu que cette suspension prenne fin le jour de l'adoption de ce rapport par le Sénat;

⁴ Sénat, *Débats*, 1^{re} session, 43^e législature, vol. 151, n° 11, 25 février 2020, p. 284.

Que le Comité permanent de la régie interne, des budgets et de l'administration soit habilité à prendre toute mesure qu'il juge indiquée pour que la sénatrice Beyak soit réintégrée dans ses fonctions;

Que, conformément à l'article 2.9 de la *Loi sur les allocations de retraite des parlementaires*, le droit d'accumuler du service validable soit rétabli pour la sénatrice Beyak à compter du jour où ce rapport est adopté par le Sénat.



Office of the
Senate Ethics Officer
Bureau du
conseiller sénatorial
en éthique

RAPPORT DU CONSEILLER SÉNATORIAL EN ÉTHIQUE CONCERNANT LE PROGRAMME DE SENSIBILISATION AU RACISME ENVERS LES PEUPLES AUTOCHTONES AU CANADA OFFERT À LA SÉNATRICE BEYAK

9 juin 2020



Senate Ethics
Officer
Conseiller sénatorial
en éthique

Le 9 juin 2020

L'honorable Murray Sinclair, président
L'honorable Dennis Patterson, vice-président
Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs
a/s de Madame Marie-Ève Belzile, greffière du comité
Édifice Chambers [REDACTED]
Le Sénat du Canada
Ottawa (Ontario) K1A 0A4

Objet : Premier rapport du Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs, le 31 janvier 2020

Messieurs les Sénateurs,

La présente fait suite à la recommandation 2 du Premier rapport du Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs, daté du 31 janvier 2020 (le Rapport).

Comme vous le savez, selon le paragraphe c) de la recommandation 2 du Rapport, je dois vous faire rapport au plus tard 10 jours civils après avoir reçu tout commentaire de la sénatrice Beyak concernant l'évaluation de son rendement par le fournisseur de programmes de sensibilisation.

Dans mon rapport, ci-annexé, je devais vous fournir l'évaluation, tout commentaire de la sénatrice Beyak, et toute observation et recommandation que je jugeais appropriée. Ainsi que vous pourrez le constater, tous ces éléments figurent dans mon rapport.

Je vous prie d'agréer, Messieurs les Sénateurs, l'assurance de ma haute considération.

A handwritten signature in blue ink, appearing to read "Pierre Legault".

Pierre Legault

Pièces jointes



RAPPORT DU CONSEILLER SÉNATORIAL EN ÉTHIQUE CONCERNANT LE PROGRAMME DE SENSIBILISATION AU RACISME ENVERS LES PEUPLES AUTOCHTONES AU CANADA OFFERT À LA SÉNATRICE BEYAK

Le jeudi 27 février 2020, le Sénat a adopté le premier rapport du Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs (le comité), intitulé *Faits nouveaux et les mesures prises concernant le cinquième rapport du comité au sujet de la sénatrice Lynn Beyak*, déposé au Sénat le 31 janvier 2020 (premier rapport).

Recommandation 2 formulée dans le premier rapport

Le premier rapport m'a confié le mandat de choisir et d'approuver, en faisant appel à une expertise externe au besoin, un fournisseur de programmes de sensibilisation possédant une expérience avérée en matière de relations raciales, plus particulièrement en matière de questions autochtones, afin d'élaborer et d'offrir un programme de sensibilisation conçu spécialement pour la sénatrice Beyak et approuvé par moi.¹

¹ La recommandation 2 du premier rapport se lit comme suit :

a) Que le conseiller en éthique du Sénat choisisse et approuve, en faisant appel à une expertise externe au besoin, un fournisseur de programmes de sensibilisation possédant une expérience avérée en matière de relations raciales, particulièrement en ce qui concerne les questions autochtones pour :

- (i) élaborer et offrir un programme de sensibilisation qui est approuvé par le conseiller sénatorial en éthique et conçu spécialement pour la sénatrice Beyak en matière de racisme, en mettant l'accent sur le racisme à l'égard des peuples autochtones au Canada et sur la responsabilité particulière du législateur à cet égard, ainsi que sur la façon dont la sénatrice s'est comportée;
 - (ii) fournir au conseiller sénatorial en éthique une évaluation objective écrite de l'apprentissage de la sénatrice Beyak et de son assiduité au programme de sensibilisation dans les dix (10) jours civils suivant la fin du programme, y compris une appréciation à savoir si la sénatrice Beyak :
- (A) a réussi le programme;
 - (B) a appris et était disposée à apprendre;
 - (C) comprend les responsabilités de chacun des sénateurs quand il est question de racisme et la façon dont sa conduite antérieure s'inscrit dans ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur;

b) Que le conseiller sénatorial en éthique fournisse aussitôt que possible à la sénatrice Beyak les rapports obtenus du fournisseur de programmes de sensibilisation et lui accorde dix (10) jours civils pour soumettre les commentaires qu'elle juge appropriés;

c) Que le conseiller sénatorial en éthique fasse rapport au Comité permanent de l'éthique et des conflits d'intérêts des sénateurs y incluant l'évaluation du fournisseur de programmes de sensibilisation, tout commentaire de la sénatrice Beyak reçu aux termes du paragraphe b), et toute observation et recommandation que le conseiller sénatorial en éthique juge appropriée, au plus tard :

- (i) dix (10) jours civils après la réception de commentaires de la sénatrice Beyak aux termes du paragraphe b), le cas échéant;
- (ii) quinze (15) jours civils après avoir remis à la sénatrice Beyak l'évaluation du fournisseur de programmes de sensibilisation, si aucun commentaire n'est reçu aux termes du paragraphe b);

d) Que le Comité permanent de l'éthique et des conflits d'intérêts des sénateurs :



Le comité a énoncé cinq critères nécessaires à la réalisation du programme de sensibilisation :

- 1) Il devait être conçu spécialement pour la sénatrice Beyak, tel que mentionné plus tôt.
- 2) Il devait être lié au racisme, avec un accent sur le racisme à l'égard des peuples autochtones au Canada.
- 3) Il devait inclure un volet sur la responsabilité particulière des législateurs à cet égard. Cette exigence impliquait une compréhension de certains aspects du droit constitutionnel et une compréhension du Sénat en tant qu'institution parlementaire.
- 4) La conduite passée de la sénatrice Beyak devait être comprise dans le contexte de son rôle de législateur.
- 5) Une évaluation objective des progrès de la sénatrice Beyak relativement aux questions susmentionnées devait être présentée au conseiller sénatorial en éthique à la fin du programme.

La recommandation 2 exigeait également que je fournisse au comité un rapport comprenant l'évaluation du fournisseur du programme de sensibilisation, les commentaires de la sénatrice Beyak ainsi que les observations et les recommandations que je jugeais appropriées.

Voici mon rapport au comité, conformément à la recommandation 2.

Mandat du conseiller sénatorial en éthique

Mon mandat consistait à choisir un fournisseur de programmes de sensibilisation possédant une expérience avérée des sujets susmentionnés. Cela signifiait que le fournisseur devait avoir l'expérience d'un certain nombre de domaines et de spécialités, dont le racisme, le droit constitutionnel, les droits de la personne et l'apprentissage des adultes. Le fournisseur devait être un éducateur qualifié, capable d'évaluer les étudiants de façon objective et indépendante.

Une fois sélectionné par moi, le fournisseur du programme de sensibilisation devait concevoir le programme, le faire approuver par moi, l'offrir à la sénatrice Beyak puis fournir une évaluation de sa réussite, comme je l'ai déjà mentionné.

(i) soit autorisé à fixer, le plus rapidement possible, le délai dans lequel la sénatrice Beyak devra avoir complété le programme de sensibilisation identifié et approuvé par le conseiller sénatorial en éthique;
(ii) dépose un rapport auprès du greffier pour informer le Sénat du délai imparti;
(iii) communique le délai établi en vertu de l'alinéa d](i) à la sénatrice Beyak le plus rapidement possible;

e) Que le conseiller sénatorial en éthique informe le Comité permanent de l'éthique et des conflits d'intérêts des sénateurs de toute difficulté rencontrée dans l'application de la présente recommandation, et que le comité soit autorisé à faire rapport au Sénat pour lui proposer des recommandations corrélatives, selon ce qu'il estime approprié.



Dans la recommandation 2, le comité a été très précis quant aux mandats respectifs du conseiller sénatorial en éthique et du fournisseur du programme de sensibilisation, et quant au processus, au calendrier, au contenu du programme et aux éléments sur lesquels allait porter l'évaluation de l'apprentissage. Selon la recommandation, les décisions relatives à l'élaboration du programme de sensibilisation ont été laissées à la discréction du fournisseur du programme, qui était ensuite tenu de le faire approuver par le conseiller sénatorial en éthique. La recommandation ne prévoyait aucun rôle pour la sénatrice Beyak dans l'un ou l'autre de ces domaines.

Étant donné la nature détaillée de la recommandation, je n'avais pas la liberté de modifier ou de dépasser mon mandat; on ne m'a pas accordé ce genre de pouvoir discrétionnaire. La recommandation exigeait qu'une évaluation de l'apprentissage soit réalisée par un fournisseur de programmes de sensibilisation possédant une expertise et une expérience avérées. La recommandation précisait ce qui devait être évalué, mais ne précisait pas la méthode à utiliser pour évaluer la sénatrice Beyak. Le choix de la méthode a donc été laissé à la discréction du fournisseur du programme de sensibilisation, et, encore une fois, la sénatrice Beyak n'avait aucun rôle à jouer dans cette question.

Sélection du fournisseur du programme de sensibilisation

Processus

Le choix du fournisseur du programme de sensibilisation était un facteur déterminant pour la conception et la prestation d'un programme très compliqué et comportant de nombreux éléments. Le choix de l'établissement était important pour s'assurer que l'évaluation se fasse en toute objectivité, qu'elle inspire la crédibilité et soit inattaquable.

Sitôt après l'adoption du premier rapport du comité par le Sénat, le jeudi 27 février 2020, j'ai commencé à remplir mon mandat qui consistait à mettre en œuvre la recommandation 2 en cherchant un fournisseur de programmes de sensibilisation possédant l'expertise et les qualifications susmentionnées.

Pour trouver l'établissement qui pourrait satisfaire à tous les critères requis, j'ai d'abord demandé conseil à un organisme ayant de l'expertise en matière de racisme. J'ai ensuite communiqué avec les responsables d'un établissement d'enseignement réputé qui offre de la formation aux adultes, y compris de la formation sur la réconciliation avec les peuples autochtones, à qui j'ai demandé qui pourrait, selon eux, être un fournisseur de programme de sensibilisation envisageable. Voici ce qu'on m'a conseillé :

- i. Une seule personne ne pourrait pas satisfaire aux cinq éléments du programme; seule une équipe spécialisée d'experts pourrait le faire.
- ii. Seules les universités possèdent les connaissances et l'expérience nécessaires pour offrir ce type particulier de programme et sont en mesure de réunir une telle équipe d'experts.
- iii. L'organisme à qui j'avais demandé conseil ne pouvait pas faire partie du projet, car il ne réunissait pas toutes les qualifications nécessaires à la mise en œuvre de la recommandation 2.



À la fin mars, l'organisme que j'avais consulté a pu me fournir une courte liste des universités qui avaient la capacité et les experts nécessaires pour élaborer et exécuter le programme, ainsi que pour évaluer la sénatrice Beyak. Avant de recevoir la liste, dont la réception a été retardée à cause des perturbations provoquées par la COVID-19 dans le milieu de travail, j'avais communiqué avec diverses universités, qui, bien qu'intéressées, n'avaient pas de temps à y consacrer en raison de la COVID-19. Le 19 mars 2020, j'ai informé votre comité de cette difficulté, conformément à la recommandation 2(e).

Fort heureusement, l'Université du Manitoba, qui était mon premier choix parmi les établissements figurant sur la liste restreinte qui m'a été donnée, était prête à relever le défi. Cette université avait toutes les caractéristiques essentielles nécessaires pour assurer que l'apprentissage de la sénatrice Beyak se déroule dans le meilleur environnement et les meilleures circonstances possible. Premièrement, la faculté de droit allait s'impliquer dans le projet. Deuxièmement, cette université abrite un département d'études autochtones mis en place depuis longtemps. Troisièmement, les experts qui allaient participer au projet possédaient une expérience manifeste à l'égard des cinq éléments requis pour le programme.

Par conséquent, le 16 avril 2020, j'ai communiqué avec M. Black-Branche, doyen de la Faculté de droit, et le 22 avril 2020, celui-ci a accepté de former une équipe et de soumettre le programme à mon approbation.

Comme en témoigne son impressionnant curriculum vitae, que l'on peut voir à l'**annexe A** du présent rapport, M. Black-Branche est une personne éminemment qualifiée pour entreprendre cette tâche. Il est doyen de la Faculté de droit et professeur de droit à l'Université du Manitoba. Avocat au Manitoba, il est également avocat et juge de paix en Angleterre, où il a servi comme magistrat à temps partiel. Il est titulaire d'un doctorat en droit de l'Université d'Oxford et d'un doctorat de l'Université de Toronto. Il a enseigné dans le nord du Manitoba et au centre-ville de Toronto, où il a été un témoin direct des problèmes liés à la race et aux relations communautaires. Dans l'exercice de ses fonctions de doyen de l'Université du Manitoba, il a encouragé le rayonnement des communautés autochtones. Il a convoqué un comité spécial du doyen sur les Appels à l'action de la Commission de vérité et réconciliation (CVR), qui s'est penchée sur les niveaux de scolarisation et les taux de réussite des jeunes Autochtones, pour donner suite à l'appel à l'action no 28 en mettant l'accent sur le programme d'études et le milieu d'apprentissage. Il a écrit sur des sujets autochtones et a offert de la formation, y compris en milieu de travail, sur les droits de la personne en matière de discrimination et d'égalité réelle à de nombreuses personnes, groupes et organisations.

M. Black-Branche a réuni une équipe de personnes expérimentées qu'il a engagée à ses côtés et il a coordonné la prestation du programme avec chacune de ces personnes. Les curricula vita complets et imposants des membres de l'équipe se trouvent à l'**annexe B** du présent rapport. Ces experts sont :

- M. Bruce Curran, doyen associé (études universitaires) à la Faculté de droit de l'Université du Manitoba;
- Aîné Norman Meade, aîné en résidence, Université du Manitoba;
- M^{me} Cary Miller, directrice du département des études autochtones de l'Université du Manitoba;
- M. Lorne Neudorf, vice-doyen à la Faculté de droit de l'Université d'Adélaïde et professeur associé à la Faculté de droit de l'Université du Manitoba;
- M^{me} Melissa Serbin, procureure principale de la Couronne, Service des poursuites pénales du Manitoba et chargée de cours à temps partiel à la Faculté de droit de l'Université du Manitoba;



- Mme Wendy Whitecloud, directrice du programme de soutien scolaire (étudiants autochtones) et instructrice principale à la retraite à la Faculté de droit de l'Université du Manitoba.

L'équipe réunit l'expérience expressément demandée par le Sénat. Le groupe est éminemment qualifié; chacun de ses membres possède une feuille de route exceptionnelle et chacun est en mesure de contribuer de façon importante au succès du programme.

M. Black-Branch a soumis le programme à mon approbation le 12 mai 2020. Je l'ai examiné attentivement et je l'ai approuvé le jour même. Le programme a ensuite été présenté à l'avocat de la sénatrice Beyak, également le jour même.

Le programme, qui est présenté à l'[annexe C](#) du présent rapport, était sophistiqué et élaboré. Il répondait à toutes les exigences énoncées dans la recommandation 2 et comprenait une description des membres de l'équipe, du programme de sensibilisation, des divers modules, des critères et des objectifs d'apprentissage et des conditions d'apprentissage.

Le programme a été offert par vidéo, puisque la pandémie de COVID-19 ne permettait pas la formation présentielle, qui aurait été préférable.

Coopération de la sénatrice Beyak

Deux semaines avant les dates prévues de prestation du programme, soit le 5 mai 2020, mon bureau a communiqué avec l'avocat de la sénatrice Beyak pour confirmer la disponibilité de celle-ci pour la semaine du 18 mai 2020. La sénatrice Beyak était représentée dans cette affaire par M^e Donald Bayne. Dans un courriel du 11 mai 2020, M^e Bayne a confirmé la disponibilité de la sénatrice pour la semaine visée, à l'exception du 18 mai. Le 12 mai 2020, mon bureau a confirmé les dates du programme et fait parvenir la programmation des activités de formation ainsi que tous les renseignements nécessaires à M^e Bayne. Le 15 mai 2020, mon bureau a envoyé à M^e Bayne un calendrier plus détaillé, avec des plages horaires pour les séances du programme. Copie du calendrier détaillé se trouve à l'[annexe D](#) du présent rapport.

L'équipe de l'Université du Manitoba a offert le programme comme prévu, du 19 au 22 mai 2020 inclusivement.

Difficultés survenues pendant le processus

J'ai rencontré un certain nombre de difficultés pendant le processus.. Ces difficultés sont décrites ci-dessous :

COVID -19

Étant donné la situation imprévue causée par la pandémie de COVID-19, il a fallu un certain temps pour trouver une université qui accepte d'élaborer un programme, de le mettre en œuvre et de fournir une évaluation de l'apprentissage de la sénatrice Beyak. Comme je l'ai signalé plus haut, les exigences diverses énoncées dans le premier rapport du comité faisaient en sorte que seule une université disposerait des ressources nécessaires pour satisfaire à tous les volets de la recommandation.



Le mois de mars et le début d'avril ont été des périodes critiques pour les universités, qui ont dû s'adapter à la COVID-19 et passer de la salle de classe aux cours et aux évaluations en ligne. De fait, M. Black-Branch a confirmé que ni lui ni sa faculté n'auraient eu la possibilité d'accepter ce mandat pendant cette période cruciale et que, selon lui, aucune université au Canada n'aurait été en mesure de le faire.

J'avais communiqué avec M. Black-Branch le dernier jour des examens. Le moment était bien choisi. M. Black-Branch a réussi à élaborer un programme sur mesure très recherché puis à constituer une équipe d'experts, et ce, en un temps record, compte tenu de la qualité de l'équipe et du niveau de détail du programme.

Critères d'évaluation

M^e Bayne, l'avocat de la sénatrice Beyak, a fait valoir à maintes reprises la nécessité d'établir une liste des critères objectifs en fonction desquels la sénatrice Beyak serait évaluée. Il a soutenu que la sénatrice Beyak devrait connaître ces critères avant le début du programme afin qu'elle sache ce qu'on attendait d'elle pour réussir le programme.

La recommandation 2 du premier rapport décrivait avec une grande précision ce qu'il fallait apprendre et accomplir, mais elle n'imposait pas de critères d'évaluation de l'apprentissage aux fins du rapport. Elle a plutôt laissé cet élément à la discréction du fournisseur du programme de sensibilisation.

Le programme créé par M. Black-Branch définissait clairement les objectifs de chacun des modules et comprenait un module d'évaluation de trois heures. La façon la plus efficace d'obtenir une évaluation objective était, selon moi, de définir les objectifs du programme et de s'y appuyer, et de s'en remettre ensuite à un fournisseur de programmes de sensibilisation hautement qualifié et expérimenté pour réaliser l'évaluation en fonction de ces objectifs d'apprentissage clairement définis.

M. Black-Branch et son équipe étaient sans conteste des personnes éminemment qualifiées pour évaluer la sénatrice Beyak, et il ne serait pas approprié que le conseiller sénatorial en éthique, ou quiconque ne possède pas les qualifications pour le faire, remettent en question les fournisseurs professionnels de programmes de formation.

Surveillance - Enregistrement

La question de savoir si le programme devrait être surveillé ou enregistré en temps réel (dans le but d'être surveillé à une date ultérieure) a également été soulevée à maintes reprises par M^e Bayne. Celui-ci était convaincu que la recommandation 2 du premier rapport n'excluait pas les notions de surveillance et d'enregistrement du programme, et il a insisté pour que le conseiller sénatorial en éthique autorise ces façons de faire.

Deux autres sénateurs m'ont également entretenu de la question. Ils ont demandé d'avoir la possibilité de surveiller le programme afin d'éviter une situation semblable à celle qui s'était produite dans le cadre du programme de sensibilisation que la sénatrice Beyak avait suivi antérieurement, et où il semblait y avoir eu divergence de vues entre la sénatrice Beyak et le fournisseur du programme de sensibilisation quant à la façon dont le programme s'était déroulé.



M^e Bayne en a discuté avec mon bureau et il a écrit à celui-ci à ce sujet le 5 mai 2020; il a une fois de plus soulevé la question lors d'un appel téléphonique le 14 mai 2020. Puis il a de nouveau soulevé la question dans une autre lettre datée du 15 mai 2020. Dans cette dernière lettre adressée à mon avocat, il a mis le président de votre comité en copie conforme, et comme vous le savez déjà, le président lui a répondu directement, tout comme l'a fait mon bureau.

Premièrement, le Sénat n'a pas abordé la notion de surveillance ou d'enregistrement dans la recommandation 2 du premier rapport. M^e Bayne et les deux sénateurs qui avaient soulevé la même question en ont été informés. Le président l'a confirmé dans sa lettre à M^e Bayne. Il ressort clairement de cette correspondance que la recommandation 2 n'abordait pas la question de la surveillance ou de l'enregistrement et que, par conséquent, toute tentative d'en inclure un aurait signifié que j'aurais outrepassé le mandat qui m'avait été confié par le Sénat, ce que je n'étais pas disposé à faire.

De surcroît, il semblait clair que la meilleure façon d'éviter que se reproduise l'expérience vécue la dernière fois où la sénatrice Beyak a suivi une formation de sensibilisation était de s'assurer de faire appel au bon fournisseur de programmes de sensibilisation et de se fier au professionnalisme des experts et à leur évaluation de la sénatrice en tant que tierce partie désintéressée. La pire façon de régler ce problème serait de substituer une opinion non professionnelle à une opinion professionnelle. La première approche, et non la dernière, est celle qui a été adoptée.

Enfin, lorsque j'ai soulevé cette question avec M. Black-Branche, il a expliqué que la surveillance et l'enregistrement perturbaient le comportement des formateurs et des apprenants. Les gens deviennent mal à l'aise, ils se tiennent sur leurs gardes et sont moins spontanés. De plus, les formateurs préfèrent jouer la prudence lorsqu'ils répondent aux questions. La surveillance et l'enregistrement affectent tant le contenu de la formation que la performance des apprenants et les bénéfices qu'ils tirent de la formation. Cela signifie également que l'évaluation n'est peut-être pas un reflet fidèle de ce que les personnes suivant le programme ont appris, de ce qu'elles auraient dû apprendre et de la façon dont elles ont appris. En outre, les membres de l'équipe ont accepté d'exécuter leur partie du programme à la condition que celui-ci ne soit ni surveillé ni enregistré. Concrètement, M. Black-Branche en a fait une condition de la prestation du programme.

Dès lors, pour les motifs énumérés ci-dessus, la surveillance ou l'enregistrement du programme n'étaient pas autorisés. Pour moi, il était tout à fait approprié et conforme à mon mandat d'approuver le programme qui m'a été soumis et qui était assorti de cette condition.

Par conséquent, M^e Bayne a été informé qu'il n'y aurait ni surveillance ni enregistrement du programme. J'ai également informé les deux sénateurs qui avaient abordé cette question avec moi que le programme de sensibilisation ne ferait pas l'objet de surveillance ou d'enregistrement. Cependant, mon bureau a informé M^e Bayne que M. Black-Branche permettait que la sénatrice Beyak puisse certainement prendre des notes manuscrites pour son usage personnel, ce qu'elle fit si je comprends bien.

Évaluation, réponse et rapport au comité

M. Black-Branche m'a remis le rapport d'évaluation le 31 mai 2020, soit à une date se situant dans les 10 jours civils suivant l'achèvement du programme, comme l'exigeait la recommandation 2. Ce rapport d'évaluation se trouve à l'**annexe E** du présent rapport.



Les conclusions de M. Black-Branch sont comme suit :

En conclusion, il appert que dans l'ensemble, d'après les observations de l'équipe de formateurs ayant assuré le programme de sensibilisation, la sénatrice Beyak a satisfait aux critères énoncés dans la Recommandation 2 du Comité sénatorial permanent sur l'éthique et les conflits d'intérêts des sénateurs, au 31 janvier 2020 (page 11). En particulier, la sénatrice Beyak a) a réussi le programme; b) a appris et était disposée à apprendre; c) comprend les responsabilités de chacun des sénateurs quand il est question de racisme et la façon dont sa conduite antérieure s'inscrit dans ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur.

Mon bureau a remis le rapport d'évaluation à M^e Bayne le 1^{er} juin 2020.

La sénatrice Beyak m'a envoyé sa réponse par courriel le 3 juin 2020 et je l'ai reçue le 4 juin 2020. Dans son courriel, la sénatrice Beyak ne fournit aucun commentaire sur le rapport d'évaluation sauf pour féliciter l'Université du Manitoba et M. Black-Branch et son équipe d'avoir produit « un rapport réfléchi, juste, complet et précis concernant ma formation » (traduction non officielle). Une copie de la réponse de la sénatrice Beyak se trouve à l'**annexe F** du présent rapport.

Mon rapport est présenté à votre comité dans les 10 jours civils suivant la réception des commentaires de M. Bayne, comme l'exige la recommandation 2.

Observations et recommandations relatives au rapport d'évaluation de l'apprentissage

Je suis d'avis que le rapport d'évaluation fourni par M. Black-Branch est approfondi, exhaustif et irréfutable. Il démontre la profondeur et la grande qualité du programme de sensibilisation sur mesure que M. Black-Branch a créé et dont la sénatrice Beyak a pu profiter. Le rapport répond à toutes les exigences de la recommandation 2 et, par conséquent, il devrait fournir au comité les renseignements dont il a besoin pour terminer son travail dans ce dossier.

Gratitude

J'aimerais conclure ce rapport en exprimant ma sincère reconnaissance à l'Université du Manitoba, à sa Faculté de droit et à son Département des études autochtones. Je suis particulièrement reconnaissant à M. Black-Branch pour le travail exceptionnel qu'il a accompli en mettant sur pied un programme de sensibilisation exhaustif, approfondi et d'un haut niveau de compétence pour la sénatrice Beyak, conformément au premier rapport du comité.



Non seulement il a mis sur pied cet excellent programme et formé une équipe hors du commun, mais il l'a fait en un temps record afin de tenir compte de la nécessité, pour le comité, de faire rapport au Sénat.

Je tiens également à remercier son équipe exceptionnelle pour le rôle qu'elle a joué dans la prestation du programme et dans la préparation d'une évaluation de l'apprentissage réfléchie et détaillée – toujours en un temps record – et qui était à la fois objective, professionnelle et indépendante. Leur collaboration, leur aide et leur engagement tout au long du processus ont été grandement appréciés.

Pierre Legault
Conseiller sénatorial en éthique

9 juin 2020



Annexes

Annexe A – Curriculum vitae de M. Jonathan Black-Branch²

Annexe B – Curricula vitae de l'équipe d'experts

M. Bruce Curran
M^{me} Cary Miller
M. Lorne Neudorf
M^{me} Melissa Serbin
M^{me} Wendy Whitecloud

Annexe C – Programme de sensibilisation

Annexe D – Calendrier détaillé du programme de sensibilisation

Annexe E – Rapport d'évaluation de M. Jonathan Black-Branch

Annexe F – Réponse de la sénatrice Beyak

² Les fournisseurs du programme de sensibilisation ont soumis leurs curricula vitae individuels seulement en anglais.

ANNEXE A

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

Academic curriculum vitae of:

PROFESSOR JONATHAN L. BLACK-BRANCH, JP, FRSA

Bencher of the Law Society of Manitoba
Justice of the Peace, England & Wales
Fellow of the Royal Society of Arts

PERSONAL DETAILS

Citizenship: Canadian
Address: [REDACTED]

PERSONAL RECOGNITION & ACHIEVEMENTS

Queen Elizabeth II Silver Jubilee Medal Recipient

“For worthy and devoted services to the community of Canada.”

Grand Priors Award- Saint John's Ambulance

The President's Award of Excellence - Manitoba Bar Association (2017)
“For extraordinary contribution to the Association and its goals, honouring colleagues
who demonstrate excellence and commitment to the law, the legal profession and the
community at large.”

ACADEMIC WORK EXPERIENCE

1998-present	Barrister, England & Wales, UK.
2016-present	Barrister & Solicitor, Province of Manitoba.
2016-present	Dean of Law and Professor, Faculty of Law, University of Manitoba.
2005-2016	Professor, Chair of International Law. Teaching Fellow, University of London.
2011-2015	Head of the School of Law; Director of Research & Enterprise and Director of BMRI, University of Bedfordshire.
2009-2011	Dean & Head of School and Professor, AVT Business School, Copenhagen Denmark.
2005-2008	Fellow and Senior Tutor of Law, Greyfriars Hall; Director of Law, St Benet's Hall, University of Oxford and Professor of International Law, University of Buckingham.
2003- 2007	Exams moderator for the Oxford University Foreign Service Programme, Queen Elizabeth House, University of Oxford
1996- 2005	Lecturer, Senior Lecturer, Principal Lecturer of Law, Oxford Brookes University
1995- 1999	Wolfson College, University of Oxford, Junior Research Fellow

RECENT BOARD OF DIRECTORSHIPS

2019- present	Legal Help Centre –Winnipeg, Manitoba
2018- present	LDRC – Legal Data Resources (Manitoba) Corporation Treasury - Finance - Committee

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

2017- present	Member of the Canadian Federation of Law Societies -Law Degree Approvals Committee
2016- present	Bencher of the Law Society of Manitoba (Active Member of Committees: Disciplinary; Equity; and, Access to Justice)
2016- present	Law Foundation of Manitoba

VISITING PROFESSORSHIPS

2019-Present	Visiting Fellow, Clare Hall, Cambridge University
2018- present	Visiting Professor, Law Faculty, University of Adelaide
2014- present	Visiting Professor of Comparative Law and International Trade Dar Al-Hekma University, Jeddah, Saudi Arabia
2005- present	Thomas M Cooley Law School Adjunct Professor of Law, Toronto Program and Co-Director of Oxford Program & Adjunct Professor (2014-2016)
1998- 2016	College of Law, Syracuse University, New York, Annual Lecture.
2010- 2015	Professor of Anglo-American Business Law, ZHAW (Zürcher Hochschule für Angewandte Wissenschaften, Switzerland.
1999- 2016	College of Law, University of Oklahoma, Distinguished Visiting Professor in Law (ranks in the Top Tier of American Law Schools).
2008-11	VHU-Kellogg (Otto Beisheim School) Vallender, Germany, Visiting Professor of International Business Law VHU-Kellogg: Ex-MBA.
2007-12	EBS - European Business School, Wiesbaden, Germany, Visiting Professor of Business Law (2007-12). In 2009 I received the "Excellence in Teaching Award" (post-graduate level) the students' choice for the best overall Professor.

ACADEMIC & PROFESSIONAL EDUCATION**University Education**

Brown University - IE Madrid	Executive MBA	(Expected May 2020)
Yale University	Global Executive Leadership Program (YGELP)	2019
Harvard University	Program for Leadership Development (PLD)	2018
The University of Oxford	Doctor of Philosophy	D.Phil. (Law) 1999
Oxford Brookes University	Bachelor of Laws (Hons)	LLB(Hons) 1996
The University of Toronto	Doctor of Philosophy	Ph.D. 1993
The University of Toronto	Master of Education	M.Ed. 1990
Harvard University	Post-Graduate Courses	1989
Mount Allison University	Bachelor of Education	B.Ed. 1985
Université Laval	French Studies	1984
St Thomas University	Bachelor of Arts	B.A. 1983

Professional Education & Training

Bar Vocational Course at Inns of Court School of Law, London.
 Barrister-at-Law, Lincoln's Inn, London.
 Barrister and Solicitor, Manitoba Law Society

Further Education

Harvard University	Certificate of Management Excellence	2018
The University of Oxford	Post-Graduate Diploma in Learning and Teaching	

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

Oxford Brookes University in Higher Education (PGDipLATHE) 2002
 Certificate of Teaching in Higher Education 1999

Higher Education Academy Fellowship 2002**PROFESSIONAL MEMBERSHIPS AND SOCIETIES**

Commonwealth Magistrates' and Judges' Association, Life Member
Magistrates' Association, England & Wales, Member
Oxford Magistrates' Quorum Club, Member
Institute of Directors, London, UK - Life Member
Royal Society of Arts and Science, UK - Life Fellow
Member of Lincoln's Inn, UK - Barrister
Member of Inner Temple, UK - Barrister

MONOGRAPH IN PROGRESS

The Treaty Prohibiting Nuclear Weapons: Legal Challenges for Military Doctrines and Deterrence Policies. Cambridge University Press (In Press 2020)

**RESEARCH CONFERENCES
NUCLEAR NON-PROLIFERATION IN INTERNATIONAL LAW**

- 2019 Fifth Research conference on 'Harnessing the Winds of Change in a Shifting Nuclear World' (Winnipeg, 29-30 September 2019) at the Canadian Museum for Human Rights in conjunction with the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA) and ISLAND.
- 2018 Fourth Research conference on 'Re-Considering Nuclear Non-proliferation & Disarmament: Regional and Institutional Approaches Regarding Controls, Defence and Diplomacy' (Winnipeg, 20-21 September 2018) at the Canadian Museum for Human Rights in conjunction with the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA) and ISLAND.
- 2017 Third Research conference on 'Human Dimensions and Perspectives in a Nuclear World: Legal Issues of Non-Proliferation, Disarmament and the Right to Nuclear Energy' (Winnipeg, 11-12 October 2017) at the Canadian Museum for Human Rights in conjunction with the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA) and ISLAND.
- 2015 Second Research conference on 'Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes' (Cologne, 12-13 November 2015), conducted in cooperation with Professor Kerstin Odendahl, Executive Director of the Walther Schuecking Institute of International Law at the University of Kiel in conjunction with the ILA Committee and the Nuclear Round Table Strategic Forum on Non-Proliferation and Disarmament in International Law (RFND) and ISLAND.

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- 2014 Research conference on 'Verification of Nuclear Non-Proliferation Obligations' (Cologne, 13-14 November 2014), conducted in cooperation with Professor Claus Kress, Director of the Institute of Peace and Security Law at the University of Cologne in conjunction with the ILA and RFND and ISLAND.

**NUCLEAR NON-PROLIFERATION IN INTERNATIONAL LAW
BOOK SERIES (peer-reviewed)**

- (In Progress) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol VI: Nuclear Disarmament and Security at Risk – Legal Challenges in a Shifting Nuclear World (Springer/TM Asser Press).
- (2020) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol V: Legal Challenges for Nuclear Security and Deterrence (Springer/TM Asser Press).
- (2019) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol IV: Human Rights and Human Perspectives on the Use of Nuclear Energy for Peaceful Purposes (Springer/TM Asser Press).
- (2016) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol III: Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes (Springer/TM Asser Press).
- (2015) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol II: Verification and Compliance (Springer/TM Asser Press).
- (2014) Jonathan Black-Branch and Dieter Fleck (Eds), Nuclear Non-Proliferation in International Law, Vol I with Preface by Mohamed El Baradei (Springer/TM Asser Press).

Chapters in Volumes

**ROUND TABLE STRATEGIC FORUM ON DISARMAMENT & NUCLEAR
NON-PROLIFERATION IN INTERNATIONAL LAW:
ROUND TABLE REPORTS**

- (2019) Report on the Tenth Round Table: Legal Challenges for Nuclear Deterrence & Nuclear Security (London, England).
- (2018) Report on the Ninth Round Table: Pathways to Disarmament (Sydney).
- (2017) Report on the Eight Round Table: Treaty on the Prohibition of Nuclear Weapons (Winnipeg).
- (2016) Report on the Seventh Round Table: Legal and Diplomatic Issues Regarding Disarmament and Nuclear Non-Proliferation in the Middle East (Jeddah, Saudi Arabia).
- (2015) Report on the Sixth Round Table: Middle East Nuclear Weapons Free Zone (Jeddah, Saudi Arabia).
- (2015) Report on the Fifth Round Table: Disarmament and Nuclear Non-Proliferation (Cologne).
- (2014) Report on the Fourth Round Table: Legal Challenges in Ensuring Nuclear Non-Proliferation (Cologne).

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- (2013) Report on the Third Round Table: Nuclear Weapons, Nuclear Energy and Non-Proliferation under International Law: Current Challenges and Evolving Norms (London).
- (2012) Report on the Second Round Table on Nuclear Weapons, Nuclear Energy and Non-Proliferation under International Law (London).
- (2010) Report on the First Round Table: The Scope and Meaning of the Right to Civilian Nuclear Energy Capability in Article IV of the Nuclear Non-Proliferation Treaty (Brighton UK).

INTERNATIONAL LAW ASSOCIATION: NUCLEAR WEAPONS, NON-PROLIFERATION & CONTEMPORARY INTERNATIONAL LAW REPORTS

- (2020) Fifth Report: Legal Aspects of the Use of Nuclear Energy for Peaceful Purpose. Published in the 78th Biennial Report of the International Law Association.
- (2018) Fourth Report: Legal Aspects of the Use of Nuclear Energy for Peaceful Purpose. Published in the 78th Biennial Report of the International Law Association.
- (2016) Third Report: Legal Issues of Verification of Nuclear Non-Proliferation Commitments. Published in the 77th Biennial Report of the International Law Association.
- (2014) Legal Aspects of Nuclear Disarmament. Published in the 76th Biennial Report of the International Law Association.
- (2012) Practice Regarding Nuclear Energy, Non-Proliferation and Regulation of Nuclear Weapons. Published in the 75th Biennial Report of the International Law Association.
- (2011) Committee Strategy Report on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2010) Final Committee Mandate on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2008) Revised Committee Mandate on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2006) Draft Committee Mandate on Nuclear Weapons, Non-Proliferation and Contemporary International Law.
- (2004/5) Proposal and Rationale for a Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law.

INTERNATIONAL COMMERCIAL ARBITRATION

- (2013) Editor (with Peter Münch and Nicole Conrad). International Commercial Arbitration: Standard Clauses and Forms - Commentary. 913 pages (Helbing & Lichtenhahn, Basel, Switzerland).
- (2013) International and Comparative Arbitration. Chapter in International Commercial Arbitration: Standard Clauses and Forms - Commentary. Eds. Jonathan Black-Branch, Peter Münch and Nicole Conrad (Helbing & Lichtenhahn, Basel, Switzerland).
- (2013) Arbitration in England & Wales. Chapter in International Commercial Arbitration: Standard Clauses and Forms - Commentary. Eds. Jonathan

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

Black-Branch, Peter Münch and Nicole Conrad (Helbing & Lichtenhahn, Basel, Switzerland).

The handbook covers the arbitration rules for the following institutions and countries: UNCITRAL, ICC, WIPO, Austria (VIAC), China (CIETAC), Dubai (DIAC), England & Wales (LCIA), Germany (DIS), Hong Kong (HKIAC), India (ICA), Malaysia (KLRC), Singapore (SIAC), Sweden (SCC), and Switzerland (Swiss Rules). This comprehensive handbook provides the full range of clauses, forms and documents needed by practitioners in the course of arbitral proceedings as well as commentaries based on legal principles and insider know-how with regard to arbitration in specific countries. Furthermore, it includes expert commentary on the principles at work, and offers insider know-how on arbitration processes in specific countries, including the Asian countries (which are rapidly becoming important in the field of international arbitration). This is a handbook which will assist the practitioner - whether lawyer, counsel or arbitrator - to traverse the minefield of arbitral proceedings.

BANKING LAW EDITOR

- The Euro: Law and Banking.* Practitioners Loose-Leaf Binding. Lloyd's of London Publishing (LLP), London, 800 plus pages.
 First Up-date to the Series (adding 100 pages of text analyzing the evolution of banking services and investment services within the European Community).
 Second Up-date to the Series (up-dating European Community Legislation, Commission Decisions and Directives).
 Third Up-date to the Series (up-dating Community Laws, Commission Decisions and Directives).

RECENT REFERRED & RELEVANT PUBLICATIONS

- (In Progress) The Treaty on the Prohibition of Nuclear Weapons: Universality & Emerging Disarmament in International Law, in Black-Branch and Fleck (Eds), *Nuclear Non-Proliferation and International Law: Nuclear Disarmament and Security at Risk – Legal Challenges in a Shifting Nuclear World*, Vol. VI Springer/ TM Asser Press.
- (In Progress) Black-Branch J. and Fleck, D. Nuclear Non-Proliferation, Disarmament and Security: Evolving Legal Challenges, in Black-Branch and Fleck (Eds), *Nuclear Non-Proliferation and International Law: Nuclear Disarmament and Security at Risk – Legal Challenges in a Shifting Nuclear World*, Vol. VI, Springer/ TM Asser Press.
- (2019) International Obligations Concerning Disarmament and the Cessation of the Nuclear Arms Race: Justiciability over Justice in the Marshall Islands Cases at the International Court of Justice. *Journal of Conflict and Security Law*, Volume 24, Issue 3, Winter 2019, Pages 449–472.
- (2020) Precarious Peace: Nuclear Deterrence and Defence Doctrines of Nuclear-Weapon States in the Post-Cold War Era, in Black-Branch and Fleck (Eds), *Nuclear Non-Proliferation and International Law: Legal Challenges for Nuclear Security and Deterrence*, Vol V, Springer/ TM Asser Press.
- (2020) Black-Branch J. and Fleck, D. Legal Challenges for Nuclear Security and Deterrence, in Black-Branch and Fleck (Eds), *Nuclear Non-*

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- (2019) Proliferation and International Law: Legal Challenges for Nuclear Security and Deterrence, Vol V, Springer/ TM Asser Press.
- (2019) Statutory Interpretation Regarding the Powers, Authorities and Privileges Vested in the Law Society: A Sphere of Sovereignty as “Self-governing in Virtually Every Aspect”. *Statute Law Review*, Volume 40, Issue 2, June 2019, Pages 97–112, Oxford University Press.
- (2019) Black-Branch J The Inalienable Right to Nuclear Energy, Uranium Mining and the Right to Self-Determination of Indigenous Peoples in Canada, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law: Human Rights and Human Perspectives on the Use of Nuclear Energy for Peaceful Purposes, Vol IV, Springer/ TM Asser Press.
- (2019) Black-Branch J and Fleck D The Significance of the Human Impact for Nuclear Safety and Nuclear Disarmament, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law: Human Rights and Human Perspectives on the Use of Nuclear Energy for Peaceful Purposes, Vol IV, Springer/TM Asser Press.
- (2018) Legal Obligations Regarding “Premises” for Operational, Administrative and Accommodations Purposes under Paragraphs 16-19 of the UN Model SOFA (Status of Forces Agreements) and Article IX(3) of the NATO SOFA (Status of Forces Agreements). *The Handbook of the Law of Visiting Forces*, (2nd edition) (Oxford University Press, 2018), Dieter Fleck (Ed.).
- (2018) Legal Obligations Regarding “Travel and Transport” for Free Movement, Mobility and Open Access under Paragraphs 12-14 of the UN Model SOFA (Status of Forces Agreements) and Article IX(6) of the NATO SOFA (Status of Forces Agreements). *The Handbook of the Law of Visiting Forces*, (2nd edition) (Oxford University Press, 2018), Dieter Fleck (Ed.).
- (2018) Judicial Powers of Statutory Interpretation under the Human Rights Act 1998 in Britain: The Evolution of Democracy and Rights or a Step Too Far?. In *Legislating Statutory Interpretation: Comparative Perspectives from the Common Law World*. Eds. Neudorf, Lorne, Rankin, Micah and Hunt, Chris Hunt, Carswell (Thomson Reuters). [Refereed chapter]
- (2017) Nuclear Terrorism by States and Non-State Actors: Global Responses to Threats to Military and Human Security in International Law. *Journal of Conflict & Security Law* (2017) Volume 22, Issue 2, Summer 2017, Pages 201–248. Oxford University Press.
- (2017) Modern Legal Education: Towards Practice-Ready Attitudes, Attributes and Professionalism. *Manitoba Law Journal* 2016 Vol. 39 Special Issue, A Review of the Current Legal Landscape.
- (2016) The Precarious Nature of Human Rights. *Canadian Journal of Human Rights*, (2016) 5:1 Can J Hum Rts vii.
- (2016) Due Diligence as a Legal Imperative to Ensure Security and Safety of Peaceful Uses of Nuclear Energy as well as Non-Proliferation and Disarmament Obligations, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol III, Springer/Asser Press.
- (2016) Black-Branch J and Fleck D Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes: A Comprehensive Synopsis of Outstanding Issues,

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

- in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol II, Springer/Asser Press.
- (2015) The Effectiveness of UN Sanctions in the Case of North Korea Nuclear Disarmament and Non-Proliferation in International Law, Caracciolo I and Pedrazzi M (Eds) Nuclear Disarmament and Non Proliferation: Strengthening Treaty Obligations, IAEA Safeguards and Measures Countering Nuclear Terrorism, Eleven International Publishing.
- (2015) Countermeasures to Ensure Compliance with Nuclear Non-Proliferation Obligations, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol II, Springer/Asser Press.
- (2015) Black-Branch J and Fleck D Verification of and Compliance with International Nuclear Obligations: A Comprehensive Synopsis of Outstanding Issues, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol II, Springer/Asser Press.
- (2014) Black-Branch J and Fleck D Nuclear Weapons, Non-Proliferation and Disarmament: A Comprehensive Audit of Relevant Legal Issues and International Concerns, in Black-Branch and Fleck (Eds), Nuclear Non-Proliferation and International Law, Vol I, Springer/Asser Press.
- [Note that 2009-14: Nuclear Non-Proliferation work in other section of this cv]
- (2009) The legal status of Cluster Munitions under international humanitarian law: indiscriminate weapons of war. *Journal of International Law of Peace and Armed Conflict (Humanitäres Völkerrecht)* [Informationsschriften] Volume 22, 4/2009, at page 186.
- (2003). Powers of Detention of Suspected International Terrorists Under the United Kingdom Anti-Terrorism, Crime and Security Act 2001: Dismantling the Cornerstones of a Civil Society. *European Law Review (Human Rights Survey)*, Volume 27, Number 1, pp. 1-31.
- (2002). Parliamentary Supremacy or Political Expediency? The Constitutional Position of the Human Rights Act under British Law. *Statute Law Review*, Volume 23, Number 1, pp. 59-81 Oxford University Press.
- (2001). Being over Nothingness: The Right to Life under the Human Rights Act. *European Law Review (Human Rights Survey)*, Volume 26, Number 1, pp. 22-41.
- (2001). The Use of Children in War: The International Protocol on the Involvement of Children in Armed Conflicts. *Mediterranean Journal of Human Rights*, Volume 4, pp. 185-206.
- (2001). The Derogation of Rights under the UK Human Rights Act: Diminishing International Standards?. *Statute Law Review*. Volume 22, Number 1, pp. 71-81 Oxford University Press.
- (1999). Duty of Care versus Care as a Duty in Higher Educational Institutions. Eight refereed articles in a special issue of the *Journal of Collective Negotiations in the Public Sector* Volume 27(3) pp. 167-303. (Co-written with Dr. Wendy K. Lamont.) The articles are:
1. Public Sector Asphyxiation.
 2. Duty of Care and Teacher Wellness.
 3. Legal, Professional or Ethical Obligations to Promote Teacher Wellness.
 4. The Equity Equation: Equality of Opportunity.
 5. A Level Playing Field or Unequal Footing.
 6. Essential Elements for Teacher Wellness.

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

7. Support Services Linked to Private Institutions over Public and Female Directors over Male.
 8. The Future Direction of Public over Private Services.
- (1998). Entrenching Human Rights Legislation under Constitutional Law: The Canadian Charter of Rights and Freedoms. *European Human Rights Law Review*. Number 3, pp. 312-331.
- (1998). Closing the Door on Closed-Shop Agreements: Labour Law, Trade Unionism and the Right to Freedom of Assembly and Freedom of Association under the European Convention on Human Rights. *Journal of Collective Negotiations in the Public Sector*, Volume 27(4), pp. 307-330.
- (1998). Professional, Quasi-Professional or Loose Cannons: The Status of Mediators. *Family Law*. January, Vol. 28.
- (1998). Judging Education: Legal and Judicial Implications of the Canadian Charter of Rights and Freedoms. *Oxford Comparative Series in Education, Special Edition on Change in the Pacific Rim: Meeting the Challenges*, pp. 59-78.
- (1997). Entrenching Contractual Clauses for Safety in the Workplace into the Collective Agreement: The New Frontier in Employment Law. (co-authored with Dr. W. K. Lamont). *Journal of Collective Negotiations in the Public Sector*, Vol. 26 No. 2.
- (1997). Dignity, Discrimination and Legal Implications: The Politics of AIDS in Private and Public Sector Work Settings, A Comparative Analysis. *Journal of Individual Employment Rights*, Volume 6 No. 1, pp. 1-14.
- (1997). A New Era in Educational Planning in Canada: The *Canadian Charter of Rights and Freedoms* as Constitutional Law. *Educational Planning*. Volume 11, Number 1, pp. 5-20.
- (1996). Observing and Enforcing Human Rights under the Council of Europe: The Creation of a Permanent European Court of Human Rights. *Buffalo Journal of International Law*. July Issue, pp. 1-32.
- (1996). The Nature, the Context and the Consequences of Work: A Conceptual Framework for Studying Job Satisfaction Amongst Teachers. *Journal of Collective Negotiations in the Public Sector*. Vol. 25 No. 3, pp. 233-245.
- (1996). The Consequences of Teaching and Job Satisfaction: Federation/ Union, Remunerations and Career Development, the Most Important Factors. *Journal of Collective Negotiations in the Public Sector*. Vol. 25 No. 3, pp. 247-269.
- (1994). Weighing the Balance Between Constitutional Legal Rights and Administrative Duties. *The Canadian Administrator*, Vol. 33, No. 8, May.
- (1994). Fallen on Deaf Ears: A Legal Analysis of the Closure of the R.J.D. Williams Provincial School for the Deaf. *ACEHI Journal*, Vol. 20, Issue 1/2.
- (1994). Liberté et Égalité: Le Rôle de la Chartre Canadienne des Droits et Libertés à Augmenter les Provisions pour les Élèves en Programmes Spécialisés. *B.C. Journal of Special Education* Vol. 18 No. 2.
- (1994). O'Canada, Our Home on Native Land: Aboriginal Self Government May Be the Key to Educational Reform Not the Charter of Rights and Freedoms. *The Canadian Journal of Native Studies* Vol. 13, No. 2.

ACADEMIC CURRICULUM VITAE OF: DR. JONATHAN L. BLACK-BRANCH, JP

EDITORIAL BOARDS OF REFERRED JOURNALS AND REVIEWS

Yearbook of Arms Control and International Disarmament Law, Editor-in-Chief with Dieter Fleck.
British Yearbook of International Law, Oxford University Press Board Reviewer.
Oxford University Press, Book Proposal Reviewer, International Law and International Humanitarian Law.
Cambridge University Press, Book Proposal Reviewer, International Law and International Humanitarian Law.
Reviewer for Various Publishers, ad hoc Book Proposal Reviewer, International Law.
Denning Law Journal, University of Buckingham Press, Buckingham
Journal of Emerging Trends in Economics and Management Sciences (JETEMS) Editorial Board Member.
Journal of Collective Negotiations in the Public Sector, Baywood Publishing, New York, Editorial Board Member.
Professional Studies Journal, The University of Regina, Editorial Board Member.
Canadian Journal of Education, (Canadian Learned Society for Studies in Education). *ad hoc* referee for education and the law submissions.

CONFERENCE ORGANIZATION (SELECT)

(November 2018) Co-Organizer of the Isaac Pitblado Lectures (for the Manitoba Law Society) with The Honourable Madam Justice Lore Mirwaldt.
Reimagining Justice: Trust, Truths and Transformation(s). (2nd November 2018).
(September 2018) Co-Organizer (along with the Manitoba Law Society and the Manitoba Bar Association). Indigenous Law Program
“Tebwetibajimowin - To Tell the Truth” (September 27, 2018).
(September 2009) Organized a five-day conference for the 40th Anniversary of the Commonwealth Magistrates' and Judges' Association (CMJA) entitled: Community Justice & Judicial Independence: Local Issues, Commonwealth Standards (attended by judges and magistrates from 63 countries).

ANNEXE B

BRUCE J. CURRAN, Ph.D.

Curriculum Vitae (May 2020)

[REDACTED]
Faculty of Law
University of Manitoba
[REDACTED]
[REDACTED]
Work: [REDACTED]
Home: [REDACTED]
Cell: [REDACTED]
E-mail: [REDACTED]

EDUCATION

2015 PhD, Centre for Industrial Relations and Human Resources
University of Toronto
Thesis Title: Three Essays on Legal Issues Impacting the Employment Relationship In Canada

One paper used the statistical technique of event history analysis to study the causes of delay in grievance arbitration in Ontario over the past two decades. The second paper used another statistical method, a tobit model, to study the impact of *Honda v. Keays* on bad faith damages. The third paper developed a conceptualization of Freedom of Association from first principles, and used this conceptualization to critique Supreme Court of Canada jurisprudence.

2009 Master of Laws (Alternative Dispute Resolution)
York University

2003 Master of Industrial Relations
University of Toronto

1998 Bachelor of Laws
University of Western Ontario

1995 Honours Bachelor of Applied Science (Family and Social Relations)
University of Guelph

WORK EXPERIENCE

2018-present University of Manitoba, Winnipeg, Manitoba
Associate Dean Academic, J.D. Program: Faculty of Law
Responsible for administering the Juris Doctor program, including supervising curriculum, overseeing exchanges, setting timetable, managing Faculty members and sessional instructors, advising approximately 320 students, handling instances of academic misconduct, and organizing and hosting various special events.
Working with Dean to develop policies responsive to the COVID-19 outbreak.

CURRAN — 2

Supervising “Student Services” for JD students, including admissions, financial aid, and career services.

2016-present	<u>University of Manitoba, Winnipeg, Manitoba</u> Assistant Professor: Faculty of Law Research, teaching and service responsibilities.
2014-2016	<u>University of Ontario Institute of Technology, Oshawa, Ontario</u> Lecturer: Legal Studies Program, Faculty of Social Science and Humanities. Teaching eight courses per year with additional service responsibilities.
2010	<u>University of Toronto, Toronto, Ont.</u> Labour Relations Officer: Advised Human Resource Professionals regarding labour relations matters, including grievances, layoffs, reorganizations, and occupational health & safety. Represented clients in mediations. Negotiated collective agreements.
2009-2010	<u>Canadian Tire Dealers’ Association, Mississauga, Ont.</u> Vice President, Legal: Provided legal services to Canadian Tire “Dealers” (franchisees) across Canada on a wide range of labour and employment law issues, including terminations, employment standards, human rights, pay equity, and occupational health and safety.
2003-2009	<u>Towers Perrin (now Willis Towers Watson), Toronto, Ont.</u> Lawyer: Group benefits practice. Advised employers on labour and employment issues, with an emphasis on pensions and benefits. Provided legal and consulting advice to clients during settlement and/or arbitration of labour grievances and during negotiation of collective agreements.
2002	<u>St. Joseph Corporation, Concord, Ont.</u> Human Resources Counsel: Drafted corporate-wide policies and procedures manual pertaining to broad variety of human resource topics, including dispute resolution, compensation, and occupational health and safety. Advised on employment law issues.
2000-2001	<u>Lerner & Associates (now Lerners), London, Ont.</u> Associate Lawyer: Practised civil litigation, with an emphasis on employment law. Advised clients. Advocated for clients in trials, motions, appeals, and other hearings. Negotiated favourable settlements. Represented clients in mediations.

TEACHING EXPERIENCE**Assistant Professor**

Course Co-ordinator for “Desautels Oxford Program: International, European & Comparative Business Law & Society” (LAW 3980), Faculty of Law, University of Manitoba (Summer 2019)

CURRAN — 3

“The Law of Contracts” (LAW 1100/1102), Faculty of Law, University of Manitoba (Full year course: Fall 2016-Winter 2017; Fall 2017-Winter 2018; Fall 2018-Winter 2019; Fall 2019-Winter 2020)

“The Law of Trusts” (LAW 2490), Faculty of Law, University of Manitoba (Winter 2017; Fall 2017)

Course Co-ordinator for “Legal Negotiation” (LAW 2680), Faculty of Law, University of Manitoba (Fall 2016; Fall 2017; Fall 2018; Fall 2019)

Coach of two University of Manitoba teams, Canadian Negotiation Competition, Saskatoon, SK (Winter 2018)
(Teams placed second and sixth nationally)

Judge, Law Games Moot, Law Games, hosted by University of Manitoba (January 2018)

Judge, Moot for “Legal Methods” Course, Faculty of Law, University of Manitoba (March 2018)

Witness, Final Trial for “Advocacy” Course, Faculty of Law, University of Manitoba (March 2018)

Lecturer

“Employment & Mediation” (LGGS 3610), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Winter 2015; Winter 2016)

“Canadian Human Rights Law” (LGGS 2420), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Winter 2015, Two Sections; Winter 2016, Two Sections)

“Introduction to the Canadian Legal System” (SSCI 1010), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Fall 2014; Winter 2015; Fall 2015; Winter 2016)

“Private Law” (LGGS 2110), Legal Studies Program, University of Ontario Institute of Technology (Fall 2014; Fall 2015; Spring 2016)

“Rights and Freedoms in the Canadian Justice System” (SSCI 2050), Faculty of Social Science & Humanities, University of Ontario Institute of Technology (Fall 2015)

“Labour and Employment Law” (LGGS 3410), Legal Studies Program, University of Ontario Institute of Technology (Fall 2014; Fall 2015)

CURRAN — 4

Sessional Lecturer

“Labour & Employment Law and Policy Colloquium” (LAW5550), Osgoode Hall Law School, York University (Winter 2016)

“Employment Law” (IRE430), Employment Relations Program, Centre for Industrial Relations and Human Resources, University of Toronto (Full year course, Fall 2014 to Winter 2015)

“Collective Bargaining Law” (LAW2515), Osgoode Hall Law School, York University (Winter 2014)

“Industrial Relations & Human Resources” (ECO244), Department of Economics, University of Toronto Mississauga (Winters 2011 and 2012)

Teaching Assistant

“Negotiation” course (WDW372), Woodsworth College (Winter 2013)

“Employment Law” course (WDW430), Woodsworth College (Full year course, Fall 2011 and Winter 2012)

“Employment Health” course (WDW378), Woodsworth College (Winter 2011)

“Legal Environment of Business 1” course (MGTC31), Department of Management, University of Toronto Scarborough (Fall 2010; Summers 2011 and 2012)

PROFESSIONAL & COMMUNITY SERVICE

Chair, Academic Affairs Committee, (Faculty of Law, University of Manitoba) 2018-present
Chairing regular meetings of the Academic Affairs Committee, which approves courses and develops and administers certain academic policies on behalf of the Faculty. Advising Faculty Members and Sessional Instructors about the course proposal process. Managing the Committee’s processes, including drafting and circulating minutes. Drafting various reports and proposals for consideration by the committee.

Member, Selection Committee, Montague Israels, Q.C. Prize (Law Society of Manitoba) 2019
The award is made to a student being called to the Manitoba Bar on the basis of performance in all aspects of the Manitoba Bar Admission Program, earlier academic record, likelihood of future professional and personal accomplishments, and other interests and achievements both within and outside the study and application of law.

Member, Associate Deans’ Unit, University of Manitoba 2018-present
Attending monthly meetings of Associate Deans Academic for the University of Manitoba, and provided input on important decisions considered by the University.

Member, Organizing Committee, Isaac Pitblado Lectures (Law Society of Manitoba, Manitoba Bar Association, and Faculty of Law of University of Manitoba) 2018
Met weekly; Planned lecture series; Invited speakers

CURRAN — 5

Faculty Representative, Selection Committee, Manitoba Law Students Association 2018-present
Worked with elected executive to review applications and then conduct interviews as basis for selecting law students for various committees at the Faculty of Law, University of Manitoba

Faculty Coordinator, Hockey Arbitration Competition of Canada (Faculty of Law, University of Manitoba) 2017-present

Helped to prepare problem for internal competition; Judged internal competition; Coordinated coaching of teams; Worked with University of Manitoba teams to obtain required funding

Member, Dean's Focus Group on Professional Practice and Employability (Faculty of Law, University of Manitoba) 2017-present

Member, Student Affairs Committee (Faculty of Law, University of Manitoba) 2017-present

Reviewer, Relations Industrielles/Industrial Relations 2017-present

Organizer, Robson Hall Negotiation Competition (Faculty of Law, University of Manitoba) 2016-present

Lead organizer of annual Robson Hall Negotiation Competition. Drafting role plays for each running of this competition. Inviting and training practising lawyers to be the judges. Overseeing all logistical arrangements, including scoring.

Member, Bursary Committee (Faculty of Law, University of Manitoba) 2016-present

Reviewing preliminary determinations for all bursary applications. Reaching consensus with fellow committee members regarding contentious issues. Reviewing bursary appeals. Revised rubric for standard allocations. Awarding scholarships under Schwartz/Reisman Scholars Program.

Member, Distinguished Visitors Committee (Faculty of Law, University of Manitoba) 2016-present

Attending regular meetings. Providing input on speakers to invite. Organizing visits of distinguished guest speakers and acting as key point of contact for these speakers. Hosting social events with speakers. Developing policy and procedures for this committee. Overseeing posting of recordings on University of Manitoba library website.

Organizer, Inaugural Canadian Negotiation Competition (Faculty of Law, University of Manitoba) 2016-2017

Twelve teams from nine Canadian Law Schools participated. Developed the format, rules, judging protocol, and role plays for the competition. Invited and trained practising lawyers to be the judges of these competitions. Oversaw all logistical arrangements of this competition, including the scoring.

Joint Working Group on Teaching Faculty Workload for the UOIT Faculty of Social Science & Humanities 2015-2016

Attended regular meetings. Provided input in drafting of report.

CURRAN — 6

Accreditation of UOIT Alternative Dispute Resolution Courses by ADR Institute 2015-2016
Based on student interest, advocated within UOIT to seek accreditation. Assisted in supplying ADR Institute with necessary documentation to successfully obtain this accreditation.

Legal Studies Program Committee 2015-2016
Attended monthly meetings. Provided input on initiatives of Legal Studies Program.

Faculty Council (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016
Provided input on initiatives of Faculty of Social Science and Humanities.

Legal Studies Program Review Committee (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016
Assisted in drafting report for External Review of Legal Studies Program. Made presentations to external reviewers, and met several times with them. Assisted in organization and logistics of External Review. Provided input in drafting of responses to report of external reviewers.

Student Retention Committee (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016
Provided input on and executed key initiatives designed to retain students and enhance student engagement.

Research Proposal Review Committee (University of Ontario Institute of Technology) 2014-2016
Evaluated research proposals from faculty members of Faculty of Social Science and Humanities.

Teaching Assistant Committee (Faculty of Social Science and Humanities, University of Ontario Institute of Technology) 2014-2016
Led initiative to evaluate performance of Teaching Assistants. Involved in allocating Teaching Assistants assignments to Faculty. Assisted in the revision of the “TA Handbook”.

Perry Work Report Advisory Committee (Centre for Industrial Relations and Human Resources, University of Toronto) 2014
Executive Member: Provided strategic guidance to Centre for Industrial Relations and Human Resources on the direction of its weekly publication on important issues in employment relations, called the “Perry Work Report”. Co-drafted a report with a series of recommendations.

Canadian Industrial Relations Association (CIRA) 2012-2015
Executive Member: Provided input on potential initiatives of CIRA. Served on Membership Committee. Organized PhD Consortium for 50th and 51st Annual Conferences.

United Way Committee, Towers Perrin 2003-2006
Executive Member: Lead organizer for several successful charity fundraising events.

Association of Students in Industrial Relations, University of Toronto 2002-2003
President: Chaired meetings. Co-ordinated committees. Raised student concerns with University administration and negotiated satisfactory resolutions.

CURRAN — 7

Community Legal Services, London, Ont. 1996-98

Supervisor: Trained law students to do legal clinic work. Supervised students handling files. Reviewed and corrected law students' opinion letters, demand letters, and pleadings.

Caseworker: Carried heavy caseload. Assisted many clients with Criminal, Landlord/Tenant, Family, and Small Claims matters. Represented clients in numerous court appearances, including many criminal trials.

AWARDS & HONOURS

2020	Selected by Ms. Sara Reznik, one of my former students, for recognition at the Annual Students' Teacher Recognition Reception , University of Manitoba. The Students' Teacher Recognition Reception is an opportunity to celebrate teaching excellence. Recognizing that academic growth and development occurs over many years, each faculty nominates an outstanding graduating student, who then selects two teachers who have made important contributions to their education – one from Kindergarten to Grade 12 years and one from their years at the University of Manitoba.
2017, 2018	"Barney Schneiderman Award for Teaching Excellence" , Faculty of Law, University of Manitoba for 2016-2017 (Nominated) and 2017-2018 (Nominated). The nomination process is student-initiated and involves several letters of recommendation.
2017	"University of Manitoba/UMFA Merit Award for Teaching Excellence" , Humanities and Social Sciences section. The nomination process is colleague-initiated and involves several letters of recommendation.
2015	"Award of Teaching Excellence" , Faculty of Social Science and Humanities, UOIT for 2014-2015 (Won). This award is student-nominated and acknowledges the core faculty member who inspires students and enriches the quality of learning at UOIT.
2015, 2016	"Outstanding" designation (teaching and service) for performance at University Ontario Institute of Technology
2014	Allen Ponak Award , for best student paper, 51st Annual Conference of Canadian Industrial Relations Association (CIRA)
2013	Allen Ponak Award (Honourable Mention), for best student paper 50th Annual Conference of CIRA
2001, 2010, 2012, 2013	University of Toronto Fellowship (x4)
2002, 2011	Ontario Graduate Scholarship (x2)
2005	Towers Perrin award for client service
1998	Dean Rand Award , University of Western Ontario Law School, for meritorious academic standing and outstanding contributions in the service of law students
	G. J. Grant Prize in Community Legal Services , University of Western Ontario Law School
1996	Provigo Employee Scholarship
1995	Harold G. Fox Entrance Scholarship , University of Western Ontario Law School
	Peter Wright Graduate Award , Canadian Scholarship Trust Foundation
1993 - 1994	Dean's Scholarship , University of Guelph (x2)
	E.H. Stewart Scholarship , University of Guelph
	Dorothy Britton Memorial Scholarship , University of Guelph
	H.H. Harshman Foundation Scholarship , University of Guelph
1991	Canada Scholarship , Government of Canada

CURRAN — 8

SCHOLARSHIP

Peer Reviewed Journals

Bruce Curran, “Hugh A. Robson – A Labour Jurist Ahead of his Time” (Accepted and Forthcoming) MLJ.

Bruce Curran, “*Honda v. Keays*—Employer Shield or Employee Sword? An Empirical Analysis” (2018) 21:1 CLELJ 51.

Bruce Curran, “Event History Analysis of Grievance Arbitration in Ontario: Labour Justice Delayed?” (2017) 72:4 Relations Industrielles/Industrial Relations 621.

Bruce Curran & Sara Slinn, “Just Notice Reform: Enhanced Statutory Termination Provisions for the 99%” (2017) 20:1 CLELJ 229.

Bruce Curran, “*Alberta (Information and Privacy Commissioner) v. United Food and Commercial Workers, Local 401*: Case Comment” (2014) 52:1 Alta L Rev 185.

Bruce Curran & Scott Walsworth, “Can You Pay Employees to Innovate? Evidence from the Canadian Private Sector” (2014) 24:3 Human Resource Management Journal 290.

Casebooks

Sara Slinn & Bruce Curran, “The Right to Join a Union” in Kevin Banks, ed, *Labour and Employment Law: Cases, Materials, and Commentary*, 9th ed (Toronto: Irwin Law, 2018).

Chapters in Books

Bruce Curran, “Compensation for Responders to a Nuclear Accident: Where Should the Law Go?” in Jonathan Black-Branche and Dieter Fleck, eds, *Nuclear Non-Proliferation in International Law*, Volume IV (Hague: T.M.C. Asser Press, 2019).

Government Reports

Bruce Curran, *Benefits Appeals Committees: An Evaluation of the Processes and Procedures of the Ontario Government* (2011) [unpublished, confidential report archived with Ontario Government]. This report analyzed the systems in place for three committees that heard appeals related to the denial of group benefits.

Bruce Curran, *Evaluation Of Ministry Early Intervention Program' Pilot* (2008) [unpublished, confidential report archived with the Ontario Public Service Employees Union and the Ministry of Natural Resources]. This report assessed the impact of changes to the grievance procedure within the MNR.

CURRAN — 9

Conference Papers

Bruce Curran, “Compensation for Responders to a Nuclear Accident: Where Should The Law Go?” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 55th Annual Meeting, Université du Québec à Montréal, QC, May 4, 2018). Refereed by the Program Committee.

Bruce Curran, “The Use of Technology to Find Solutions to Delay in Grievance Arbitration” (Paper delivered at the Canadian Law and Society Association Mid-Winter Meeting, Technologies of Justice conference, University of Ontario Institute of Technology, Oshawa, ON, January 27, 2018). Non-refereed. Invited talk.

Bruce Curran, “Liability to Responders to a Nuclear Accident: Where Should The Law Go?” (Paper delivered at the “Human Dimensions and Perspectives in a Nuclear World: Legal Issues of Non-Proliferation, Disarmament and the Right to Nuclear Energy” conference, hosted by University of Manitoba, Faculty of Law and the Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law of the International Law Association (ILA), in conjunction with the Round Table Strategic Forum on Nuclear Non-Proliferation in International Law, Winnipeg, MB, October 12, 2017). Non-refereed.

Bruce Curran, “Follow the Leader: A Critique of Canadian Jurisprudence on Freedom of Association for Workers” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 53rd Annual Meeting, University of Saskatchewan, SK, June 2, 2016). Refereed by the Program Committee.

Bruce Curran & Sara Slinn, “Can we fly a middle course? Enhanced Statutory Termination Provisions for the 99%” (Paper delivered at the “Re-Imagining Forms & Approaches to Workplace Representation” Roundtable hosted by the Comparative Research in Law and Political Economy Forum, Osgoode Hall Law School, September 24, 2015). Non-refereed.

Bruce Curran, “Event History Analysis of Grievance Arbitration: Labour Justice Delayed?” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 51st Annual Meeting, Brock University, ON, May 25, 2014). Refereed by the Program Committee.

Bruce Curran, “*Honda v. Keays*—Employer Shield or Employee Sword? An Empirical Analysis” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 50th Annual Meeting, Ryerson University, ON, May 31, 2013). Refereed by the Program Committee.

Jeffrey Sack, Bruce Curran, & Jacob Barrett, “Independence in ‘Essential Services’ Interest Arbitration: The Canadian Experience in an International Context” (Paper delivered by Jeffrey Sack at the International Association of Labour Law Journals Annual Meeting, Université de Bordeaux, France, June 5, 2013). Non-refereed.

CURRAN — 10

Professional Journals

Bruce Curran, “Union Attitudes Toward Grievance Procedures: Empirical Support For The Donais Fairness Theory” (2011) 2 Workplace Fairness Institute Journal 23.

Blog Posts

Bruce Curran, “Environmental Law: What’s Criminal Law Got To Do With It?” (23 October 2016), *Robson Crim Legal Blog*, online: <www.robsoncrim.com/single-post/2016/10/23/Environmental-Law-What's-Criminal-Law-Got-To-Do-With-It>.

Media Citations

Jillian Austin, “Group wants neutral site for WIS investigation interviews” (10 March 2018), *Brandon Sun*, online: <<https://www.brandonsun.com/local/group-wants-neutral-site-for-wis-investigation-interviews-476444293.html>>.

Kristin Annable, “Terminated Winnipeg health authority workers must pay back part of severance, give monthly employment reports: Law prof calls the agreement unusual” (18 July 2017), *CBC News* (web publication), online: <www.cbc.ca/news/canada/manitoba/wrha-severance-agreement-1.4211316>.

Interview of Bruce Curran by Kristin Annable on Winnipeg Regional Health Authority settlement offers to dismissed managers (18 July 2017) on CBC Winnipeg News, CBWT, Winnipeg, CBC Digital Archives.

Kristin Annable, “WRHA seeks to recoup \$1.2M in overpayments” (12 January 2017), *Winnipeg Free Press*, online: <<http://www.winnipegfreepress.com>>.

Interview of Bruce Curran by Sean Kavanagh on Manitoba government considering legislating revisions to terms of public sector collective agreements (11 February 2017) on morning news, CBC Radio One, Winnipeg, CBC Radio Archives.

Jessica Lewis, “How Do You Get Your Employees To Be Innovative?” (18 December 2014), *Arts & Science News* (web publication), online: <<http://news.artsci.utoronto.ca/all-news/get-employees-to-be-innovative/>>.

Rachel Emma Silverman, “How to Pay Employees for Great Ideas” (4 December 2014), *Wall Street Journal, At Work* (blog), online: <<https://blogs.wsj.com/atwork/2014/12/04/paying-bonuses-for-innovation/>>.

Professional Development Courses, Workshops, and Seminars

Workshop on Law Student Engagement, Centre for the Advancement of Teaching and Learning, University of Manitoba, February 2018

Orientation Session for New Faculty, University of Manitoba, July 2016.

CURRAN — 11

Teaching Workshop for Junior Faculty, University of Ontario Institute of Technology, July 2015.

International Developments in Labour & Human Resource Policy, International Labour Organization & University of Toronto, June and July, 2013

Oral Presentation Skills, University of Toronto, Winter 2013

THE 500: Teaching in Higher Education, University of Toronto, Fall 2012

Becoming a Better Editor of Your Own Work, University of Toronto, Winter 2012

Writing Social Science and Humanities Research Council (SSHRC) Proposals, University of Toronto, Fall 2011

Thesis Writing in the Social Sciences, University of Toronto, Summer 2011

Research Ethics, University of Toronto, Winter 2011

Conference Organization

Chaired “Legal Perspectives on Justice and Access: Liminal Justice—Youth, Mental Health, and Roadside” panel, “Accessing Justice: interdisciplinary perspectives on access, justice, law & order” conference, University of Winnipeg, Winnipeg, MB, May 11, 2018.

Organized “Technology and Work: Justice Boom or Fissuring Bane?” plenary panel, Canadian Law and Society Association Mid-Winter Meeting, Technologies of Justice conference, University of Ontario Institute of Technology, Oshawa, ON, January 27, 2018.

Chaired “Legal Education” panel, Canadian Law and Society Association Mid-Winter Meeting, Technologies of Justice conference, University of Ontario Institute of Technology, Oshawa, ON, January 27, 2018.

PROFESSIONAL MEMBERSHIPS & ACADEMIC ASSOCIATIONS

ADR Institute

Canadian Bar Association

Ontario Bar Association

Canadian Industrial Relations Association

Law Society of Upper Canada, Called to the Bar in February 2000

CURRAN — 12

LANGUAGES

English (native language)

French (intermediate)

Cary Miller, Head of Native Studies
Associate Professor, Department of Native Studies
University of Manitoba

[REDACTED]
Cell:
Email: [REDACTED]

EDUCATION

Ph.D University of North Carolina, 2004
Dissertation: "Ojibwe Leadership in the Early Nineteenth Century"

M.A. in Religious Studies, University of North Carolina, 1995
Thesis: "Rethinking Tradition: The Anishinaabeg Perception of Time and the Jingle Dress Dance as a Traditional Practice"

Completed Ojibwe Language Summer Immersion Program, Sault College, Sault Ste. Marie, Ontario, Canada in August 1994 and August 1995

Completed two years of the Nishinaabemwin Language Instructors Institute, Bay Mills Tribal Community College, Brimley, Michigan, June-July 1994 and June-July 1995

B.A. in Classics, minor in Religious Studies, University of Iowa, 1993

PROFESSIONAL EMPLOYMENT HISTORY

Associate Professor and Head of Native Studies, 2017 – present, University of Manitoba

Director of American Indian Studies, 2013-2017, University of Wisconsin-Milwaukee

American Indian Studies Coordinator, 2011-2013, University of Wisconsin-Milwaukee

Associate Professor, Department of History, 2010 – 2017, University of Wisconsin-Milwaukee

Assistant Professor, Department of History, 2002-2010, University of Wisconsin-Milwaukee

Assistant Professor of Native American Studies and Director of Activity II of Title III, Lake Superior State University 1997-99

Instructor, Native American Studies, Lake Superior State University, 1996-7

Sessional Instructor, BRIDGE Fine Arts Program, Algoma University College, 1996, 1998-99

Sessional Instructor, School of Native Education and Training, Sault College, 1995-96

SCHOLARSHIP

Books

Ogimag: Anishinaabeg leadership 1760-1845. Norman: University of Nebraska Press, 2010.

Articles

No Time Like the Present: Living American Indian Languages, Landscapes, and Histories. Coauthored with Margaret Noodin and Bernard Perley. A chapter for the volume *Words and Relations*. Adrianna Link, Abigail Shelton, Patrick Spero eds. (University of Nebraska Press: Lincoln. Forthcoming)

“Every Dream Is a Prophecy: Rethinking Revitalization – Dreams, Prophets, and Routinized Cultural Evolution” in Jill Doerfler, Niigaanwewidam James Sinclair and Heidi Kiiwetinepinesiik Stark eds. *Centering Anishinaabeg Studies: Understanding the World through Stories*. (East Lansing: Michigan State University Press, 2013).

“Gifts” In *Encyclopedia of United States Indian Policy and Law*, vol1. ed. Paul Finkelman and Tim Alan Garrison, CQ Press. 2008.

“Gifts as Treaties: The Political Use of Received Gifts in Anishinaabe Communities 1820-1832,” *American Indian Quarterly*. 2002 26(2): 221-245.

Book Reviews

Review of Jennifer S.H. Brown ed. *Ojibwe Stories from the Upper Berens River: A. Irving Hallowell and Adam Bigmouth in Conversation*. (Lincoln: University of Nebraska Press and the American Philosophical Society, 2018) In *Manitoba History*, Spring 2019 89: 41-42.

Review of John Reda *Furs to Farms: the Transformation of the Mississippi Valley, 1762-1825* (DeKalb: Northern Illinois University Press, 2016) In *Journal of American History* March 2018 104 (4):1008.

Review of John P. Bowes *Land Too Good For Indians: Northern Indian Removal*. (Norman: University of Oklahoma Press, 2016) In *The Chronicles of Oklahoma*, Fall 2017 95 (3): 357-358.

Review of Michael A. McDonnell, *Masters of Empire: Great Lakes History and the Making of America*. In *Michigan Historical Review*. Fall 2016 42 (2): 118-119.

Review of Bethel Saler *The Settler’s Empire: Colonialism and State Formation in America’s Old Northwest*. In *Journal of American Ethnic History*. Fall 2016 36 (1): 91-92.

Review of Joan Jenson and Michelle Wick Patterson eds. *Travels with Frances Densmore: Her Life, Work and Legacy in Native American Studies*, in *Minnesota History*. Summer 2016 65 (2): 68.

Review of Murphey, Lucy Eldersveld. *Great Lakes Creoles: A French-Indian Community on the Northern Borderlands, Prairie du Chien. 1750-1860.* in *Ethnohistory*. April 2016 63 (2): 419-420.

Review of Redix, Erik. *The Murder of Joe White: Ojibwe Leadership and Colonialism in Wisconsin* in *Western Historical Quarterly*. Winter 2015 46 (4): 515.

Review of Bellfy, Phil. *Three Fires Unity: The Anishinaabeg of the Lake Huron Borderlands*. (Lincoln: University of Nebraska Press, 2011) in *American Historical Review*. April 2012, 516.

Review of Danziger, Edmund J. *Great Lakes Indian Accommodation and Resistance During the Early Reservation Years, 1850-1900*. (Ann Arbor: University of Michigan Press, 2009) in *Western Historical Quarterly*, 2011, 42 (1): 85-85.

Review of McNally, Michael D., *Honoring Elders: Aging, Authority and Ojibwe Religion* (Columbia University Press) in *American Indian Quarterly*, 2011 35 (3): 468-470.

Review of Gray, Susan Elaine, "I Will Fear No Evil": *Ojibwa-Missionary Encounters Along the Berens River, 1875-1940*. (Michigan State University Press, 2006) in *Michigan Historical Review*. Fall 2007 33(2): 173-4.

Review of Peacock, Thomas and Marlene Wisuri, Ojibwe Waasa Inabidaa: *We Look in All Directions*. (Afton, MN: Afton Historical Society Press, 2002), in *American Indian Culture and Research Journal*. 2002 26(4): 161-163.

Conference Presentations

"Developing Native and Indigenous Studies Initiatives at Colleges, Universities, Libraries, and Research Institutes: A Roundtable" with Christina Snyder, Penn State, Malinda Maynor Lowery, Univeristy of North Carolina-Chapel Hill, Alyssa Mt. Pleasant, University of Buffalo, Patty Loew, Northwestern University, and Laurie Arnold, Gonzaga University, American Society for Ethnohistory, Penn State, September 27, 2019

"That We Might One Day Be as One Body" Metis Nation-building in Canada and the US in the Nineteenth Century" NAISA Conference, Hamilton, New Zealand June 26-29, 2019

"Indigenous History Round Table" History Graduate Student Conference, May 2, 2019

"A Comparison of Canadian and US Indian Policy 1900 to the present," Fireside Chat, Miigizi Aagamik, January 29, 2019.

"Race and Whiteness: A Moderated Roundtable Discussion," Institute for the Humanities, Nov. 2018

"Indigenous Language Program" scholars panel for Reconciliation Forum, March, 2018

"A Comparison of Canadian and US Indian Policy," Fireside Chat, Miigizi Aagamik, March 2018.

"A Comparison of Canadian and US Indian Policy to 1900," Fireside Chat, Miigizi Aagamik, October 2018.

"The Future of Native Studies at the University of Manitoba," UM Native Studies Colloquium Series, September, 2017

"The Gathering Continues: Contemporary Indigenous Plant Use in the Western Great Lakes" Presented at American Society for Ethnohistory, Nov. 2016.

"Researching Indigeneity" presented at IGHERT Workshop, UW-Milwaukee, May 8, 2016.

"Experiencing Native North America: An American Indian Studies Community Project," with Bernard Perley, and Margaret Noodin presented at Landbody: Indigeneity's Radical Commitments, A Center for 21st Century Studies Conference at UW-Milwaukee, May 6, 2016.

"Experiencing Native North America: Indigenous Pedagogy as Sovereign Practice" with Bernard Perley and Sommer Drake presented at the Educator's Network for Social Justice Conference, Indian Community School, Franklin, WI, April 30, 2016.

"Experiencing Native North America: Indigenous Pedagogy as Sovereign Practice" with Bernard Perley presented at the Wisconsin Indian Education Conference, April 2, 2016.

"Murder at Leech Lake: the Confluence of Kinship, Legal Statutes and Perceptions of Race in Wisconsin Territory" presented at the American Society for Ethnohistory Conference, Nov. 6, 2015.

"Experiencing Native North America: The Intersection of History, Languages, Landscape and Spirituality" with Bernard Perley presented at the Wisconsin Indian Education Association Conference, Milwaukee, WI, March, 2015.

"Experiencing Native North America: The Intersection of History, Languages, Landscape and Spirituality" with Bernard Perley and Margaret Noodin at the Educator's Network for Social Justice Conference, Indian Community School, Franklin, WI, April 25, 2015

"Translating Culture: ABCFM textbooks in Anishinaabeg communities, 1830-1845" presented at NAISA, Austin, TX, May 30, 2014.

"Origin of Early Literacy in Anishinaabemowin" with Margaret Noodin, presented at Anishinaabemowin Teg Conference, Sault Ste. Marie, MI, March 27, 2014.

“American Indian Activism,” Gilder Lehrman Institute of American History, Marquette University, February 13, 2013.

“Community and Indigenous Leadership,” Sequoyah American Indian Alumni Keynote Address, University of North Carolina-Chapel Hill, March 22, 2012.

“19th Century Travel Narratives in Indian Country,” Milwaukee Public Library’s Evening Spotlight Series, Richard E. and Lucile Krug Rare Books Room, November 14, 2011.

“American Indians in Milwaukee,” Doors Open Milwaukee, September 2011.

“Invitation sticks in Anishinaabeg Politics and Ceremony,” presented at Native American and Indigenous Studies Association Conference, Pasadena, California, May 2011.

“Ojibwe Leadership 1763-1845” hosted by University of Wisconsin-Whitewater, Thursday March 10, 2011.

“*Anishinaabe Women and Political Authority: The Significance of Kinship and Local Organization*” presented at American Society for Ethnohistory, Ottawa, Canada, October 2010.

“Use of Birchbark by Wisconsin Indians,” hosted by the Title 7 Indian Education Program, Appleton Area School District, Friday April 14, 2010.

“Lunch n Learn – Wisconsin Tribes,” hosted by the West Bend Mutual Insurance Company, West Bend, WI, November 19, 2009.

“Giving Thanks: To Be Native In America,” hosted by the UWM Sociocultural Programming and UWM American Indian Student Association, Multicultural Student Lounge, November 17, 2009.

Film Discussion for “Gaamiinigooyang: That Which is Given to Us” hosted by the UWM Multicultural Student Association as part of Love United Week, UWM Fireside Lounge, April 2, 2009.

“Lunch Keynote: Ojibwe Leadership in Historical Context” Niigaaniziwin – Building the Foundation Conference, Tuesday, March 10, 2009, Northern Great Lakes Visitor Center, Ashland, Wisconsin.

“*The Truth About Thanksgiving: The early colonization experience and the interactions between American Indians and Africans*” Co-hosted by the American Indian Student Association and the Africology Club. Nov. 18, 2008 6pm Greene Hall, UWM.

“*The Case For American Indian Studies: A Panel Discussion*” (Panel consisted of Don Green and myself) Marquette University October 14, 2008 7-9 pm

Conducted Breakout Session 1B, "Freedom and Sovereignty: The American Indian Experience" at the WASAH Summer Institute "Defining American Freedom" July 22, 2008 1:30 – 4:30pm at the UW-Marathon County campus.

"Teaching and Learning the Lac Courte Oreilles Indian Culture: A New Curriculum" (with Jennifer Bunker of Lac Courte Oreilles Ojibwe Community College) at the Educator's Network for Social Justice Anti-racist Anti-bias Teaching Conference, Saturday May 3, 2008, Indian Community School, Franklin, WI

"The Future of American Indian Studies" (Panel consisted of myself, Leah Arndt, Donald Green, David Beaulieu) Friday April 18, 2008 10am – 2pm Green Hall UWM

"Ojibwe Leadership in the Early Nineteenth Century" presented at Lac Courte Oreilles Tribal Community College, (broadcast to additional learning sites at Bad River and Lac du Flambeau Reservations) February 27 & 28 2008

"Everyday Prophets: Rethinking Revitalization" presented at The American Society for Ethnohistory Conference, November 2007

"Charismatic Chiefs: Reassessing Leadership in Great Lakes Ojibwe Communities" presented at Harvard University, March 8, 2007

"Ojibwe History and Leadership" presented at University of California – Riverside, January 2007

"Ojibwe Land Use and Contending Claims to Chiefly Authority" presented at The American Society for Ethnohistory Conference, November, 2006

"Ojibwe Leadership in the Early Nineteenth Century" presented at 2006 Conference of Ford Fellows, October, 2006

"Wisconsin Indian History" presented for the Milwaukee County Historical Society, March, 2006

"Adoption and American Indians" presented at Marquette University, April, 2005

"American Indians and Milwaukee" with Donna Beckstrom of MATC presented at A Symposium on Milwaukee History, October 7-8, 2004 at the University of Wisconsin-Milwaukee

"Native American History and Culture" presented to a Master's level diversity in education course at Cardinal Stritch University November 11, 2004

"Providers for the Trade: The Role of Ojibwe Women in the Fur Trade" presented at the International Federation for Research in Women's History Conference August 2003 in Belfast, Ireland

“Women’s Roles in Native Communities in Wisconsin and other Woodland Areas” presented at UW-Waukesha as a part of the speaker series sponsored by the American Indian Cultural Association, April 24, 2003

“Cross-cultural Confusion at Fond du Lac” presented on campus on April 8, 2003 as a part of UW-Milwaukee American Indian Awareness Days

“Gifts as Treaties: The Use of Received Gifts to Make Political Statements in Ojibwe Communities 1831-1832,” American Society for Ethnohistory Conference, Oct. 2001

“Cultural and Historical Factors Effecting Sentencing of Native Americans” with Paige Gordier, Academy of Criminal Justice Science Annual Meeting, Mar. 1999

“Proposed degree in Native and Museum Studies - Community Feedback,” Anishinaabemowin Teg Annual Ojibwe Language Conference, April 1997

“Four Seasons Anishinaabe Art Journey,” Native American Studies Conference, Thunder Bay, Ontario, Oct. 1997

“Rethinking Tradition: The Anishinaabeg Perception of Time and the Jingle Dress Dance as a Traditional Practice,” Native American Studies Conference, Sault Ste. Marie, MI, Apr. 1996

Other Conference Contributions

Attended Language Planning Retreat at the University of Winnipeg to look at ways to share resources across Manitoba to maximize language training resources Dec. 11-12

Attended Honouring our Languages Conference, and shared information about our Language programming Winnipeg Oct 23-25

Attended 5th Reconciliation Conference, and drove walking stick and paddles back to NCTR. Sault Ste Marie, October 8-10, 2019

Conference Organizer, Saving Indigenous Languages Society, Winnipeg MB, June 26-30 2019

Conference Organizer, American Society for Ethnohistory, Winnipeg, MB, Oct. 11-14 2017

Assisted Hope Longwell-Grice (UWM School of Education) with grant writing and delivery of the one day conference “Listening to and Learning from the Elders: Preparing Teachers to Represent Act 31 in Wisconsin Schools” April 5, 2008 9am – 3pm Union South, UW-Madison

Introduced Ned Blackhawk’s talk “Violence Over the Land: Lessons From the Early American West” for the annual Carter G. Woodson lecture at UWM on April 7, 2008

History Panel Moderator at the 2008 National Academies Ford Foundation Conference, National Academy of Sciences, Washington, D.C. September, 2008

Panel Moderator New Directions in American Indian Research Conference 2005

Secured funding to send UWM graduate student Jessica Hale (anthropology) to attend New Directions in American Indian Research Conference 2004

Panel Moderator, NWSA Conference 2004

CAMPUS TRAINING

“Campus Decolonization – Conversation with Cary Miller” Faculty of Social Work Feb. 28, 2020

“Facilitated Discussion: White Fragility, Where Do We Go From Here?” LOD, Feb 26, 2020

“EDI 2.0” Faculty of Arts Recruitment Staff, Feb 21, 2020

“What Does Reconciliation Have to Do with Me?” Faculty of Arts Recruitment Staff, Feb 3, 2020

“Definition of Terms” for International Students, Jan 15, 2020

“Native Studies Drop-Ins” Alternate Thursdays Jan 16 – April 2020

“What Does Reconciliation Have to Do with Me?” for Recruitment Staff Jan 13, 2020

“Native Studies Book Club: Discussion of Ogimaag” Dec. 11, 2019

“Native Studies Drop-Ins” Alternate Tuesdays September 24 – Dec 10, 2019

“White Fragility” panel for CATL, December 13, 2019

“EDI 2.0” with Valarie Williams for LOD November 28, 2019

“Teach-In for Reconciliation Part 2”, Coordinator, Indigenous Engagement, Nov. 15, 2019

“Indigenous Training” LOD program for UM Leaders Learning alumni, Nov. 5, 2019

“White Fragility in the Classroom,” for Arts Faculty Oct. 17, 2019

Indigenous Leadership Panel, Asper School, Lombard Ave. October 4, 2019

“Looking Beyond Cultural Competency” Indigenous Scholar Speaker Series, Wednesday Oct 2, 2019

“Indigenous Diplomacy, Treaties, and the Indian Act” for LOD Learning Lab September 30, 2019

“What Doesn’t Reconciliation Have to do with Me?,” Senior Executive Retreat, September 12, 2019

“What Doesn’t Reconciliation Have to do with Me?,” Law Student Orientation, September 4, 2019

“What Does Reconciliation Have to do with Me?” Orientation presentation for international students August 27, 2019

“Dealing With Race in the Classroom” presentation for Arts Faculty Heads Retreat, August 20, 2019

“What Does Reconciliation Have to do with Me? Training for VP Administration and Executive Directors, July 24, 2019

“Faculty of Arts Summer Institute for Indigenizing Curriculum” Wednesdays April 19-June 26 2019

“Teach-In For Reconciliation” with Peter Kulchyski, Niigaan Sinclair, Fred Shore, Christopher Trott, June 21, 2019

“Equity, Diversity, and Inclusion 2.0” With Valarie Williams, June 20, 2019

“Indigenous.Women” for Library Indigenous Training June 19, 2019

“What Does Reconciliation Have to do With Me?” presentation for HR Department June 10, 2019

“Legal Foundations of Colonialism in the Americas” ISSIP Development Training, May 23, 2019

“What Does Reconciliation Have to do With Me?” presentation for Faculty of Engineering Retreat, May 1, 2019

“Indigenous Cultural Competency Training” for Library Indigenous Training, February 27, 2019

“What Does Reconciliation Have to do With Me?” presentation for executive assistants, November 2018.

“What Does Reconciliation Have to do With Me?” orientation presentation for international students, August 2018

“Indigenizing the Curriculum” CATL scholars panel for administrators, May 2018

CAMPUS CONSULTING

Meeting with Kinesiology regarding Land-based education December 5, 2019

Meeting with Marcia Anderson at RADY regarding Indigenous Content initiatives Dec. 3, 2019

Various consultations for Engineering Indigenous Teaching Café held on November 27, 2019

Consultation with Nursing regarding pre-recs for nursing November 26, 2018

Consultation with Anthropology regarding reconciliation IIF Nov. 18, 2019

Consultation with Economics re: Urban Additions to Reserce, Nov. 5, 2019

Consultation with Nursing Nov. 1, 2019

Indigenous perspectives on negotiation consultation, Asper, August 28, 2019

Meeting with Dan Henhawk, Kinesiology regarding cross-departmental opportunities August 13, 2019

LOD Workshop planning, August 12, 2019

Met with Daniel Jordan, UMSU, July 22, 2019 regarding interest in institute for UMSU directors

Met with Randy Herrmann, Engineering, March 18, 2019

Met with Lorena Fontaine, UW Indigenous Lead regarding Indigenous language programming

With Christine Cyr and Carl Stone, Met with Physical Plant personnel regarding smudging policy March 4, 2019

Consult with Johnathan Beddoes, Engineering regarding training, February 19, 2019

With Ruth Shead, met with UM Security regarding profiling of an Indigenous faculty member Feb. 15, 2019

Roisin Casar and Tina Chen, disciplinary matter, January-February 2019

OTHER TRAINING

“Fragility and Privilege” for Manitoba Department of Agriculture and Lands Management

RADIO AND TV INTERVIEWS

“Ogimaag: Anishinaabeg Leadership” KAXE, Monday, August 8, 2011.

“Wisconsin’s American Indian Heritage, Part I & II,” *I Remember*, Program numbers 1519 and 1521, Milwaukee Public Television, first aired April 13 and May 11, 2009.

Appeared on the 30 minute radio show Indian Uprising hosted by Rhianna Yazzie on radio station KFAI, Minneapolis Community Radio on Sunday January 19, 2009.

AWARDS AND HONORS

UWM SURF (Support for Undergraduate Research Fellows) Award with Nathon Breu for research project “The Gathering Continues: Indigenous Plant Use in the Western Great Lakes,” (Anishinaabe community focus) summer 2016

UWM SURF (Support for Undergraduate Research Fellows) Award with James Flores for research project “The Gathering Continues: Indigenous Plant Use in the Western Great Lakes,” (Oneida community focus) summer 2016

Awarded The Royster Society of Fellows Honorary Sequoyah Fellowship from the UNC Graduate School on March 22, 2012 “This award recognizes Dr. Cary Miller’s outstanding academic research and acknowledges with deep appreciation her instrumental work in creating First Nations Graduate Circle. Both sources of accomplishment are of enduring value to University students and our society”

NEH Summer Seminar Awardee June 14-July 9, 2010

National Academy of Sciences Ford Postdoctoral Fellowship, 2006-2007 academic year

Featured in UNC Native American Graduate Students Calendar 2006

Learning Disabilities Services Access Award, University of North Carolina, 2002

Boka Hodzija Award for Academic Excellence and Distinguished Service by a Graduate or Professional Student, 2000-2001 academic year

Mowry Award, University of North Carolina Department of History, 2001

Democracy in America Fellowship, University of North Carolina, 1999-2000

Outstanding Native Faculty, Native American Student Organization, Lake Superior State University, 1997

Outstanding Collegiate Academic Achievement Award, Carolina Indian Circle, University of North Carolina, 1995

CIC Summer Research Opportunities Program Grant, University of Iowa, 1990

Minority Achievement Scholarship, University of Iowa, 1988-1992

Undergraduate Student Assistantship, University of Iowa, 1988-1991

TEACHING EXPERIENCE

University of Manitoba 2017-present

NATV 2000 (Special Topics) Indigenous politics in the US

NATV 2510 Indigenous Experience in the US to 1860

NATV 4300/7220 (Special Topics) Indigenous politics in the US

NATV 7220 (Special Topics) How to Teach an Indigenous Studies Course

University of Wisconsin-Milwaukee, 2002-present

HIST 101 Western Civilization: Ancient World to 1500

HIST/AIS 262 North American Indian History to 1887

HIST/AIS 263 North American Indian History Since 1887

HIST 294 Seminar in History: Research Techniques

HIST/AIS 473 History of Wisconsin Indians

HIST/AIS 474 Topics in Native American History: Native American Women's History

HIST/AIS 475 American Indian History, Law and Government

HIST 699 Undergraduate Independent Study

HIST 713 Historical Research Methods (Graduate Level)

HIST 900 Seminar in American History: Issues in American Indian History

HIST 989 Masters Level Independent Work

AIS 203 American Indians of the Western Great Lakes

AIS 105 Great Lakes Ethnobotany

University of North Carolina Teaching Assistantship, 2000-02, 1994-95

Women in American History

Native America: the East

U.S. History to 1865

Introduction to World Religions

Old Testament Survey

Religion in America

Lake Superior State University, Assistant Professor of Native American Studies and Director of Activity II of Title III, 1997-99; Instructor, 1996-97.

Humanities I

Native Cultures of North America
Native Art and Culture
Native American Literature
Native History of North America
Contemporary Native American Issues
Seminar in Native American Studies

Algoma University College, Sessional Instructor, 1996, 1998-99

Courses Taught:

Introduction to North American Native Art
Ojibwe Art and Culture

Sault College, Sessional Instructor 1995-96

Courses Taught:

Native College Entrance
Treatment Process

COMMITTEES AND NETWORKING

Community

Manitoba Museum Advisory Committee 2018-present

University of Manitoba

President's Task Force on Equity, Diversity and Inclusion 2019-present

Environmental Scan subcommittee

Community Consultation subcommittee (chair)

Asper Indigenous Art Advisory Committee 2019-present

Faculty of Arts Diversity and Inclusion Committee 2019 - present

Senate Executive Committee 2019 - present

Senate Planning and Priorities Committee 2018-present

Faculty Senate 2018-present

Land Based Knowledge Initiative Committee 2018-present

Faculty of Arts Council Executive Committee 2018-present

Faculty of Arts Standing Committee, Indigenous Requirement, Chair, 2018-present

UM Native Studies Department Graduate Committee, 2018-present

UM hiring committee, Department of Native Studies, Open Field, (chair) 2019 - present

Faculty of Arts Tenure and Promotion Committee, 2018-2019

Gaa wii ji'I diyaang Committee 2018-present; Co-chair June 2018-present

UM President Search Committee 2018-Oct. 2019

Indigenous Governance Committee January – September 2019

UM hiring committee, Department of Native Studies, Indigenous Language position, 2018 – 2019, chair
UM hiring committee, Departments of Native Studies and History, Metis history, 2018-2019
UM hiring committee, Departments of Native Studies and History, spousal hire 2019, chair
UM hiring committee, Departments of Native Studies and History, spousal hire 2018-2019, chair
UM hiring committee, Departments of Native Studies and Women's and Gender Studies, 2018-2019
UM hiring committee, CTL Indigenous Education Search, 2018
UM hiring committee Chair, Indigenous language specialist, Department of Native Studies 2018
UM hiring committee, Department of History Chair, 2018
UM hiring committee, Department of City Planning, 2017-18
Ad Hoc Committee, Indigenous Requirement, Faculty of Arts 2017-2018

University of Wisconsin-Milwaukee

UWM L&S Dean Search Committee, Vice Chairman, 2017
UWM Fromkin Award Committee 2016-2017
UWM Paper Selection Committee, Landbody: Indigeneity's Radical Commitments, A Center for 21st Century Studies Conference Feb, 2016
UWM American Indian Advisory Committee to the Provost, 2014-present
UWM History Department Graduate Studies Committee 2014-present
UWM Faculty of Colour Committee, 2014-2015
NCAIS (Newberry Consortium for American Indian Studies) Advisory Committee 2008-present
UWM American Indian Studies Committee 2004-present
UWM Clear Sky Institute for Act 31 Compliance Committee 2005 - 2011
UWM History Department Library Committee 2008-9
UWM History Department Undergraduate Committee 2007-8
UWM History Department Library Committee, 2004-5
UWM History Department Undergraduate Committee, 2003-4
UW-System American Indian Studies Consortium, 2002-3
UWM History Department Awards Committee, 2002-3

Lake Superior State University

Native Studies BRIDGE committee linking Lake Superior State University, Sault College, and Algoma University College
NCA Criterion 3 committee to review the mission and goals of Lake Superior State University
1999 MICUP development team linking Lake Superior State University to Bay Mills Tribal Community College
1998 MICUP development team
Fine Arts Studies Advisory Committee
Four Seasons Art Journey Advisory Committee
Lake Superior State University Native Programs Committee
Symposium Committee for the 1994 University of North Carolina Graduate Student Symposium, "Teaching Religious Studies at a Secular Institution," Oct, 1994

GRANTS

Summer Institute Faculty Training Grant, IIF, University of Manitoba PENDING

Indigenous First Language Speaker Elders in Residence IIF Grant, University of Manitoba, 2018-9

IRE Grant, UW-System Institute on Race and Ethnicity, 2009-2010

Community-University Partnership Grant, Cultures and Communities, University of Wisconsin-Milwaukee, 2009-2010

4-S Minority Retention Grant, State of Michigan Department of Equity, 1996-97 and 1997-98

MICUP (Michigan College-University Partnership) Grant, State of Michigan Department of Equity, 1998-1999

Ontario Ministry of Education and Training Aboriginal Education and Training Strategy Proposals, Fall 1995 Funded programs included the following:

Ojibwe Language Multi-Partnership
Assistant Counselor / Activities Coordinator
Native Counselor - North Shore Campus
Minwaangozidaa Program
Native Outreach Support Services Officer
The Stepping Stone Approach Project
Aboriginal Resource Technician Program
Native Community Worker Program
Mino Maajitaadaa Native College Entrance Program

OTHER PROFESSIONAL EXPERIENCE

Professional Organizations

Secretary, American Society for Ethnohistory 2017-2018

Conference Organizing

American Indian Sovereignty and Natural Resource Management Conference, April 7-8, 2014
This conference included academic papers as well as presentations from Wisconsin Indian communities. Key Note speaker: Patty Loew and her film "Protect Our Future".

7th International Native American Studies Conference: Celebrating Artistic Expressions of First Peoples, Lake Superior State University, Sept 23-25, 1999

This conference included academic papers as well as workshops in traditional arts offered by local practitioners. Key-note speakers and performers: Gary Farmer, Chris Eyer, Shelly Niro, Alanis Obomsawin, and Bill Miller.

6th International Native American Studies Conference: Celebrating Native North American Languages, Lake Superior State University, April 2-4, 1998

This conference was offered with the annual Anishinaabemowin Teg Ojibwe Language Conference to bring together academic presenters and Ojibwe language instructors. Key-Note Speakers: Jim Northrup and Mark Denning. Additional Key-notes were supported by Anishinaabemowin Teg.

Program Development

Contributed along with other UWM American Indian Studies faculty to the development and implementation of a CIM major in American Indian Studies. 2013, revised 2015.

Four Seasons Anishinaabeg Art Journey at Sault College: A program combining studio and academic courses focused on traditional and contemporary Ojibwe arts delivered by academic staff as well as community artists and elders with a College facilitator. 1996

Consultant

Historical Consultant and Expert Witness for Couchiching First Nation in the case Couchiching FN et al v. AG Canada et al, 2014 ONSC 1076 regarding Anishinaabeg treaty claims to property being used by the town of Fort Frances, ON, May 2012-March 2013.

Consultant for the Turning Points Exhibit at the Outagamie County Historical Society Museum in Appleton, Wisconsin 2004.

Compiled an External Review of the GED program for the Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, MI, June 1994.

LORNE NEUDORF

[REDACTED] Ph: [REDACTED]

EDUCATION & QUALIFICATIONS

- 2015 **DOCTOR OF PHILOSOPHY**
 University of Cambridge, Faculty of Law
- 2009 **BARRISTER AT LAW**
 Law Society of Ontario
- 2009 **MASTER OF LAWS**
 McGill University, Institute of Comparative Law
- 2007 **JURIS DOCTOR**
 University of Victoria, Faculty of Law

ACADEMIC APPOINTMENTS

- 2017-present **UNIVERSITY OF ADELAIDE, ADELAIDE LAW SCHOOL**
 Deputy Dean & Associate Professor

Responsible for key aspects of Adelaide Law School as part of the Law School's executive team. Collaborate with other senior academic and administrative leaders. Work with the Dean to develop the Law School's strategy and overall direction, serve as Acting Dean during the Dean's absence, chair board and committee meetings, plan and allocate academic workload, host events visitors and alumni, recruit academic and professional staff, plan the Law School budget with the School Manager, initiate and develop links with leading international law schools, review and develop Law School policy, maintain Law Society accreditation, represent the Law School at internal and external meetings and events, and resolve student appeals. As Associate Professor, coordinate and teach public law and comparative law courses in the undergraduate and post-graduate programmes. Member of the China Strategy Group and Deputy Director of the Public Law and Policy Research Unit (from July 2020). Supervise higher degree by research projects.
- 2017-present **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
 Adjunct Professor
- 2013-17 **THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW**
 Associate Professor (tenured and promoted 2017)
 Assistant Professor (2013-17)
 Founding Faculty

Taught Administrative Law, Comparative Law, Legislation Administration and Policy and Trusts. Supervised research projects and student law journal editors. Awarded five teaching excellence prizes by the law students for teaching in both the first year and upper year curriculum. Sat on numerous Faculty and University committees including recruitment committees for academic staff and the Dean of Law and chaired the Appeals Committee.

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- 2011-13 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Supervisor, Administrative Law
Supervised Administrative Law at Churchill (2011-13), Emmanuel (2012-13), Hughes Hall (2011-12), Lucy Cavendish (2011-12), Peterhouse (2011-13), and Wolfson (2011-12).
- 2011-12 **UNIVERSITY OF CAMBRIDGE, PEMBROKE AND KING'S COLLEGES**
Lecturer, Introduction to English Common Law
Developed course materials, lectured classes, and led seminars in an undergraduate course part of the Pembroke-King's Summer Programme.

SCHOLARSHIP

Books & Edited Volumes

- In progress **DELEGATED LAWSMAKING IN COMPARATIVE PERSPECTIVE:
TOWARD A BETTER LAWSMAKING PROCESS**
- In progress **DEMOCRATIC DECAY: CHALLENGES FOR CONSTITUTIONALISM AND THE
RULE OF LAW**
7 Canadian Journal of Comparative and Contemporary Law
Contributions from world-leading comparative constitutional law scholars including Rosalind Dixon, Tom Ginsburg, Ran Hirschl, David Landau, Sandy Levinson, Mark Tushnet and Mila Versteeg (among others).
- 2018-present **THE RULE OF LAW IN CONTEXT**
Hart (Bloomsbury)
General Editor of global book series examining the rule of law in different jurisdictions around the world (with G. Appleby); eight titles currently under development with expected publication in 2020-21.
- 2020 **THE CONSTITUTIONAL MODELS OF INDIA AND AUSTRALIA**
Bloomsbury
Contributions from scholars and jurists comparing different aspects of the Indian and Australian Constitutions (with V. Arora, P. Babie & A. Tomer).
- 2020 **THE FUTURE OF CHARITY LAW**
6 Canadian Journal of Comparative and Contemporary Law
Contributors from leading scholars in the field (with C. Hunt and R. Diab).
- 2019 **REFLECTIONS ON ANIMAL LAW**
5 Canadian Journal of Comparative and Contemporary Law
Contributions from 9 leading scholars in the field (with C. Hunt and R. Diab).
- 2018 **DATA PROTECTION AND PRIVACY**
4 Canadian Journal of Comparative and Contemporary Law
Contributions from 8 leading scholars in the field (with C. Hunt and R. Diab), foreword by Justice Rosalie Silberman Abella of the Supreme Court of Canada.
- 2018 **LEGISLATING STATUTORY INTERPRETATION: PERSPECTIVES FROM THE
COMMON LAW WORLD**
Carswell (Thomson Reuters)
Contributions from 16 international scholars reflecting on parliamentary attempts to regulate judicial interpretive discretion (with C. Hunt and M. Rankin), foreword by Justice Thomas Cromwell formerly of the Supreme Court of Canada.

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- 2017 **THE ANNOTATED GUIDE TO THE BC *INTERPRETATION ACT***
Carswell (Thomson Reuters)
Commentary on the *Interpretation Act* (BC) (with C. Hunt and M. Rankin), foreword by Justice Elizabeth Arnold-Bailey formerly of the Supreme Court of British Columbia.
- 2017 **PROBLEMS OF INTERPRETATION IN INTERNATIONAL LAW**
3 Canadian Journal of Comparative and Contemporary Law
Contributions from 10 leading scholars in the field (with C. Hunt and R. Diab), foreword by Justice Louis LeBel formerly of the Supreme Court of Canada.
- 2017 **THE DYNAMICS OF JUDICIAL INDEPENDENCE: A COMPARATIVE STUDY OF COURTS IN MALAYSIA AND PAKISTAN**
Springer
Monograph examining the independence of the judiciaries of Malaysia and Pakistan as part of developing a new theory of judicial independence. Endorsements from David Feldman (Cambridge), Tom Ginsburg (Chicago) and Ran Hirschl (Toronto).
- 2016 **EQUITY IN THE 21ST CENTURY: PROBLEMS AND PERSPECTIVES**
2 Canadian Journal of Comparative and Contemporary Law
Contributions from 29 leading scholars in the field across two volumes (with C. Hunt and R. Diab), foreword by Justice Russell Brown of the Supreme Court of Canada.
- 2015 **HEALTH LAW AND HUMAN RIGHTS**
1 Canadian Journal of Comparative and Contemporary Law
Contributions from 19 leading scholars in the field (with C. Hunt and R. Diab), foreword by Lorne Sossin former Dean of Osgoode Hall Law School.
- 2012 **THE UK SUPREME COURT YEARBOOK, VOL 2**
Appellate Press (originally published as a volume of the *Cambridge Journal of International and Comparative Law*)
Contributions from 29 scholars and judges including Lord Phillips former President of the Supreme Court of the United Kingdom, Justice Marie Deschamps formerly of the Supreme Court of Canada, and Justice Kenneth Hayne formerly of the High Court of Australia.

Articles, Chapters & Comments

- 2020 **THE LEGAL REGULATION OF A PANDEMIC: LEGISLATIVE DELEGATIONS IN TIMES OF CRISIS**
Forthcoming
- 2020 **BUILDING NATIONAL IDENTITY THROUGH THE CONSTITUTION: THE CANADIAN CHARTER EXPERIENCE**
Constitutions and National Identity (ANU Press)
Examination of the relationship between Canada's *Charter of Rights and Freedoms* and Canadian national identity, and distilling comparative lessons to be learned from the Canadian experience.
- 2020 **SEPARATING POWERS THROUGH THE CONSTITUTION: A COMPARISON OF INDIA AND AUSTRALIA: PART I ORIGINS AND THE INDIAN JURISPRUDENCE**
Comparative Reflections on the Constitutional Models of India and Australia (Bloomsbury)
Examination of the history of the separation of powers, its application in the United States and its transplant to India and Australia which have over time developed their own unique conceptions of the separation of powers.

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- 2020 **SEPARATING POWERS THROUGH THE CONSTITUTION: A COMPARISON OF INDIA AND AUSTRALIA: PART II THE AUSTRALIAN JURISPRUDENCE AND COMPARISONS WITH INDIA**
Comparative Reflections on the Constitutional Models of India and Australia (Bloomsbury)
Examination of the history of the separation of powers, its application in the United States and its transplant to India and Australia which have over time developed their own unique conceptions of the separation of powers.
- 2019 **STRENGTHENING THE PARLIAMENTARY SCRUTINY OF DELEGATED LEGISLATION: LESSONS FROM AUSTRALIA**
42(4) Canadian Parliamentary Review 25
Examination of recent reforms to the Australian federal parliamentary scrutiny process.
- 2018 **REASSESSING THE CONSTITUTIONAL FOUNDATION OF DELEGATED LEGISLATION IN CANADA**
41 Dalhousie Law Journal 519
Critical examination of the constitutional authority for delegated legislation with a proposal for reform to strengthen lawmaking accountability.
- 2018 **LEGISLATING STATUTORY INTERPRETATION: THE PARLIAMENTARY REGULATION OF JUDICIAL DISCRETION**
Legislating Statutory Interpretation: Perspectives from the Common Law World (Carswell)
Examining the concept of the legislative regulation of judicial interpretive discretion (with C. Hunt & M. Rankin).
- 2018 **CANADA'S FIRST ACT: THE HISTORY AND ROLE OF THE *INTERPRETATION ACT***
Legislating Statutory Interpretation: Perspectives from the Common Law World (Carswell)
Historical overview of the *Interpretation Act* and its impact along with suggestions for future reforms to make it more effective.
- 2017 **TAKING COMPARATIVE LAW SERIOUSLY: RETHINKING THE SUPREME COURT OF CANADA'S MODERN APPROACH TO STATUTORY INTERPRETATION**
39 Statute Law Review 184
Numerical examination and analysis of the Supreme Court of Canada's use of foreign law in statutory interpretation cases with a proposal for a new approach to bolster the legitimacy of its use and maximise its value.
- 2017 **THE SUPREME COURT AND PARLIAMENT: EVOLVING ROLES AND RELATIONSHIPS**
78 Supreme Court Law Review 3
Examination of the Supreme Court of Canada's conception of parliamentary sovereignty, privileges and the unwritten conventions and practices of Parliament.
- 2016 **INADEQUATE REASONS: THE NEED FOR TRIBUNAL PARTICIPATION IN JUDICIAL REVIEW LITIGATION**
54 Alberta Law Review 219
Examination of the participation and role of administrative tribunals as litigation parties in judicial review.

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- 2016 **RULE BY REGULATION: REVITALIZING PARLIAMENT'S SUPERVISORY ROLE IN THE MAKING OF SUBORDINATE LEGISLATION**
(Spring) Canadian Parliamentary Review 29
Examination of Parliament's supervisory role of delegated legislation along with a comparative analysis of committee scrutiny in the United Kingdom.
- 2016 **JUDICIAL REVIEW REFORM: AVOIDING EFFECTIVE REVIEW THROUGH PROCEDURAL MEANS?**
16 Oxford University Commonwealth Law Journal 65
Comparative examination of the litigation procedure for judicial review in Australia, Canada and the United Kingdom to shed light on the relationship between procedural restrictions on access to judicial review and the rule of law (with J. McIntyre).
- 2016 **THE EXPERT WITNESS' DUTY OF IMPARTIALITY IN CANADA: A COMMENT ON WHITE BURGESS LANGILLE INMAN v ABBOTT AND HALIBURTON CO**
20 The International Journal of Evidence and Proof 72
Commentary on the impartiality of expert witnesses in Canadian law (with C. Hunt).
- 2015 **JUDICIAL INDEPENDENCE: THE JUDGE AS A THIRD PARTY TO THE DISPUTE**
Oxford University Comparative Law Forum 2
Conceptual and theoretical examination of the independence of the judiciary.
- 2014 **DECLARATORY LEGISLATION: LEGISLATURES IN THE JUDICIAL DOMAIN?**
47 UBC Law Review 313
Examination of the concept of declaratory legislation in light of recent jurisprudence along with a proposed reform to its judicial treatment to make it more coherent.
- 2014 **FORCE MAJEURE CLAUSES IN COMPARATIVE PERSPECTIVE: THE CANADIAN COMMON LAW APPROACH IN LIGHT OF RECENT DEVELOPMENTS IN THE COURTS OF SINGAPORE AND THE UNITED KINGDOM**
65 University of New Brunswick Law Journal 312
Comparative examination of how Canadian courts approach *force majeure* clauses in light of new cases in Singapore and the United Kingdom (with G. Hunnisett).
- 2013 **INTERVENTION AT THE UK SUPREME COURT**
2 Cambridge Journal of International and Comparative Law 16
Numerical and comparative analysis of intervention by third parties in cases before the Supreme Court of the United Kingdom and implications for the judicial role.
- 2012 **HOME INVASION BY REGULATION: TRUCKERS AND REASONABLE EXPECTATIONS OF PRIVACY UNDER SECTION 8 OF THE CHARTER**
45 UBC Law Review 551
Examination of the reasonable expectation of privacy doctrine under the *Charter of Rights and Freedoms* and the requirement for prior judicial authorization for searches along with a proposal to strengthen privacy protections.
- 2012 **PROMOTING INDEPENDENT JUSTICE IN A CHANGING WORLD**
12 Human Rights Law Review 107
Critical analysis of the work of the UN Special Rapporteur on the Independence of Judges and Lawyers.
- 2012 **THE SUPREME COURT AND THE NEW JUDICIAL INDEPENDENCE**
1 Cambridge Journal of International and Comparative Law 25
Critical analysis of the new Supreme Court of the United Kingdom and the effects of its institutional design on judicial independence.

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- 2010 **CANADIAN PLAN ADMINISTRATORS AND LEGAL LIABILITY**
15 Pensions: An International Journal 179
Examination of the legal risks in the administration of Canadian pension plans and the investment of pension assets (with JP Laporte).
- 2010 **SHIFTING SANCTIONS AND PERSONAL RESPONSIBILITY**
73 Saskatchewan Law Review 131
Examination of the philosophical underpinnings of the doctrine of *ex turpi* in relation to a case denying private law damages during a period of incarceration.
- 2007 **INDEPENDENCE AND THE PUBLIC PROCESS: EVOLUTION OR EROSION?**
70 Saskatchewan Law Review 53
Examination of the constitutional doctrine of judicial independence and its compatibility with public hearings for nominations to the Supreme Court of Canada.
- 2007 **THE USE OF EVIDENCE OF TAINTED WITNESSES: INTERNATIONAL AND CANADIAN STANDARDS IN A STUDY ON PROCEDURAL LAW ISSUES IN UNTOC AND UNCAC**
United Nations Publications, 188
Examination of how Canadian law treats the evidence of a 'tainted witness' (with G. Ferguson).

Parliamentary Evidence & Submissions

- Forthcoming **PARLIAMENT OF SOUTH AUSTRALIA**
COVID-19 Response Committee, Inquiry
- Forthcoming **PARLIAMENT OF AUSTRALIA**
Senate Select Committee on COVID-19, Inquiry
- Forthcoming **PARLIAMENT OF AUSTRALIA**
Senate Standing Committee for the Scrutiny of Delegated Legislation, Inquiry
- 2020 **PARLIAMENT OF NEW SOUTH WALES**
Regulation Committee, Inquiry
- 2020 **PARLIAMENT OF SOUTH AUSTRALIA**
Select Committee on Effectiveness of the System of Committees of the South Australian Parliament, Inquiry
- 2019 **PARLIAMENT OF AUSTRALIA**
Senate Standing Committee on Regulations and Ordinances, Inquiry
- 2019 **NEW ZEALAND PARLIAMENT**
Regulations Review Committee
- 2017 **PARLIAMENT OF CANADA**
Standing Joint Committee for the Scrutiny of Regulations

Book Reviews

- 2017 **REGULATING JUDGES: BEYOND INDEPENDENCE AND ACCOUNTABILITY BY RICHARD DEVLIN AND ADAM DODEK, EDS. (Edward Elgar, 2016)**
76 Cambridge Law Journal 452

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- 2016 **THE POLITICS OF JUDICIAL INDEPENDENCE IN THE UK'S CHANGING CONSTITUTION** BY GRAHAM GEE, ROBERT HAZELL, KATE MALLESON AND PATRICK O'BRIEN (Cambridge University Press, 2015)
79 Modern Law Review 1144
- 2015 **COMPARATIVE MATTERS: THE RENAISSANCE OF COMPARATIVE CONSTITUTIONAL LAW** BY RAN HIRSCHL (Oxford University Press, 2014)
74 Cambridge Law Journal 621
- 2014 **THE CONSTITUTION OF CHINA** BY QIANFAN ZHANG, **THE CONSTITUTION OF INDONESIA** BY SIMON BUTT AND TIM LINDSEY, **THE CONSTITUTION OF MALAYSIA** BY ANDREW HARDING (Hart, 2012)
73 Cambridge Law Journal 443
- 2014 **AUTHORITARIAN RULE OF LAW: LEGISLATION, DISCOURSE AND LEGITIMACY IN SINGAPORE** BY JOTHIE RAJAH (Cambridge University Press, 2012)
73 Cambridge Law Journal 206
- 2013 **POLITICIZED JUSTICE IN EMERGING DEMOCRACIES: A STUDY OF COURTS IN RUSSIA AND UKRAINE** BY MARIA POPOVA (Cambridge University Press, 2012)
72 Cambridge Law Journal 461
- 2013 **THE CULTURE OF JUDICIAL INDEPENDENCE: CONCEPTUAL FOUNDATIONS AND PRACTICAL CHALLENGES** BY SHIMON SHETREET AND CHRISTOPHER FORSYTH, EDS. (Nijhoff, 2011)
76 Modern Law Review 181
- 2012 **CHINESE JUSTICE: CIVIL DISPUTE RESOLUTION IN CONTEMPORARY CHINA** BY MARGARET Y.K. WOO AND MARY E. GALLAGHER, EDS. (Cambridge University Press, 2011)
71 Cambridge Law Journal 454
- 2011 **THE DISENCHANTMENT OF SECULAR DISCOURSE** BY STEPHEN D. SMITH (Harvard University Press, 2010)
48 Osgoode Hall Law Journal 681
- 2011 **JUDICIAL INDEPENDENCE IN CHINA: LESSONS FOR GLOBAL RULE OF LAW PROMOTION** BY RANDALL PEERENBOOM, ED. (Cambridge University Press, 2010)
70 Cambridge Law Journal 267

Newspaper Op-Eds

- 2016 **REGULATIONS GONE WILD**
Financial Post (28 January 2016)
- 2015 **REJECT THIS BID FOR LAW SCHOOL**
The Winnipeg Free Press (20 February 2015)
- 2014 **IN DEFENCE OF FIXED ELECTION DATES**
National Post (8 October 2014)
- 2013 **CRITICISM OF RUSSIA OVER GAY RIGHTS: NO REAL THREAT TO HARPER**
The Globe and Mail (13 August 2013)

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- 2012 **BANISHMENT IS PART OF THE JUDICIAL TOOLKIT**
The Globe and Mail (25 July 2012)
- 2012 **ABORIGINAL REPRESENTATION AT THE SUPREME COURT**
Toronto Star (June 2012)
- 2011 **ENGLISH COURTS PROVIDE SWIFT JUSTICE**
Toronto Star (6 November 2011)
- 2010 **A CABINET MANUAL COULD PROTECT US AGAINST ABUSES OF POWER**
The Globe and Mail (6 December 2010)
- Other**
- 2019 **THE CONSTITUTIONAL POSITION OF DELEGATED LEGISLATION AFTER CHERRY/MILLER (No 2)**
UK Constitutional Law Association Blog
- 2018 **SCRUTINISING LEGISLATIVE REFORM ORDERS: THE CASE OF THE HORSERACE BETTING LEVY**
UK Constitutional Law Association Blog
- 2011 **THE UNITED NATIONS AND JUDICIAL INDEPENDENCE IN THE DEVELOPING WORLD: CHALLENGES AND OPPORTUNITIES**
Cambridge University United Nations Association
- 2010 **AVOIDING LIABILITY FOR PENSION PLAN INVESTMENTS**
8th Annual Pension and Benefits Hot Spots: Updates on Key Legal Issues
Ontario Bar Association
- 2010 **EMPLOYEES BLOCK ATTEMPT BY EMPLOYER TO HIKE PENSION CONTRIBUTIONS**
Ultimate HR Manual, Western Edition (CCH)
- 2009-10 **PENSION & BENEFITS LAW BLOG**
Osler, Hoskin & Harcourt LLP
- 2005 **BACK TO THE BASICS: THE ROLE OF TIME, TRAINING AND INFRASTRUCTURE**
The World Summit in Reflection (Harvard Law School, Berkman Center for Internet and Society)

RESEARCH PRESENTATIONS

- 2020 **AMITY UNIVERSITY, FACULTY OF LAW**
The Legal Regulation of a Pandemic: Legislative Delegations in Times of Crisis
- 2019 **UNIVERSITY OF ADELAIDE, ADELAIDE LAW SCHOOL**
Guest lecture on delegated legislation
- 2019 **THE AUSTRALIAN NATIONAL UNIVERSITY, COLLEGE OF LAW**
Strengthening Transparency and Accountability: Lessons from the Parliamentary Scrutiny of Delegated Legislation in Canada and the UK
- 2019 **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
Guest lecture on delegated legislation

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2019	UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW) Legislating with Integrity? Comparative Reflections on the Parliamentary Scrutiny of Delegated Legislation
2019	VICTORIA UNIVERSITY OF WELLINGTON, FACULTY OF LAW Legislating with Integrity? Delegated Lawmaking in Australia, Canada and the United Kingdom
2019	UNIVERSITY OF ADELAIDE, ADELAIDE LAW SCHOOL Constitution and National Identity Workshop Building National Identity Through the Constitution: The Canadian Charter Experience
2018	GILBERT + TOBIN CENTRE OF PUBLIC LAW, UNSW LAW SCHOOL Uncloaking the Judiciary: The Judicial Role, Style and Image
2018	UNIVERSITY OF HONG KONG, FACULTY OF LAW The International Society of Public Law Conference Lawmaking in 21st Century Canada: Executive Power and the Search for Accountability
2018	UNIVERSITY OF OXFORD, FACULTY OF LAW Regulations Discussion Group Lessons from the Parliamentary Scrutiny of Regulations in Comparative Perspective: Canada and the UK
2017	SANT'ANNA SCHOOL OF ADVANCED STUDIES The Constitution of Canada: History, Evolution, Influence and Reform Executive Erosion of Parliamentary Sovereignty: Comparative Perspectives on Lawmaking in Canada and the United Kingdom
2016	HUMBOLDT UNIVERSITY, FACULTY OF LAW The International Society of Public Law Conference Chaired Comparing Law(s) and Institutions panel Presented Taking Comparative Law Seriously: Rethinking the Supreme Court of Canada's Modern Approach to Statutory Interpretation
2016	THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW Graduate Studies and Pathways to the Legal Academy
2015	NATIONAL UNIVERSITY OF SINGAPORE, FACULTY OF LAW Centre for Asian Legal Studies Conference Judicial Independence and the Evolution of Courts
2015	NEW YORK UNIVERSITY, SCHOOL OF LAW The International Society of Public Law Conference Chaired New Perspectives on Judicial Independence Presented Courts in Comparative Perspective: The Dynamics of Judicial Independence
2015	THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW Reflections on Judicial Independence.
2015	THOMPSON RIVERS UNIVERSITY, FACULTY OF LAW Judicial Independence and Beyond

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- 2015 **STANFORD UNIVERSITY, FACULTY OF LAW**
Conference for Junior Researchers
The Evolution of Judicial Institutions: A Comparative Study of Courts in England, Malaysia, and Pakistan
- 2014 **YALE UNIVERSITY, FACULTY OF LAW**
Doctoral Scholarship Conference
Judicial Institutions and Responsibility: A Comparison of Courts in England, Malaysia, and Pakistan
- 2014 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Public Law Conference
Judicial Review: Avoiding Substantive Review through Procedural Reform? (with J. McIntyre).
- 2013 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Moderated 'The State as a Legal Tradition' (HP Glenn).
- 2013 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Centre for Public Law
Judicial Independence in Pakistan
- 2013 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
Comparative Law Discussion Group
Comparing the Legal Principle of Judicial Independence: a Pragmatic and Context-Sensitive Approach
- 2012 **UNIVERSITY OF BRITISH COLUMBIA, FACULTY OF LAW**
Graduate Student Conference
The UN Special Rapporteur on Judicial Independence: Implications for the Developing World
- 2011 **UNIVERSITY OF CAMBRIDGE, CLARE HALL**
Research Day
The Legal Principle of Judicial Independence in an Age of Judicial Power
- 2011 **UNIVERSITY OF CAMBRIDGE, CLARE HALL LAW SOCIETY**
Judicial Independence in China: A New Approach to the Role of Courts in Economic Development?
- 2011 **UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW**
PhD Seminar
The World Bank and Independent Courts: Challenges and Opportunities

RESEARCH VISITS

- 2020 **NEW YORK UNIVERSITY, SCHOOL OF LAW**
Visiting Scholar
- 2019 **THE AUSTRALIAN NATIONAL UNIVERSITY, COLLEGE OF LAW**
Visiting Scholar
- 2019 **UNIVERSITY OF MANITOBA, ROBSON HALL (FACULTY OF LAW)**
Visiting Scholar
- 2019 **VICTORIA UNIVERSITY OF WELLINGTON, FACULTY OF LAW**
Visiting Scholar

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2018	BINGHAM CENTRE FOR THE RULE OF LAW BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW Visiting Fellow
2018	UNIVERSITY OF CAMBRIDGE, CLARE HALL Visiting Researcher
2017	UNIVERSITY OF OTTAWA, FACULTY OF LAW (COMMON LAW SECTION) Visiting Scholar
2015	UNIVERSITY OF CAMBRIDGE, CLARE HALL Visiting Researcher
2012	MAX PLANCK INSTITUTE FOR COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW Visiting Researcher

OTHER PROFESSIONAL WORK

2013-present	CANADIAN JOURNAL OF COMPARATIVE AND CONTEMPORARY LAW Co-Founder and Editor in Chief
2012-present	EXPERT REVIEWER Academic book publishers including Hart and journals including <i>Alberta Law Review</i> , <i>Alternative Law Journal</i> , <i>American Journal of Comparative Law</i> , <i>Cambridge Journal of International Law</i> , <i>Federal Law Review</i> , <i>Melbourne University Law Review</i> , <i>New Brunswick Law Journal</i> , <i>Ottawa Law Review</i> , <i>Queen's Law Journal</i> , <i>UBC Law Review</i> , and the <i>University of New South Wales Law Journal</i>
2020	EXPERT CONSULTANT Advised a foreign government on matters relating to the judiciary.
2018	AMITY UNIVERSITY, AMITY LAW SCHOOL Co-Convener, <i>Comparing and Contrasting the Constitutional Models of India and Australia</i>
2011-12	CAMBRIDGE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW Managing Editor, <i>UK Supreme Court Yearbook</i>
2011-12	UNIVERSITY OF CAMBRIDGE, FACULTY OF LAW Co-Convener, <i>Agents of Change: The Individual as a Participant in the Legal Process</i>
2011-12	SOUTH AFRICAN DEVELOPMENT COMMUNITY TRIBUNAL Consultant
2008-10 2006	OSLER, HOSKIN & HARCOURT LLP (Toronto) Associate Lawyer; Student-at-Law

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CITATIONS AND IMPACT

More than 100 citations in published books, journal articles and book chapters. Cited by the Ontario Superior Court of Justice, the United Nations Special Rapporteur on the Independence of Judges and Lawyers and former Supreme Court of Canada Justice Thomas Cromwell. Research introduced in evidence before a parliamentary committee of the House of Lords, discussed by the Canadian Parliament's Standing Joint Committee for the Scrutiny of Regulations and cited by the Australian Parliament's Senate Standing Committee on Regulations and Ordinances inquiry into delegated legislation.

MEDIA

Interviews with CBC's *The National*, CBC Radio, *Canadian Lawyer*, *Maclean's Magazine*, the *Ottawa Citizen*, the *Georgia Straight*, Radio NL (Kamloops), *The Lawyers Weekly*, *The National Post*, the *Prince George Citizen*, and the *Winnipeg Free Press*.

FUNDING & AWARDS

- | | |
|---------|--|
| 2017-19 | INSIGHT DEVELOPMENT GRANT
Awarded by the Social Sciences and Humanities Research Council of Canada for a comparative study of delegated legislation in Australia, Canada, New Zealand and the United Kingdom: value \$68,000 . |
| 2019 | UNIVERSITY OF ADELAIDE, GRANT SUPPORT FUNDING
Awarded by the Faculty of Professions to support an ARC research grant application: value \$1,500 . |
| 2019 | UNIVERSITY OF ADELAIDE, PROFESSIONAL DEVELOPMENT GRANT
Awarded by the Faculty of Professions to support a visit to the University of Victoria, Faculty of Law to discuss teaching indigenous law: value \$2,500 . |
| 2019 | ADELAIDE LAW SCHOOL, ARC SUPPORT GRANT
Awarded by the Adelaide Law School to support an ARC research grant application: value \$5,000 . |
| 2018 | RESEARCH UNIT ON MILITARY LAW & ETHICS
Awarded by the University of Adelaide's Research Unit on Military Law & Ethics to bring guest speaker Dean Jonathan Black-Branche (Manitoba) to Adelaide for a talk and meeting with students: value \$1,000 . |
| 2018 | PROFESSIONS AIM FOR THE STARS (INDIGENOUS)
Awarded by the University of Adelaide, Faculty of Professions to bring guest speaker Prof John Borrows (Victoria) to Adelaide for a public talk and meeting with research students: value \$1,000 . |
| 2018 | PROFESSIONS RESEARCH ASSISTANCE PROGRAM
Awarded by the University of Adelaide, Faculty of Professions for a preliminary study of comparative research methodologies: value \$4,500 . |
| 2014-17 | THOMPSON RIVERS UNIVERSITY
Awarded by the Associate Vice-President of Research and Graduate Studies to support ongoing legal research projects: value \$18,000 . |

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2017	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE PRIZE Annual prize as selected by students for teaching excellence in the first year curriculum.
2017	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE PRIZE Annual prize as selected by students for teaching excellence in the upper year curriculum.
2016	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE AWARD Annual prize as selected by students for teaching excellence in the first year curriculum.
2016	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE AWARD Annual prize as selected by students for teaching excellence in the upper year curriculum.
2016	THE FOUNDATION FOR LEGAL RESERCH (CANADA) Awarded to support "The Annotated Guide to the BC Interpretation Act" research project (with C. Hunt and M. Rankin): value \$10,000.
2016	THOMPSON RIVERS UNIVERSITY, INTERNAL RESEARCH AWARD Awarded to support "Parliament's Supervisory Role in Lawmaking by Regulation" legal research project: value: \$5,000.
2016	THOMPSON RIVERS UNIVERSITY, SSHRC ACCELERATOR FUND GRANT Award to support a SSHRC application for "Parliamentary Supervision of Executive Lawmaking: Comparative Perspectives from Canada, the United Kingdom, Australia and New Zealand". value: \$2,500.
2016	THOMPSON RIVERS UNIVERISTY, STUDENT APPRENTICESHIP AWARD Awarded to support "Supervising Executive Lawmaking: A Comparative Study of Canada and the United Kingdom" legal research project: value \$3,000.
2015	TRU SOCIETY OF LAW STUDENTS, TEACHING EXCELLENCE PRIZE Annual prize as selected by students for teaching excellence in the upper year curriculum.
2015	THOMPSON RIVERS UNIVERSITY, OFFICE OF RESEARCH & GRADUATE STUDIES Awarded to support the publication of the inaugural issue of the <i>Canadian Journal of Comparative and Contemporary Law</i> on "Health Law and Human Rights": value \$5,000.
2015	THOMPSON RIVERS UNIVERSITY, INTERNAL RESEARCH AWARD Awarded to support "Comparing Courts: A Study of Judicial Independence in Context" legal research project: value \$5,000.
2015	THOMPSON RIVERS UNIVERISTY, STUDENT APPRENTICESHIP AWARD Awarded to support "Rethinking the 'Modern Approach' to Statutory Interpretation" legal research project: value \$3,000.
2013	THOMPSON RIVERS UNIVERSITY RESEARCH AWARD Awarded by the Dean of the Faculty of Law: value \$12,000.
2012	MODERN LAW REVIEW SCHOLARSHIP
2011	Awarded by the Modern Law Review for doctoral research in law upon recommendation by the Faculty of Law, University of Cambridge: value \$16,500.

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2012	PROFESSOR MIKIKO ISHII BURSARY
2011	Awarded by Clare Hall at the University of Cambridge to a student of outstanding academic merit in the arts or humanities: value \$8,250.
2012	SIR JAMES LOUGHEED AWARD OF DISTINCTION
2011	Awarded by the Alberta Government to a doctoral researcher for academic excellence: value \$40,000.
2011	GRADUATE FELLOWSHIP
2010	Awarded by the Law Foundation of British Columbia for graduate research in law:
2007	value \$44,500.
2007	JOSEPH-ARMAND BOMBARDIER CANADA GRADUATE SCHOLARSHIP
	Awarded by the Social Sciences and Humanities Research Council of Canada for graduate studies in the social sciences and humanities: value \$17,500.
2007	GRADUATE SCHOLARSHIP
	Awarded by the Law Society of British Columbia for graduate legal studies: value \$12,000.
2007	RECRUITMENT EXCELLENCE FELLOWSHIP
	Awarded by McGill University, Faculty of Law: value \$5,000.
2007	FASKEN MARTINEAU DUMOULIN LLP PRIZE
	Awarded for academic excellence in Real Property at the University of Victoria.
2006	DONOVAN AND MARYLA WATERS AWARD
	Awarded for academic excellence in Trusts at the University of Victoria.
2006	PROFESSOR JIM ELLIS MEMORIAL PRIZE
	Awarded for academic excellence in Advanced Taxation at the University of Victoria.
2005	ACHESON & COMPANY PRIZE
	Awarded for academic excellence in Torts at the University of Victoria.
2005	ANNIE CADBY MEMORIAL SCHOLARSHIP
	Awarded for the highest standing in Constitutional Law at the University of Victoria.
2005	BORDEN LADNER GERVAIS LLP FIRST YEAR MEDAL
	Awarded to the student of the first year law class at the University of Victoria who has exhibited the highest qualities of community service, student leadership, and academic excellence over the course of the year.
2005	CANADA LAW BOOK COMPANY PRIZE
	Awarded for the highest standing in Legal Research and Writing at the University of Victoria.
2005	THE PRESIDENT'S SCHOLARSHIP
	Awarded by the University of Victoria to the top three percent of full-time students.
2004	CANADA BAR ASSOCIATION STUDENT AWARD
	Awarded for public service, contributions to the legal community, and the promotion of justice and law reform.

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STUDENT SUPERVISION

Supervised more than 150 student editors as Editor in Chief of the *Canadian Journal of Comparative and Contemporary Law* (with C. Hunt and R. Diab). Supervised numerous research assistants, teaching assistants and higher degree by research students.

AFFILIATIONS

THE AMERICAN SOCIETY OF COMPARATIVE LAW (Elected Associate Member)

AUSTRALASIAN LAW ACADEMICS ASSOCIATION (Member)

BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW (Member)

CLARE HALL, UNIVERSITY OF CAMBRIDGE (Life Member)

COMMONWEALTH ASSOCIATION OF LEGISLATIVE COUNSEL (Associate Member)

LAW SOCIETY OF ONTARIO (Barrister & Solicitor)

THE CANADIAN ASSOCIATION OF COMPARATIVE AND CONTEMPORARY LAW (Founding Director)

THE INTERNATIONAL SOCIETY OF PUBLIC LAW (Member)

THE SOCIETY OF LEGAL SCHOLARS (Member)

MELISSA SERBIN B. Comm. (Honours), J.D.Cell: [REDACTED]
Work: [REDACTED]

Highly driven and accountable litigator, skilled in developing case strategies, preparing persuasive briefs, and delivering successful workshops and presentations. Exceptional analytical, problem solving, negotiation, and decision making skills. Outstanding leadership, communication and interpersonal skills for effective teamwork.

PROFESSIONAL EXPERIENCE**Crown Attorney** Manitoba Prosecution Service (Winnipeg, Manitoba) July 2009 to Present

- Community Prosecutor (2020 to present)
- Firearms Working Group (2018 to present)
- Training and Development Mentor (2016 to present)
- Educational Presenter (2011 to present)
- Education Committee (2016 to 2019)
- Law Day Volunteer (2010 to 2015)

- Over ten years prosecuting criminal and statute offences from beginning to conclusion in the Provincial Court of Manitoba, the Manitoba Court of Queen's Bench and the Manitoba Court of Appeal. Extensive knowledge of the *Criminal Code of Canada*, the *Youth Criminal Justice Act*, Manitoba Provincial Statutes and Regulations and the *Charter of Rights and Freedoms*. Excellent comprehension of legal ethics, criminal law, evidence and criminal procedure. Administered prosecution cases for the General Prosecutions Trial Unit, the Winnipeg Auto Theft Suppression Strategy (WATSS), the Gang Response and Suppression Plan (GRASP), the Youth Prosecutions Unit, and the Intensive Case Assessment Process Unit (ICAP). Participated in circuit work in the regions of Manitoba, as well as project work with Manitoba Public Insurance, the Winnipeg Police Service, and the Royal Canadian Mounted Police.
- Offered assistance to law enforcement agencies and justice system participants by designing, coordinating and delivering presentations and educational workshops. Successfully assisted in the organization of multiple Manitoba Prosecution Service Crown Conferences.

Practicing Professional University of Manitoba, Robson Hall Faculty of Law January 2012 to Present

- **Intensive Criminal Law:** This course develops the skills required to effectively practice criminal law. Students are introduced to the procedural aspects of criminal law from the initial charge through to sentencing. The course also is concerned with the ways in which the values and principles governing criminal law are reflected in these procedures, as well as with the development of negotiation and advocacy skills transferable to all areas of general litigation. (2012 to present)
- **Indigenous People and the Criminal Justice System:** The seminar assists students and lawyers in learning about Indigenous cultures and understanding the interplay between Indigenous legal orders and the Canadian legal system. The class engages in a critical analysis of the relationship between Indigenous accused and the Courts through multiple stages of the justice system. (2020 to present)

Articling Student. Brodsky & Company Barristers (Winnipeg, Manitoba) May 2008 to June 2009
Criminal Law Student May 2006 to Sept 2007

- Conducted trials, bail hearings, sentencing hearings, and remands in the Provincial Courts of Manitoba and Ontario. Assisted in preparing for trials in the Manitoba Court of Queen's Bench. Interviewed and thoroughly prepared clients and witnesses for court. Reviewed and wrote motions, factums, and constitutional challenges. Recognized for work performance, dedication and relationship building abilities.

PROFESSIONAL ENGAGEMENT

➤ **Manitoba Prosecution Service Educational Calendar Workshops:**

- Created and delivered multiple full day seminars and workshops on judicial interim release, forensic fingerprint evidence, and Indigenous people and the criminal justice system, including Indigenous identity, the Truth and Reconciliation Commission and the principles articulated in *R. v. Gladue* and *R. v. Ipeelee*, to Crown Attorneys ranging in experience from one to thirty years of practice. (2017 to present)

➤ **Manitoba Prosecution Service Crown Conferences:**

- Designed and delivered lectures to educate Crown Attorneys across Manitoba on various topics including the legal principles in *R. v. Gladue*, *R. v. Ipeelee*, Winnipeg Police Service Air 1 helicopter evidence, and the integrated Winnipeg Auto Theft Suppression Strategy. (2011 to 2018)
- Developed a presentation with the Winnipeg Police Service Centreline program, the Social Planning Council of Winnipeg, and Make Poverty History Manitoba that discussed community-based policing, restorative justice, poverty, income supports and housing programs in Winnipeg. (2017)

➤ **University of Manitoba, Faculty of Law:**

- Guest lecturer for first year law Legal Methods course. Developed a two-part lecture on Indigenous legal content including Indigenous identity, lawyer-client relationships in Indigenous communities, the impact of colonization, and the legal principles in *R. v. Gladue*, *R. v. Ipeelee* and subsequent Manitoba caselaw. (2020)

➤ **Canadian Centre for Professional Legal Education (CPLED):**

- Criminal law section Learning Group Facilitator for the Law Society of Manitoba. (2016 to 2019)

➤ **Public Prosecution Service of Canada:**

- Created and delivered presentations to Federal Crown Counsel on Criminal Code firearms offences, motor vehicle offences and escalating sentence penalties. (2018)

➤ **Law Enforcement Workshops:**

- Developed and delivered workshops to the Winnipeg Police Service Forensic Identification Unit (officer and civilian members) on trial preparation and expert evidence. (2016 to present)
- Developed and delivered workshops to the Winnipeg Police Service Direct Voice Entry Unit, the Winnipeg Police Service Training Academy Recruit program, the Winnipeg Police Service Station Duty program, and the Winnipeg Police Service General Patrol officers on the role of the Crown, trial preparation, statement taking (youth and adult), identification evidence, search and seizure laws, and disclosure. (2011 to present)
- Developed and delivered a multiday workshop for Winnipeg Police Service Crowd Management Unit on public order and civil disobedience, civil injunctions as they relate to riots, police powers at common law, and police enforcement of injunctions. (2019)
- Created and delivered a workshop for the Firearms Investigative Analysis Section on trial preparation and the presentation of police expert testimony. (2017 to 2018)
- Created moot court workshops for various units in the Winnipeg Police Service. Led a team of Crown Attorneys and defence lawyers in the delivery of these workshops. (2011 to 2018)
- Designed and delivered workshops for the integrated Winnipeg Police Service Stolen Auto Unit, including Probation Services, on the admissibility of youth and adult statements, police officer identification evidence, note taking, uncooperative witnesses, trial preparation, and a variety of Criminal Code Offences. Also detailed the role of the Crown in an integrated unit. (2010 to 2016)
- Designed and delivered a lecture for the Royal Canadian Mounted Police D-Division officers on the role of the Crown and trial preparation. (2011 to 2012)

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EDUCATION AND PROFESSIONAL DEVELOPMENT

Juris Doctor	Faculty of Law, University of Toronto Toronto, Ontario	2005 to 2008
>	Associate Editor, Indigenous Law Journal (2005 to 2007)	
>	Student Affairs Representative, University of Toronto Student Law Society (2006 to 2007)	
>	Competitive Mooting Team, Callaghan Moot Court Competition (criminal moot) (2006 to 2007)	
>	Orientation Leader, Student Law Society Orientation Committee (2006 to 2007)	
>	Panel Chair and Moderator, Canadian International Law Students' Conference (2005 to 2006)	
>	International Human Rights Program Working Group: Access to Drugs Initiative (2005 to 2006)	
>	Associate Editor, Journal of International Law and International Relations (2005 to 2006)	
Comparative Law Student	School of Law, University of Edinburgh Edinburgh, Scotland, United Kingdom	2007 to 2008
>	Completed the International Comparative Criminal Law Program	
>	Telders International Law Moot Court Competition: International Air Space and Aviation Law, achieved the Pels Rijcken & Droogleever Fortuyn Award for Best Oral Argumentation (The Hague, Netherlands)	
>	Edinburgh University Mooting Society: LexisNexis Butterworth's Moot Competition	
Bachelor of Commerce	I.H. Asper School of Business, University of Manitoba Honours (with distinction) Winnipeg, Manitoba	2001 to 2005
>	I.H. Asper School of Business Program Gold Medal (2005)	
>	Double Major in Management of Organizations and Marketing	
>	Beta Gamma Sigma Honours Society for Scholastic Achievement (Top 5% of Class)	
>	Arthur Pigott Award (promoting excellence in higher education) (2005)	
>	Dean's Honour List (2002 to 2005)	
>	Senate Planning & Priorities Committee, University of Manitoba Student Union Senate (2004 to 2005)	
>	Associate Director, 2005 Manitoba International Marketing Competition (2004 to 2005)	
>	Vice President, University of Manitoba Marketing Association (2004 to 2005)	
>	I.H. Asper School of Business Athletic and Recreation Council (2004 to 2005)	
>	Ambassador, 2004 Manitoba International Marketing Competition (2003 to 2004)	
>	Director of Programming, University of Manitoba Marketing Association: (2003 to 2004)	
>	Manitoba Competitor, World University Debating Championships (2001 to 2002)	
<u>Continuing Legal Education</u>		
>	In-House Education Seminars – Manitoba Prosecution Service, Winnipeg, Manitoba (2009 to present)	
>	Crown Conferences – Manitoba Prosecution Service, Winnipeg, Manitoba (2009 to present)	
>	Law Society Workshops and Seminars – Law Society of Manitoba, Winnipeg, Manitoba (2009 to present)	
>	Forensic Identification Workshops – Winnipeg Police Service, Winnipeg, Manitoba (2016 to present)	
>	Firearms Training – RCMP & Winnipeg Police Service, Winnipeg, Manitoba (2013, 2015, 2017, 2019, 2020)	
>	Latent Fingerprint Expert Testimony Workshop – FBI Fingerprint Section, Winnipeg, Manitoba (2016)	
>	National Criminal Law Program - Federation of Law Societies of Canada, Halifax, Nova Scotia (2014)	
>	Crown Defence Conferences - Manitoba Crown Defence Committee, Winnipeg, Manitoba (2009 to 2013)	
>	Gang Expert Training - Winnipeg Police Service, Winnipeg, Manitoba (2013)	
>	Manitoba Public Insurance Stolen Auto Training – Winnipeg Police Service, Winnipeg, Manitoba (2011, 2012)	

PERSONAL STRENGTHS

- Strong interpersonal skills with a demonstrated ability for effective communication.
- Excellent ability to multi-task, to follow through on complex assignments, and to meet high work standards.
- Demonstrated competence in practical thinking, analyzing, prioritizing, problem solving, and decision making.
- Highly developed skills to conceptualize, research, organize, and write detailed briefs, reports, and papers.
- Effective presentation, lecturing, counselling, mentoring, and coaching abilities.
- Managed difficult situations with sensitivity and tact, as well as adhered to personal confidentiality and privacy policies.
- Positive, committed, and adaptable team leader who promotes a collaborative and respectful workplace environment.
- Proven ability to liaise and build relationships with justice system participants and government agencies, as well as with people from diverse cultures and life experiences.
- Perceptive intuition with the ability to council, mediate, negotiate, and resolve conflict.
- Computer experience with Microsoft Word, Excel, Outlook, PowerPoint, and PRISM.

COMMUNITY INVOLVEMENT

- Volunteer, Winnipeg Harvest (2020 to present)
- Recipient, Marian Award (for excellence in advancing the rule of law through advocacy, teaching and commitment to legal education), St. Mary's Academy (2018)
- Co-Organizer, Winnipeg VegFest (2017 to 2019)
- Volunteer Artist and Member, Mentoring Artists for Women's Art Gallery (MAWA) (2017 to 2019)
- Artist, Winnipeg VegFest, University of Winnipeg (2017, 2018)
- Artist, Nuit Blanche Winnipeg (2016 to 2019)
- Board Member, Canadian Friends of Hebrew University, Winnipeg Chapter (2012 to 2016)
- Committee Member, P2G (Partnership2gether), Jewish Federation of Winnipeg (2012 to 2015)
- Committee Member, Canada Israel Hockey School, Jewish Federation (2012)
- Lecturer (High School law classes), Sisler, Oak Park, West Kildonan Collegiate (2011 to 2018)
- Board Member, Women's Legal Education and Action Fund (LEAF) (2011 to 2012)
- Lecturer, Community Legal Education Association (2010 to 2013)
- Volunteer Lawyer/Recruitment Committee, Legal Help Centre (assisted in the early development of the Centre offering access to legal and social services for disadvantaged members of the community) (2010 to 2012)
- Legal Workshop Facilitator (domestic violence), Fort Garry Women's Resource Centre (2009 to 2011)
- Volunteer, Winnipeg Art Gallery (2003 to 2005, 2010)
- Public Speaking and Debating Judge, Manitoba Speech and Debate Association (2000 to 2015)
- Tennis Instructor: River East School Division, Tennis Manitoba (1999 to 2011, 2014, 2015)

PROFESSIONAL ASSOCIATION

Manitoba Association of Crown Attorneys

CURRICULUM VITAE**WENDY J. WHITECLOUD****PERSONAL INFORMATION:**

Home Address: [REDACTED]

Telephone: [REDACTED]

EDUCATION:

Bachelor of Arts: History
University of Calgary
Calgary, Alberta
1977

Bachelor of Law
Queen's University
Kingston, Ontario
1984

EMPLOYMENT HISTORY:**September 1991 to Present**

*Faculty of Law
University Manitoba
Winnipeg, Manitoba
R3T 2N2*

Director - Academic Support Program

Primary responsibility for the management of a program of support for Aboriginal and Special or Individual Consideration students.

A program priority is the provision of various forms of academic support to students.

The Program provides other forms of social support for the students, including employment and articling references.

An integral component of the Program is recruitment of Aboriginal students into the study of law.

Maintain a co-ordination role with regard to admissions and bursary and other forms of funding for students attending the Faculty.

I was also responsible for teaching two upper year seminar courses: Aboriginal Peoples and the law, Aboriginal People and Land Claim and for coaching the National Aboriginal Moot program.

In addition, I have taught first year courses during the last ten years or so- constitutional law, property law and Legal methods/legal writing. (September 2010-2019).

January 2000 – June 2001

**Aboriginal Justice Implementation Commission Manitoba
Co-Commissioner**

The appointment as a Commissioner was on a part time basis. The mandate for the Commission was to review and provide updated recommendations regarding the Aboriginal Justice Inquiry Report tabled in 1991.

As Commissioners, we reviewed and updated the recommendations tabled in the original report. One of the initial recommendations was for the transfer of authority for child and family services to First Nations controlled Child and Family Services Agencies.

A final report was issued by the Commission in June 2001

Various initiatives by the provincial government continue to evolve due in part to the Commission's final report.

March 1991 - September 1991

*Indigenous Law Program
Faculty of Law
University of British Columbia
Vancouver, British Columbia*

Director

As Director, I was responsible for a program of support to the Aboriginal law students in the law school. Support included financial and other social support mechanisms.

April 1988 - October 1990

*Tyendinaga Mohawk Council
Mohawks of the Bay of Quinte
R.R. #1, Deseronto, Ontario*

Chief Executive Officer

As the Chief Executive Officer, I reported to and was responsible for the management and co-ordination of the activities of the Tyendinaga Mohawk Council.

I had direct responsibility for the supervision and management of the activities of 32 staff members.

Responsible for program development with direction provided by Council. Program development included initial consultations with funding agencies, analysis of community needs and documentation to substantiate the Program request. Retained responsibility for the implementation of the Programs and revising criteria as required. As examples, the Council initiated and began its own Child and Family Services; there was a construction training project whereby the Council constructed a major sub-division thereby increasing its housing stock by 60 units; a major addition to the local school was negotiated and built; a library was built and providing service to the community. The Council probably had one of the best housing programs in the country and awarded on average fifty units for construction; part of the CEO's function was to supervise the provision of funds to the homeowners and to constantly monitor the various phases of construction; the Council maintained responsibility for roads and maintenance and were often engaged in construction of new roads and bridges;

Financial management was a critical aspect of my role as Chief Executive Officer and was well versed in reading financial statements and was also responsible for oversight during the annual audit process

October 1987 - March 1988

*Secretary of State
Toronto, Ontario*

**Ontario Regional Office
Co-Ordinator: Native Programs**

As co-ordinator, I was responsible to the Regional Director for the management and administration of Native programs decentralized to the region.

May 1986 - September 1987

*Secretary of State
Hamilton, Ontario.*

Social Development Officer

Maintained the lead role for the management and administration of the Multiculturalism program.

May 1984 - May 1986

*Aboriginal Women's Program
Ottawa, Ontario.*

Co-Ordinator

As co-ordinator of the program, I was responsible to the Chief of Program Support and the Director of the Native Citizen's Directorate for the management and administration of the program.

September 1981 - 1984

Attended law school and was assigned special projects during each summer.

February 1978 - 1981

*Aboriginal Women's Program
Native Social and Cultural Development Program
Ottawa, Ontario.*

- Maintained program responsibilities for both programs.

COMMUNITY INVOLVEMENT:

Chairperson- 2007 to the present: Southern Authority for Southern First Nations Child and Family Agencies of Manitoba. I have been a board member since 2003. The Authority is the oversight organization for the child and family agencies in Southern Manitoba.

Manitoba Legal Aid Society Board Member: 2001- board member, Vice Chairperson since 2005 and Chair for the Program and Policy Committee .

Winnipeg Inner City Mission- Presbyterian Church- board member 2003-2010

First Nations Statistical Institute; appointed December, 2010 – Board Member for the national statistical institute which has the mandate for the provision of relevant statistics for First Nations communities and institutions. Appointment term: 2 years.

My community involvement includes the critical task of overseeing the financial health of the various organizations. The Authority oversees funding in the millions of dollars for the agencies inclusive of operational issues.

ANNEXE C

[Traduction non officielle]

Les droits, les rôles et les responsabilités d'un sénateur :

L'acquisition de compétences culturelles et de notions sociales pour réfléchir aux relations interraciales avec les Autochtones et assurer le renouvellement de ces dernières

**Programme d'éducation conçu pour
l'honorable sénatrice Lynn Beyak
par
Jonathan L. Black-Branch**

Programme d'éducation conçu pour l'honorable sénatrice Lynn Beyak

Remarque

Le présent document est confidentiel jusqu'à ce que la sénatrice Beyak suive le programme et que le Comité sénatorial permanent de l'éthique et des conflits d'intérêts des sénateurs le rende public.

Contexte

Le présent programme d'éducation, intitulé *Les droits, les rôles et les responsabilités des sénateurs : L'acquisition de compétences culturelles et de notions sociales pour réfléchir aux relations interraciales avec les Autochtones et assurer le renouvellement de ces dernières*, a été expressément élaboré et conçu pour l'honorable sénatrice Lynn Beyak (sénatrice non affiliée de l'Ontario) à la demande du conseiller sénatorial en éthique, M^e Pierre Legault.

Résultats attendus

Élaborer et présenter un programme d'éducation expressément conçu pour la sénatrice Beyak à propos de son rôle et de ses responsabilités associées à son poste, axé sur le racisme envers les peuples autochtones au Canada et sur la responsabilité particulière des législateurs à cet égard, ainsi que sur les agissements passés de la sénatrice.

Dans les 10 jours civils suivant l'achèvement du programme, présenter au conseiller sénatorial en éthique une évaluation objective écrite du rendement de la sénatrice Beyak et de son assiduité au programme d'éducation.

Évaluer si la sénatrice Beyak a :

- a) réussi le cours;
- b) retenu les notions et était disposée à apprendre;
- c) compris les responsabilités des sénateurs par rapport au racisme, ainsi que la conformité de sa conduite passée avec ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait nuire à la charge de sénateur ou à l'institution qu'est le Sénat par rapport au racisme, la nécessité de respecter les normes les plus élevées de dignité inhérentes à la charge de sénateur.

Méthodologie et présentation du programme d'éducation

Le programme d'éducation se compose d'une série de modules présentés sous forme d'atelier interactif. Le programme est d'une durée de trois journées complètes et est divisé en plusieurs séances d'une, deux ou trois heures. Il est suivi, le quatrième jour, d'une évaluation finale participative et interactive (durée totale de trois heures). Ce programme est offert à la sénatrice Beyak à titre individuel. Il est conçu de manière à lui offrir une expérience d'apprentissage ciblée qui permet la circulation de l'information, avec sa participation entière et ouverte. L'apprentissage est effectué individuellement, sans la présence d'autres participants ou d'observateurs, car l'objectif principal du programme consiste à créer un contexte pédagogique propice à l'apprentissage que personne ne viendra gêner afin d'établir un climat d'enseignement et d'apprentissage adapté favorisant des échanges ouverts et l'exploration des informations, des notions et des idées présentées qui

feront l'objet de discussions. Le programme ne doit pas être enregistré, transcrit ou reproduit dans quelque format que ce soit, par des moyens électroniques ou autres, afin de favoriser un apprentissage ouvert, sans gêne ni artifice.

Équipe pédagogique

Le programme d'éducation consiste en une série de modules présentés sous forme d'ateliers interactifs par M. Black-Branch et ses collègues :

Jonathan Black-Branch, Ph. D., doyen de la Faculté de droit, professeur, Faculté de droit, Université du Manitoba.

Norman Meade, aîné en résidence, Université du Manitoba.

Wendy Whitecloud, directrice du Programme (autochtone) de soutien à l'éducation, chargée de cours supérieure à la retraite, Faculté de droit, Université du Manitoba.

Cary Miller, Ph. D., directrice du Département d'études autochtones, Université du Manitoba.

Melissa Serbin, procureure principale de la Couronne, Service des poursuites du Manitoba, et chargée de cours à temps partiel, Faculté de droit, Université du Manitoba.

Bruce Curran, Ph. D., doyen associé (Affaires universitaires), Faculté de droit, Université du Manitoba.

Lorne Neudorf, doyen adjoint, Faculté de droit, Université d'Adelaide, et professeur associé, Faculté de droit, Université du Manitoba.

Biographie et antécédents des instructeurs

Jonathan Black-Branch, Ph. D.

Jonathan Black-Branch est le doyen de la Faculté de droit de l'Université du Manitoba. Il est l'un des conseillers de la Société du Barreau du Manitoba, où il est membre du Comité d'équité et du Comité directeur de l'accès à la justice. Il est avocat au Manitoba et avocat plaignant en Angleterre et au Pays de Galles, où il est également juge de paix et a déjà été magistrat à temps partiel. Il possède un doctorat en droit de l'Université d'Oxford. Il a également obtenu un doctorat en droit à l'Université de Toronto, où il a fait une thèse au sujet de l'influence de la Charte canadienne des droits et libertés sur l'administration de l'éducation au Canada. M. Black-Branch a déjà enseigné dans le Nord du Manitoba et au centre-ville de Toronto, où il a constaté par lui-même les problèmes liés aux relations interraciales et avec la collectivité. À titre de doyen à l'Université du Manitoba, il entretient des liens avec la communauté autochtone. Il organise un comité spécial du doyen au sujet des Appels à l'action de la CVR pour examiner les bourses destinées aux Autochtones et les réalisations de ces derniers afin de mettre en œuvre l'appel à l'action 28, qui porte sur le programme et le milieu d'apprentissage. Il a mis en branle la formation relative à l'arrêt *Gladue* pour les étudiants en droit ainsi qu'un programme spécial offert aux avocats et juges manitobains au sujet de l'influence de l'histoire et de la culture autochtones sur le système de justice pénale. De plus, cette année, il a été l'hôte du tribunal-école national sur le droit autochtone Kawaskimhon. Il a écrit des articles sur des sujets qui concernent les Autochtones et donné des formations en matière de droits de la personne relatifs à la discrimination et à l'égalité réelle à de nombreux particuliers, groupes et organismes, ainsi

que des formations de perfectionnement professionnel. Il a organisé, ou participé à l'organisation, de diverses conférences, dont, récemment, *Reimagining Justice : Trust, Truths and Transformation(s)* en 2018 et, la même année, *Tebwetibajimowin – To Tell the Truth*, sur le droit autochtone.

Norman Meade, aîné

Norman Meade est un aîné en résidence et un pasteur qui offre un accompagnement culturel et spirituel aux étudiants et au personnel de l'Université du Manitoba à partir du Migizii Agamik – Bald Eagle Lodge, au campus de Fort Garry. Norman Meade est né à Bisset, au Manitoba, mais il a grandi dans l'établissement métis de Manigotagan. Au début des années 1960, Norman a été embauché à la mine d'or de Bisset, où il a travaillé comme ouvrier avant de devenir mineur dans le plein sens du terme. Norman Meade a travaillé pendant cinq ans à la Coopérative des producteurs de Wanipigow, à Manigotagan, d'abord comme coupeur de bois à pâte, puis comme directeur. Au milieu des années 1970, Norman Meade a été engagé par le gouvernement provincial du Manitoba, où il allait occuper pendant 26 ans divers postes comme conseiller en emploi, agent de développement local, agent de développement coopératif et agent des services à la clientèle. Il a également passé quatre ans à l'Association des conseils communautaires du Nord, d'abord comme travailleur sur le terrain puis comme directeur exécutif. Il a été agent des services aux Métis à la Fédération des Métis du Manitoba pendant deux ans. Il consacre maintenant ses vieux jours à continuer de servir activement la communauté à titre d'aîné et de pasteur. Il fait partie de plusieurs conseils d'administration à Winnipeg. Enfin, il est aussi un joueur de curling passionné et il est le fondateur de la Ligue autochtone de curling de Winnipeg.

Carry Miller, Ph. D.

Carry Miller est directrice du Département d'études autochtones de l'Université du Manitoba et professeure agrégée au sein du même Département. Mme Miller est une Anishinaabe issue des communautés de Ste-Croix et du lac Leech. Elle a dirigé des ateliers sur diverses questions entourant la formation en matière de compétences culturelles concernant les Autochtones et les relations interraciales avec les Autochtones sur des sujets comme : l'équité, la diversité et l'inclusion; les femmes autochtones; les fondements juridiques du colonialisme en Amérique; la fragilité et les priviléges; la fragilité blanche. Elle a été directrice du Département d'études amérindiennes à l'Université du Wisconsin-Milwaukee à partir de 2013 et, depuis 2010, est professeure agrégée au Département d'histoire du même établissement (où elle est arrivée en 2002). Son livre intitulé *Ogimag: Anishinaabeg leadership 1760-1845* a été publié par les Presses de l'Université du Nebraska en 2010. Elle avait publié auparavant les ouvrages intitulés *Centering Anishinaabeg Studies: Understanding the World through Stories* et *Encyclopedia of United States Indian Policy and Law*. Ses recherches portent sur le leadership Anishinabé au début du 19^e siècle, l'histoire des femmes anishinaabe, les traités et la souveraineté, l'histoire des Indiens du Wisconsin, et les cultures de la région des Grands Lacs.

Lorne Neudorf, Ph. D.

Lorne Neudorf (J.D., Victoria; LL.M., McGill; Ph. D., Cambridge) est professeur associé de droit à Robson Hall, la Faculté de droit de l'Université du Manitoba. Ses recherches actuelles, qui portent principalement sur des questions liées au processus législatif, sont financées par le Conseil de recherches en sciences humaines. Il a publié plus de 40 ouvrages, collections révisées, articles de revues et examens de revues sur de nombreux sujets, dont le droit administratif, le droit constitutionnel et les institutions gouvernementales. Il a présenté ses travaux à des facultés de droit de premier plan, notamment à Cambridge, Oxford, Yale, Stanford, l'Université nationale de Singapour, l'Université de Hong Kong, l'Université de New York et l'Université Humboldt. Il a présenté des mémoires dans le cadre de nombreuses enquêtes parlementaires et a conseillé à la fois des gouvernements et des tribunaux internationaux. En 2017, Lorne a été nommé doyen adjoint de la Faculté de droit de l'Université d'Adélaïde, en Australie.

Melissa Serbin

Melissa Serbin est procureure de la Couronne au Service des poursuites du Manitoba. Elle s'intéresse principalement au droit pénal et elle a représenté la Couronne devant toutes les instances du Manitoba. Elle possède un baccalauréat spécialisé en commerce de l'École de commerce I. H. Aspre de l'Université du Manitoba ainsi qu'un doctorat en jurisprudence de la Faculté de droit de l'Université de Toronto. Elle a également suivi un programme en droit pénal comparé à la Faculté de droit de l'Université d'Édimbourg. Tout au long de sa carrière de procureure, Melissa a donné de nombreuses conférences et créé une multitude d'ateliers et de cours pour le Service des poursuites du Manitoba, le Service de police de Winnipeg, la Gendarmerie royale du Canada, le Service des poursuites pénales du Canada, les Services correctionnels du Manitoba et d'autres acteurs du système judiciaire. Elle est chargée de cours à temps partiel pour le cours intensif de droit criminel offert à la Faculté de droit de l'Université du Manitoba et elle a mis sur pied un cours destiné aux avocats et aux étudiants qui porte sur les Autochtones et le système de justice pénale.

Bruce Curran, Ph. D.

Bruce Curran est professeur et doyen associé aux Affaires universitaires à la Faculté de droit de l'Université du Manitoba, où il a joué un rôle déterminant en favorisant des initiatives autochtones, comme des activités d'orientation pour les étudiants en droit au sujet des traditions juridiques autochtones et du droit des traités autochtones, et en participant à l'élaboration et à l'approbation de deux nouveaux cours portant sur les enjeux juridiques qui touchent les peuples autochtones. Mis à part l'Université du Manitoba, il a aussi enseigné à la Faculté de droit Osgoode Hall de l'Université de Toronto et dans le cadre du programme d'études juridiques de l'Institut universitaire de technologie de l'Ontario. Il a remporté de nombreux prix en enseignement, a donné des cours sur un vaste éventail de sujets, dont les relations fiduciaires et de confiance, les contrats, le droit du travail et de l'emploi ainsi que les négociations. Les recherches de M. Curran portent principalement sur le droit du travail et de l'emploi et le règlement des différends, et elles soulignent l'importance d'utiliser des méthodes empiriques pour mieux comprendre les considérations entourant ces sujets. Il a publié de nombreux articles dans des revues à

comité de lecture sur le droit et les ressources humaines, dont un article portant sur les dommages-intérêts en cas de mauvaise foi de l'employeur. En 2015, il a terminé un doctorat au Centre des relations industrielles et des ressources humaines de l'Université de Toronto. Avant d'entreprendre ce doctorat, il a pratiqué le droit de l'emploi pendant 10 ans et obtenu une maîtrise en droit à la Faculté de droit Osgoode Hall ainsi qu'une maîtrise en relations industrielles et en ressources humaines (MIRHR) à l'Université de Toronto.

Wendy Whitecloud

Wendy Whitecloud est agente de liaison autochtone à la Faculté de droit de l'Université du Manitoba, chargée de cours supérieure à la retraite et directrice du Programme autochtone de soutien à l'éducation.

Le travail de M^{me} Whitecloud, qui est originaire de Sioux Valley, une communauté dakota située dans le Sud du Manitoba, porte principalement sur des questions liées au droit autochtone et à l'incidence de ce dernier sur les Premières Nations, les Métis et les Inuits et sur leur vie au Canada. Elle travaille auprès de nombreux organismes de services communautaires autochtones et non autochtones qui se penchent sur des questions touchant la justice, les femmes et les enfants. Elle a étudié le droit à l'Université Queen's, a enseigné le droit autochtone pendant deux décennies et a été commissaire au sein de la Commission de mise en œuvre des recommandations sur la justice autochtone, dont le rapport a été publié en juin 2001 (pour faire suite à la publication, en 1991, du rapport de l'Enquête publique sur l'administration de la justice et les peuples autochtones). M^{me} Whitecloud œuvre auprès de nombreux organismes de services communautaires autochtones et non autochtones qui cherchent à régler des problèmes qui touchent la justice, les femmes et les enfants. Elle a également été membre du conseil d'administration de la Société Elizabeth Fry et présidente suppléante du Winnipeg First Nations Local Area Management Board, qui se consacre à la formation professionnelle des membres des Premières Nations. M^{me} Whitecloud enseigne au programme d'été en droit des biens et droit coutumier du Indigenous Law Centre à l'Université de la Saskatchewan.

Objectifs du programme d'éducation

Le programme d'éducation a pour but, d'une part, de transmettre des connaissances, de développer des compétences et de promouvoir la compréhension et la réflexion au sujet des droits, des rôles et des responsabilités d'un sénateur et, d'autre part, de développer les compétences culturelles et les notions sociales relatives aux relations interraciales avec les peuples autochtones au Canada. L'accent est mis sur les responsabilités particulières qui sont associées au poste de sénateur et sur la nécessité de défendre la dignité, l'honneur et l'intégrité du poste et du Parlement. Le programme porte principalement sur les fondements du colonialisme, l'histoire et les épreuves des peuples autochtones ainsi que les séquelles historiques, notamment celles laissées par les pensionnats indiens, par l'étude de divers points de vue historiques, culturels, juridiques, sociaux et politiques ayant trait aux relations interraciales avec les peuples autochtones¹.

¹ Remarque : Des renvois aux codes et aux lignes directrices en matière d'éthique, aux lois et à la jurisprudence seront inclus si cela est indiqué et utile.

Une place importante est accordée au renforcement de la littératie culturelle grâce à la sensibilisation à l'égard des relations interraciales en lien avec les peuples et les communautés autochtones au Canada, ainsi qu'à la compréhension des interactions et des relations sociales et politiques avec les peuples autochtones. L'objectif est l'acquisition de compétences en matière de culture autochtone en ce qui a trait aux fondements du Canada et aux séquelles qui subsistent aujourd'hui.

**Notions, buts et objectifs principaux et résultats d'apprentissage :
Acquérir des connaissances, une compréhension et des compétences menant à une pratique réflexive**

Le programme d'éducation vise à tirer parti des connaissances de la sénatrice Beyak pour lui transmettre d'autres renseignements et des concepts clés se rapportant à son rôle de sénatrice, en particulier en ce qui concerne les relations interraciales avec les peuples autochtones. En plus de l'acquisition de connaissances, une place importante sera accordée au perfectionnement des compétences en vue de favoriser une pratique réflexive. Les séances interactives permettront notamment d'acquérir progressivement les connaissances transmises tout en renforçant les compétences menant à une pratique réflexive en ce qui a trait aux connaissances, aux attitudes, aux comportements et aux modes de pensée essentiels pour susciter une réflexion sur les attitudes et l'acquisition de nouvelles habitudes. S'il est vrai que certains buts et objectifs sont axés sur les connaissances, d'autres sont plutôt fondés sur les compétences et certains portent principalement sur les attitudes. Certains ont pour objet du contenu et de l'information, alors que d'autres mettent l'accent sur les compétences nécessaires pour établir des cadres de référence permettant d'améliorer la compréhension, et d'autres encore préconisent et encouragent la réflexion et la croissance personnelles.

Aperçu du programme d'éducation*

Mot de bienvenue, introduction et aperçu du programme Jonathan Black-Branch
Situation juridique, constitutionnelle et institutionnelle : La quête de la réconciliation Melissa Serbin, avec Jonathan Black-Branch
Contexte historique des relations Couronne-Autochtones au Canada Cary Miller, avec Jonathan Black-Branch
Racisme, littératie culturelle autochtone et relations interraciales avec les Autochtones au Canada Cary Miller, avec Jonathan Black-Branch
Considérations juridiques, politiques et constitutionnelles : La <i>Loi sur les Indiens</i>, la Constitution, les pensionnats indiens et les peuples autochtones Wendy Whitecloud, avec Jonathan Black-Branch

Dignité, honneur et intégrité : Les responsabilités associées au rôle de sénateur Lorne Neudorf, avec Jonathan Black-Branch
Devoir du gouvernement et des législateurs envers les peuples autochtones Bruce Curran, avec Jonathan Black-Branch
Expérience personnelle d'un aîné : Sa jeunesse en tant que Métis et Indien à Manigotagan et comment il a surmonté le racisme Norman Meade, aîné, avec Jonathan Black-Branch
Expérience personnelle d'un aîné : Vérité, réconciliation, douleur et guérison Norman Meade, aîné, avec Jonathan Black-Branch
Douleur et torts causés par la conduite de la sénatrice Jonathan Black-Branch

*Veuillez noter qu'il s'agit là des principaux sujets abordés, mais la liste peut être incomplète. Certains sujets peuvent être examinés plus en profondeur que d'autres, présentés dans un ordre différent ou exposés brièvement seulement, par rapport au présent aperçu. Certains sujets peuvent aussi être abordés sur plusieurs séances. Des modifications ou des changements peuvent être apportés au programme si cela est jugé pertinent, nécessaire ou approprié.

Le programme d'éducation cherche surtout à atteindre les objectifs énoncés dans les catégories ci-dessous.

Situation juridique, constitutionnelle et institutionnelle : La quête de la réconciliation

- Examiner les objectifs discriminatoires de l'*Acte des Sauvages, 1876* et les séquelles qui en subsistent.
- Comprendre le racisme à l'égard des peuples autochtones au Canada et l'histoire des relations Couronne-Autochtones au Canada.
- Explorer l'importance du rôle de la Commission de vérité et réconciliation et de son rapport final, ainsi que ce qu'elle signifie pour les peuples autochtones et pour le Canada.
- Analyser les appels à l'action de la Commission de vérité et réconciliation du Canada et leur valeur pour faire progresser les peuples autochtones et la société canadienne.
- Analyser le principe de l'oppression culturelle imposée par le régime des pensionnats indiens.
- Examiner la nécessité de la tenue de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées (FFADA).
- Se pencher sur les obstacles juridiques auxquels se heurtent les peuples autochtones.
- Examiner la pertinence de l'affaire *Ipeelee*, au cours de laquelle la Cour suprême a rappelé ce qui suit aux juges d'instance : « Dans la mesure où elles ne favorisent pas la réalisation de ces objectifs, les pratiques actuelles de détermination de la

peine doivent être modifiées de façon à répondre aux besoins des délinquants autochtones et de leurs collectivités » (paragr. 66).

- Explorer l'importance de l'affaire *Gladue* au sein du système de justice pénale en ce qui concerne la recherche d'une approche de détermination de la peine différente pour les délinquants autochtones où l'identité autochtone du délinquant à elle seule ne constitue pas une circonstance atténuante pour ce qui est de la longueur de la peine.
- Discuter des séquelles laissées par les pensionnats indiens, de la Déclaration des Nations Unies sur les droits des peuples autochtones, des traités et des droits des Autochtones, des lois autochtones comme l'*Acte des Sauvages, 1876* et des relations Couronne-Autochtones.
- Comprendre et reconnaître les mérites des conclusions et des recommandations du rapport final de la Commission de vérité et réconciliation du Canada (2015), qui comprend 94 appels à l'action pour favoriser la réconciliation avec les peuples autochtones.

Contexte historique des relations Couronne-Autochtones au Canada

- Examiner les fondements politiques et juridiques du colonialisme.
- Explorer l'interaction entre les notions de race et de colonialisme.
- Expliquer pourquoi le racisme est un système historique de pouvoir institutionnel profondément engrainé.
- Parler de l'histoire des peuples autochtones.
- Élargir la compréhension de la culture autochtone ainsi que des relations sociales avec les peuples autochtones.
- Explorer les relations politiques passées avec les peuples autochtones.
- Étudier le régime des pensionnats indiens du Canada.
- Se pencher sur certaines séquelles des pensionnats indiens du Canada et sur les effets du régime sur les peuples et les communautés autochtones.

Racisme, littératie culturelle autochtone et relations interraciales avec les Autochtones au Canada

- Parler du besoin général de développer des compétences interculturelles et de lutter contre le racisme.
- Explorer la notion de privilège colonial et colonisateur.
- Examiner l'interaction entre les notions de race, de colonialisme et de pouvoir institutionnel.
- Mieux faire connaître la réalité autochtone et les relations interraciales avec les peuples autochtones et leurs communautés.
- Développer les compétences culturelles autochtones en ce qui concerne les questions liées aux relations interraciales avec les Autochtones, y compris l'équité, la diversité et l'inclusion.

- Évaluer le besoin d'une meilleure compréhension et d'une inclusion plus concrète des peuples autochtones au Canada, dans tous les secteurs et toutes les régions.
- Développer les compétences et les connaissances culturelles, grâce à la découverte de l'histoire et des séquelles découlant de celle-ci, comme les pensionnats indiens.

Considérations juridiques, politiques et constitutionnelles : La *Loi sur les Indiens*, la Constitution, les pensionnats indiens et les peuples autochtones

- Examiner les objectifs discriminatoires de l'*Acte des Sauvages, 1876* ainsi que les séquelles persistantes de cette loi.
- Analyser le principe de l'oppression culturelle imposée par le régime des pensionnats indiens.
- Examiner les droits particuliers garantis par l'article 35 de la *Loi constitutionnelle de 1982*, qui reconnaît et confirme les droits ancestraux ou issus de traités des peuples autochtones.
- Explorer la protection des droits énoncés à l'article 35 au titre de la « doctrine de l'obligation de consulter » et, au besoin, d'accompagner les groupes autochtones, qui a été élaborée par les tribunaux canadiens.
- Explorer les notions de territoire et de propriété foncière.
- Faire une analyse critique du rôle de la loi, des pouvoirs juridiques et des institutions politiques dans l'histoire des Autochtones et dans leurs relations avec la Couronne et les Canadiens à ce jour.

Dignité, honneur et intégrité : Les responsabilités associées au rôle de sénateur

- Évaluer le rôle constitutionnel essentiel que joue un sénateur au cours de l'examen législatif.
- Explorer le devoir des sénateurs de promouvoir les valeurs et les principes fondamentaux de notre système démocratique, surtout compte tenu du rôle traditionnel du Sénat qui consiste à représenter les groupes sous-représentés à la Chambre des communes, comme l'a fait remarquer la Cour suprême du Canada en 2014, dans le *Renvoi relatif à la réforme du Sénat* : « Avec le temps, le Sénat en est aussi venu à représenter divers groupes sous-représentés à la Chambre des communes. Il a servi de tribune aux femmes ainsi qu'à des groupes ethniques, religieux, linguistiques et autochtones auxquels le processus démocratique populaire n'avait pas toujours donné une opportunité réelle de faire valoir leurs opinions » (paragr. 16).
- Expliquer que les sénateurs sont des parlementaires titulaires d'une charge publique unique en vertu de laquelle ils sont tenus de lutter sans réserve contre le racisme et de protéger l'intégrité de l'institution.
- Examiner comment, à titre de Chambre du Parlement, le Sénat doit défendre le principe de l'égalité de tous en dignité et devant la loi, principe dont la reconnaissance et le respect déterminent l'aptitude d'un sénateur à exercer ses fonctions.

- Expliquer que le *Code régissant l'éthique et les conflits d'intérêts des sénateurs* constitue une application du privilège parlementaire du Sénat de régir ses affaires internes et de prendre des mesures disciplinaires contre ses membres, deux priviléges qui sont inhérents au Sénat en sa qualité d'assemblée législative et délibérante et qui lui ont été explicitement accordés à l'article 18 de la *Loi constitutionnelle de 1867* et à l'article 4 de la *Loi sur le Parlement du Canada*.
- Prendre conscience du privilège de servir les Canadiens à titre de sénateur pour représenter les points de vue des régions et des minorités, insister sur les peuples autochtones et leur relation nation à nation avec le Canada.
- Explorer le fardeau des responsabilités qui incombent au titulaire d'une charge publique.
- Analyser le rôle de la confiance à l'égard des législateurs.
- Évaluer le rôle particulier d'un sénateur qui est nommé par rapport à celui d'un législateur qui est élu.
- Examiner les responsabilités inhérentes au poste de sénateur, à savoir :
 - Se conformer aux normes de conduite les plus élevées attendues pour donner l'exemple et préserver la confiance du public;
 - Communiquer et participer à des débats publics, et chercher sincèrement à comprendre et à respecter le point de vue d'autrui;
 - Exercer les fonctions sénatoriales avec diligence et dans l'intérêt public;
 - Faire la promotion des exigences juridiques ainsi que des valeurs et des objectifs énoncés dans la Constitution, y compris le droit à l'égalité et la protection contre la discrimination illicite.
- Réfléchir aux responsabilités des sénateurs, qui consistent notamment à préserver la dignité, l'honneur et l'intégrité du Parlement, du Sénat et du poste de sénateur, individuellement et collectivement.
- Songer à l'équilibre entre la liberté d'expression et l'exercice responsable de cette liberté.

Devoir du gouvernement et des législateurs envers les peuples autochtones

- Explorer certains devoirs du gouvernement fédéral et de ses législateurs envers les peuples autochtones
- Examiner la portée des devoirs fiduciaires du gouvernement fédéral à l'égard des peuples autochtones.
- Passer en revue l'affaire *Guerin c. La Reine*, dans laquelle la Cour suprême du Canada a établi le principe selon lequel la Couronne est obligée de gérer les terres cédées par des Autochtones de la manière la plus avantageuse pour ces derniers.
- Aborder la notion d'« honneur de la Couronne ».
 - Lorsque le gouvernement envisage une mesure qui peut avoir un effet néfaste sur les droits ancestraux et issus de traités, l'honneur de la Couronne donne lieu à une obligation de consulter et d'accorder les peuples autochtones.

- Examiner l'affaire *Première nation crie Mikisew c. Canada*, portée devant la CSC en 2018, et ses conséquences au point de vue de l'obligation des législateurs à tenir compte de l'incidence des projets de loi sur les peuples autochtones.
- Expliquer que, dans le *Renvoi relatif à la sécession du Québec* de 1998, la Cour suprême a souligné que la protection des droits des minorités est un des grands principes constitutionnels qui sous-tendent notre structure gouvernementale et a énoncé ce qui suit : « Nous soulignons que la protection de ces droits est elle-même un principe distinct qui sous-tend notre ordre constitutionnel. Ce principe se reflète clairement dans les dispositions de la Charte relatives à la protection des droits des minorités » (paragr. 80).

Expérience personnelle d'un aîné : Sa jeunesse en tant que Métis et Indien à Manigotagan et comment il a surmonté le racisme

- Prendre connaissance de l'expérience personnelle d'un aîné, Métis et Indien, qui a passé sa jeunesse à Manigotagan.
- Réfléchir aux effets de la vie dans une collectivité raciste sur l'aîné.
- Découvrir le cheminement de l'aîné pour composer le racisme et les difficultés auxquelles il a fait face pour le surmonter.
- Explorer des enseignements autochtones choisis pour améliorer la compréhension.
- S'inspirer des enseignements autochtones pour susciter une réflexion vers un renouvellement.

Expérience personnelle d'un aîné : Vérité, réconciliation, douleur et guérison

- Explorer les notions de vérité, de réconciliation, de douleur et de guérison.
- Examiner la position des Autochtones ainsi que leurs préoccupations sociales et culturelles.
- Faire connaître, reconnaître et comprendre l'existence du racisme envers les peuples autochtones au Canada.
- Parler des enseignements autochtones menant à la guérison et au renouveau.

Douleur et torts causés par la conduite de la sénatrice

- Explorer la vérité, la réconciliation, la douleur et la guérison.
- Explorer la douleur et les torts qui ont été causés par la conduite de la sénatrice.
- Réfléchir au contexte du comportement de la sénatrice et comprendre pourquoi ce comportement est indigne de la part d'un sénateur ou du Sénat.
- Réfléchir au privilège de servir à la Chambre haute du Canada et aux obligations qui incombent aux sénateurs de défendre les principes de la Constitution et de respecter les valeurs de la *Charte des droits et libertés*.
- Comprendre les obligations des sénateurs énoncées dans le *Code régissant l'éthique et les conflits d'intérêts des sénateurs* pendant qu'ils occupent leur poste,

tout particulièrement en vertu de l'alinéa 47(2)b) du *Code* et compte tenu des agissements de la sénatrice Beyak.

- Évaluer les droits, les obligations et les responsabilités, y compris les restrictions, des sénateurs et favoriser la compréhension de l'institution relativement à ce régime d'éthique.
- Expliquer les responsabilités constitutionnelles, la représentation des intérêts des minorités et le fait que toute forme de racisme est incompatible avec les rôles et les responsabilités des sénateurs.
- Parler du privilège que constitue le fait de servir au Sénat.
- S'attarder au fait que le racisme n'a pas sa place au sein des institutions du Parlement.
- Analyser en quoi certains gestes, attitudes ou même l'inaction peuvent laisser planer un doute sur l'intégrité du Sénat et expliquer pourquoi cela nuit à l'institution qu'est le Sénat, à tous les sénateurs et à tous les Canadiens.
- Réfléchir aux raisons pour lesquelles les Canadiens doivent faire confiance à leurs institutions démocratiques et aux gens qui les servent.

Horaire du programme, participation et réussite du programme

Le programme d'éducation sera présenté pendant la semaine du 18 au 22 mai 2020. Les détails concernant l'horaire complet et le cadre de présentation restent à confirmer.

La participation de la sénatrice à la totalité du programme est obligatoire. La sénatrice Beyak doit lire les documents et faire les exercices qui lui auront été assignés au préalable. Le programme d'éducation sera exécuté sous forme de séances interactives et la participation entière et active de la sénatrice est nécessaire, car son rendement personnel sera contrôlé et évalué tout au long du programme.

Bien qu'il aurait été préférable que le programme d'éducation soit présenté à la sénatrice Beyak en personne, en raison de la pandémie de COVID-19, il le sera par liaison vidéo interactive et il sera obligatoire d'activer les fonctions audio et vidéo. Comme nous l'avons déjà mentionné, le programme est offert à la sénatrice Beyak à titre individuel, sans la présence d'autres participants ni observateurs, et il ne doit pas être enregistré ni diffusé de quelque manière que ce soit. Aucun segment, partie ou portion du programme ne peut être enregistré, transcrit ou reproduit sous quelque forme que ce soit, par des moyens électroniques ou numériques, par écrit ou au moyen d'abréviations, de notes ou autres. Indépendamment de l'évaluation ou du rapport final, si des informations ou des faits indiquent que la sénatrice Beyak a contrevenu à ces exigences, on considérera qu'elle a agi contrairement aux exigences prévues en matière de rendement et d'assiduité au programme d'éducation, notamment la réussite du cours en étant disposée à apprendre et à comprendre ses responsabilités à titre de sénatrice.

Jour 1	Jour 2	Jour 3	Jour 4
19 mai 2020	20 mai 2020	21 mai 2020	22 mai 2020
Horaire à venir.	Horaire à venir.	Horaire à venir.	Horaire à venir.

Références, actions en justice et lectures choisies

Acte des Sauvages, 1876

https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/1876c18_1100100010253_fra.pdf

Enquête nationale sur les femmes et les filles autochtones disparues et assassinées : Le sommaire du rapport final

<https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Le-sommaire.pdf>

Commission de vérité et réconciliation du Canada : Appels à l'action
http://trc.ca/assets/pdf/Calls_to_Action_French.pdf

Mikisew Cree First Nation c. Canada (Gouverneur général en conseil)

<https://www.scc-csc.ca/case-dossier/cb/37441-fra.aspx>

Renvoi relatif à la sécession du Québec, 1998 2 R.C.S. 217

Renvoi relatif à la réforme du Sénat, 2014 CSC 32

R. c. Gladue, [1999] 1 RCS 688

R. c. Ipeelee, [2012] 1 RCS 433

Voir aussi

Honorer la vérité, réconcilier pour l'avenir

Sommaire du rapport final de la Commission de vérité et réconciliation du Canada, 2015

http://www.trc.ca/assets/pdf/French_Exec_Summary_web_revised.pdf

Pensionnats du Canada : L'histoire, voir les volumes 1 à 6
http://www.trc.ca/assets/pdf/French_Volume_1_History_Part_1_Web.pdf

Le rôle de la Gendarmerie royale du Canada sous le régime des pensionnats indiens, 2011

http://publications.gc.ca/collections/collection_2011/grc-rcmp/PS64-71-2009-fra.pdf_2011.pdf

Ce que nous avons retenu : Les principes de la vérité et de la réconciliation, 2015

<http://www.trc.ca/assets/pdf/Principes%20de%20la%20verite%20et%20de%20la%20reconciliation.pdf>

Les survivants s'expriment : Un rapport de la Commission de vérité et réconciliation du Canada, 2015

http://www.trc.ca/assets/pdf/French_Survivors_Speak_Web.pdf

ANNEXE D

[Traduction non officielle]

Les droits, les rôles et les responsabilités d'un sénateur :

Approfondir la compétence culturelle et la littératie sociale pour promouvoir une prise de conscience et une vision nouvelle des relations interraciales avec les Autochtones

Calendrier du programme*

Jour 1	Jour 2	Jour 3	Jour 4
Mardi 19 mai 2020	Mercredi 20 mai 2020	Jeudi 21 mai 2020	Vendredi 22 mai 2020
9 h à 17 h	9 h à 17 h	9 h à 17 h	9 h à 12 h
Séance 1 Mot de bienvenue et survol du programme 9 h à 10 h Jonathan Black-Branch (1 heure)	Séance 4 9 h à 12 h Cary Miller et Jonathan Black-Branch (3 heures)	Séance 7 9 h à 12 h Lorne Neudrof et Jonathan Black-Branch (3 heures)	Séance 10 9 h à 12 h (3 heures) Jonathan Black-Branch
Séance 2 10 h à 13 h Cary Miller et Jonathan Black-Branch (3 heures)	Séance 5 13 h à 15 h Wendy Whitecloud et Jonathan Black-Branch (2 heures)	Séance 8 13 h à 15 h Bruce Curran et Jonathan Black-Branch (2 heures)	
Séance 3 15 à 17 h Melissa Serbin et Jonathan Black-Branch (2 heures)	Séance 6 15 h à 17 h Norman Meade, aîné et Jonathan Black-Branch (2 heures)	Séance 9 15 h à 17 h Norman Meade, aîné et Jonathan Black-Branch (2 heures)	

*Sous toutes réserves

ANNEXE E

[Traduction non officielle]

Mai 2020

M^e Pierre Legault
Conseiller sénatorial en éthique
Sénat du Canada

OBJET : Rapport d'évaluation - Programme de sensibilisation de la sénatrice Lynn Beyak - *Les droits, les rôles et les responsabilités d'un sénateur : Approfondir la compétence culturelle et la littératie sociale pour promouvoir une prise de conscience et une vision nouvelle des relations interraciales avec les Autochtones*

Monsieur,

Par la présente, je vous remets le rapport d'évaluation du programme de sensibilisation personnalisé offert à la sénatrice Beyak, à la demande et sur approbation de votre Bureau, en réponse à la Recommandation 2 formulée par le Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs, le 31 janvier 2020.

C'est avec plaisir que je fournirai tout complément d'information utile en lien avec le programme de sensibilisation présenté à la sénatrice Beyak.

Respectueusement soumis,

Jonathan L. Black-Branche

[Traduction non officielle]**Rapport d'évaluation
- Programme de sensibilisation préparé pour la sénatrice Lynn Beyak -**

Les droits, les rôles et les responsabilités d'un sénateur : Approfondir la compétence culturelle et la littératie sociale pour promouvoir une prise de conscience et une vision nouvelle des relations interraciales avec les Autochtones

Contexte et objectif

Le présent rapport fait suite à la Recommandation 2 émise par le Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs, le 31 janvier 2020 (page 11). On m'a demandé de préparer et d'offrir à la sénatrice Beyak un programme de sensibilisation personnalisé portant sur le racisme, notamment à l'endroit des Autochtones du Canada, et sur la responsabilité particulière des législateurs à cet égard, en lien avec les gestes posés par la sénatrice. Le programme a été vu et approuvé par le conseiller sénatorial en éthique.

Après la présentation du programme de sensibilisation, je devais produire, par écrit, une évaluation objective de la performance de la sénatrice Beyak et de son assiduité au programme et présenter cette évaluation au conseiller sénatorial en éthique dans les 10 jours civils.

Le rapport devait comprendre une évaluation établissant si la sénatrice Beyak :

- a) a réussi le programme;
- b) a appris et était disposée à apprendre;
- c) comprend les responsabilités de chacun des sénateurs quand il est question de racisme et la façon dont sa conduite antérieure s'inscrit dans ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur.

Programme de sensibilisation

Le programme de sensibilisation a pour titre : *Les droits, les rôles et les responsabilités d'un sénateur : Approfondir la compétence culturelle et la littératie sociale pour promouvoir une prise de conscience et une vision nouvelle des relations interraciales avec les Autochtones*

Le programme a été conçu expressément pour l'honorable sénatrice Lynn Beyak (sénatrice non affiliée de l'Ontario), à la demande et sur approbation du conseiller sénatorial en éthique, M^e Pierre Legault.

Méthodologie et présentation

Le programme de sensibilisation consistait en une série de 10 séances. La première séance a servi d'introduction, suivie de huit séances thématiques comportant du contenu de savoir et des exercices de renforcement des compétences. Deux séances ont été consacrées à une pratique réflexive sur les relations interraciales avec les Autochtones, avec la participation d'un aîné, ainsi que sur l'application du contenu des séances au rôle de M^{me} Beyak en tant que sénatrice et aux gestes qu'elle a posés. Les séances interactives se sont déroulées sous forme de modules séminaire-atelier, sur une période de trois jours complets (sept heures d'enseignement par jour). Chaque

séance était conçue selon un modèle interactif et participatif. Le quatrième jour, le programme de sensibilisation a pris fin avec une séance de révision et une évaluation finale portant sur les principaux points, les concepts retenus et les réflexions, sur la base de l'information et du contenu présentés au cours des séances précédentes (durée de trois heures).

Suivi par la sénatrice Beyak sur une base individuelle, le programme était conçu pour susciter une expérience d'apprentissage ciblée, permettant la circulation de l'information, avec une participation entière et ouverte de la sénatrice, sans autres participants ni observateurs. Cette formule visait à établir un cadre propice à l'apprentissage, dans un environnement d'enseignement et d'apprentissage réactif qui encourage des discussions ouvertes et l'approfondissement de l'information, des concepts et des idées. En raison de la pandémie de COVID-19, le programme a été suivi sur une plateforme interactive utilisant des outils vidéo et audio.

Équipe pédagogique

Le programme de sensibilisation s'est déroulé en une série de modules séminaire-atelier conçus et offerts par M. Black-Branch et un groupe de formateurs :

Jonathan Black-Branch, doyen, professeur, Faculté de droit, Université du Manitoba

Aîné Norman Meade, aîné en résidence, Université du Manitoba

Wendy Whitecloud, directrice, programme d'aide aux étudiants (autochtones) et chargée de cours supérieure à la retraite, Faculté de droit, Université du Manitoba

Cary Miller, directrice des Études autochtones, Département des études autochtones, Université du Manitoba

Melissa Serbin, procureure principale de la Couronne, Division des poursuites, et chargée de cours à temps partiel, Faculté de droit, Université du Manitoba

Bruce Curran, doyen associé (études), Faculté de droit, Université du Manitoba

Lorne Neudorf, doyen associé, Faculté de droit, Université d'Adelaïde, et professeur associé, Faculté de droit, Université du Manitoba

Aperçu du programme de sensibilisation :

Promouvoir la connaissance, la compréhension et la compétence en vue d'une pratique réflexive

Le programme de sensibilisation avait pour but de transmettre des connaissances, de perfectionner des compétences et de favoriser la compréhension et la pratique réflexive au regard des droits, des rôles et des responsabilités des sénateurs et d'approfondir la compétence culturelle et la littératie sociale quant aux relations interraciales avec les peuples autochtones du Canada et à leur contexte historique. Une importance particulière était accordée aux responsabilités des membres du Sénat et à la nécessité de préserver la dignité, l'honneur et l'intégrité de leur fonction et du Parlement. Des séances ont porté sur les fondements du colonialisme, notamment l'histoire et l'expérience autochtones ainsi que les séquelles historiques, comme celles des pensionnats indiens, sous diverses perspectives historiques, culturelles, juridiques, sociales et politiques des relations interraciales avec les Autochtones. Au besoin, des renvois ont été faits vers des codes et des directives en matière de déontologie, des textes législatifs, des décisions judiciaires ainsi que des rapports, des comptes rendus historiques et des documents de recherche sur des questions pertinentes.

Une attention particulière a été portée au développement de la littératie culturelle, par une sensibilisation aux relations interraciales au Canada et à leurs liens avec les peuples et les

communautés autochtones, utile pour comprendre les relations sociales et politiques avec les Autochtones et saisir leurs interactions. Cette démarche visait à renforcer la compétence culturelle sur les Autochtones au regard des fondements historiques du Canada et de ce qui en résulte aujourd’hui. L’objectif était d’accroître les connaissances juridiques générales et d’approfondir la compréhension des principes et des obligations constitutionnels relatifs aux préoccupations des Autochtones dans le cadre légal, social et politique général du Canada.

Le programme de sensibilisation avait pour principaux objectifs de développer un contenu de savoir, d’accroître la connaissance, de promouvoir la compréhension et de renforcer la capacité de pratique réflexive chez la sénatrice Beyak. Les grands concepts, les buts principaux ainsi que les objectifs particuliers et les résultats d’apprentissage sont énoncés ci-dessous pour chacune des séances.

Aperçu et évaluation

Séance 1 : Mot de bienvenue et survol du programme Jonathan Black-Branch (jour 1 : 1 heure)

La première séance constituait une introduction au programme de sensibilisation et en donnait un aperçu général du contenu et des grands objectifs d’apprentissage ainsi que des attentes relatives à l’assiduité, à la participation et à l’implication, y compris les résultats d’apprentissage.

La sénatrice Beyak a été invitée à décrire ce qu’elle attendait du programme. Ensemble, nous avons examiné ses besoins d’apprentissage et ce qui lui serait le plus utile pour progresser. Elle a été encouragée à proposer d’autres sujets pertinents ou d’autres grands objectifs d’apprentissage qui pourraient l’aider, comme des renseignements ou des lacunes non abordés qui pourraient jeter un éclairage sur ses actions antérieures. La sénatrice a eu l’occasion de s’initier au contenu, à son importance et à sa pertinence au regard de son rôle de sénatrice et de son comportement.

La sénatrice Beyak a manifesté de l’intérêt pour le contenu et l’a trouvé utile pour son apprentissage. Elle s’est dite impressionnée par l’ensemble du programme de sensibilisation et impatiente d’entreprendre les séances et les discussions. Elle a déclaré que le programme lui semblait approprié en l’état et qu’elle ne voyait pas quel ajout elle aurait pu proposer. Elle a été encouragée à le faire à mesure que se déroulerait le programme. Le processus d’évaluation lui a été expliqué et M^{me} Beyak n’a pas eu de questions ou de préoccupations à formuler à ce sujet.

Séance 2 : Événements de nature légale, constitutionnelle et institutionnelle : l’objectif de réconciliation – Melissa Serbin, en collaboration avec Jonathan Black-Branch (jour 1 : 3 heures)

Cette séance a porté sur divers principes juridiques et constitutionnels ainsi que sur la réponse des institutions aux torts du passé et le processus de réconciliation. Les objectifs étaient les suivants :

- Étudier les visées discriminatoires de l’*Acte des Sauvages*, 1876 et ses séquelles persistantes.
- Étudier les notions de racisme envers les Autochtones du Canada ainsi que l’histoire des relations entre la Couronne et les Autochtones.
- Examiner l’importance du rôle de la Commission de vérité et réconciliation et de son rapport final ainsi que sa signification pour les peuples autochtones et le Canada.

- Analyser les appels à l'action de la Commission de vérité et réconciliation du Canada et leur valeur pour les peuples autochtones et la société canadienne à l'avenir.
- Évaluer le concept d'oppression culturelle imposé par le régime des pensionnats.
- Examiner la nécessité de la Commission d'enquête sur les femmes et les filles autochtones disparues et assassinées (FFADA).
- Examiner les obstacles juridiques pour les peuples autochtones.
- Étudier la pertinence de la cause *Ipeelee*, dans laquelle la Cour suprême a rappelé aux juges de première instance : « Dans la mesure où elles ne favorisent pas la réalisation de ces objectifs, les pratiques actuelles de détermination de la peine doivent être modifiées de façon à répondre aux besoins des délinquants autochtones et de leurs collectivités. » (par. 66).
- Étudier l'importance de la cause *Gladue* pour la justice pénale, qui aborde une approche différente dans la détermination de la peine, selon laquelle l'origine autochtone du délinquant ne constitue pas qu'un facteur atténuant quant à la durée de la peine.
- Discuter des séquelles des pensionnats, de la Déclaration des Nations Unies sur les droits des peuples autochtones, des traités et des droits ancestraux, du droit des Autochtones, comme l'*Acte des Sauvages, 1876*, et des relations entre les Autochtones et la Couronne.
- Comprendre et mesurer les conclusions et les recommandations du rapport final de la Commission de vérité et réconciliation du Canada (2015) et ses 94 appels à l'action relatifs à la réconciliation avec les peuples autochtones.

Un des principaux objectifs de cette séance était de fournir les bases nécessaires à une meilleure compréhension de la réconciliation et de la nécessité de revoir les approches juridiques, constitutionnelles et institutionnelles des questions autochtones. D'emblée, il a été établi qu'il s'agit de questions délicates, qui exigent de la réflexion et une démarche introspective.

Dès le début, la sénatrice Beyak s'est montrée prête à apprendre et a pris de nombreuses notes au cours des discussions. Tout au long de la séance, la sénatrice a manifesté de l'intérêt pour les questions abordées, notamment une exploration approfondie du racisme et de l'oppression, la colonisation, l'*Acte pour encourager la civilisation graduelle*, la *Loi sur les Indiens* et le Livre blanc de 1969, l'identité autochtone, la Commission de vérité et réconciliation, les pensionnats, l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées, les arrêts de la Cour suprême *Gladue* et *Ipeelee* ainsi que la démarche de réconciliation à la lumière de la déportation, du colonialisme et du racisme.

La sénatrice Beyak a manifesté un intérêt particulier pour les droits des femmes autochtones et placé la discussion dans le contexte de son expérience personnelle, en faisant référence à sa jeune sœur de famille d'accueil, et de la *Loi sur les Indiens* (qu'elle a dit ne pas approuver). Elle a évoqué des souvenirs personnels du Livre blanc et a posé des questions à ce sujet. Elle disait vouloir en savoir davantage et se demandait si cette politique aurait pu être avantageuse pour des gens comme sa jeune sœur autochtone de famille d'accueil.

La sénatrice a semblé avoir une connaissance minimale de certains aspects des thèmes abordés dans le séminaire, tout en reconnaissant que l'information présentée lui était inconnue jusque-là, notamment l'*Acte pour encourager la civilisation graduelle* ainsi que certains faits relatifs aux pensionnats, au Livre blanc et aux arrêts de la Cour suprême – tant les principes juridiques que les faits évoqués. Dans l'étude de ces questions, sa participation a consisté à poser des questions pour

parfaire ses connaissances.

La sénatrice s'est dite enchantée et reconnaissante des sujets abordés. En général, elle a appréhendé les sujets sous un angle qui laissait transparaître qu'elle comprenait les injustices historiques ou le fait que le racisme envers les peuples autochtones ait engendré une société dans laquelle, systématiquement, les Autochtones n'ont pas eu le même accès aux ressources, au pouvoir, à la sécurité ou au bien-être.

L'étude des pensionnats sous l'angle d'un génocide culturel a suscité une discussion plus approfondie, nécessitant un examen plus global des termes et de leur application dans divers contextes. La sénatrice a expliqué qu'elle devait savoir comment répondre à ces questions et les aborder dans les discussions avec les électeurs. Une partie des discussions a porté sur la perspective de certains anciens pensionnaires par rapport à l'objectif général des pensionnats. Cette discussion s'est inscrite dans le contexte du traitement historique des peuples autochtones, notamment au regard du système de justice pénale et des récentes décisions de la Cour suprême. La sénatrice a semblé saisir la nécessité d'un changement et les raisons pour lesquelles la Cour adoptait cette direction.

Dans l'ensemble, la sénatrice a semblé reconnaissante de l'information qui lui était communiquée et s'est montrée attentive tout au long de la séance, tout en prenant des notes et en s'efforçant de réagir de son mieux à l'information présentée. Il semble que le contenu abordé ait été largement nouveau pour elle, ce qui signifie qu'à tout le moins, elle aura étendu ses connaissances et pris connaissance de différentes perspectives opposées au racisme envers les peuples autochtones.

**Séance 3 : Contexte historique des relations entre la Couronne et les Autochtones au Canada
– Cary Miller, en collaboration avec Jonathan Black-Branch (jour 1 : 3 heures)**

Cette séance visait à définir, dans un contexte historique et une perspective canadienne et nord-américaine, les assises politiques profondes de la colonisation et des relations entre la Couronne et les Autochtones au Canada, avec comme objectifs particuliers :

- Examiner les fondements politiques et juridiques du colonialisme.
- Étudier la jonction entre les notions de race et de colonialisme.
- Voir comment le racisme constitue un système historique de pouvoir institutionnel profondément ancré.
- Relater l'histoire des peuples autochtones.
- Mieux faire comprendre la culture autochtone et les relations sociales avec les peuples autochtones.
- Examiner les relations politiques historiques avec les peuples autochtones.
- Étudier le régime des pensionnats au Canada.
- Explorer certaines séquelles des pensionnats du Canada et leurs répercussions sur les peuples et les communautés autochtones.

Cette séance a fourni un aperçu du cheminement intellectuel qui a mené au colonialisme, tracé l'histoire et des peuples autochtones et défini le contexte dans lequel ils ont évolué durant 300 ans au Canada. Il va sans dire que le tableau était très général et que de nombreux détails contextuels ont été omis.

Dans son compte rendu de la séance, M^{me} Miller a déclaré :

La sénatrice Beyak m'a paru bien disposée à participer. Elle a posé des questions et a souvent pris des notes, comme j'ai pu l'observer. Nous avons établi une ambiance accueillante, où elle s'est sentie libre de poser des questions sur certaines de ses actions qui avaient été largement critiquées.

Elle a demandé notamment pourquoi il était fautif de présenter, sur son site Web, des lettres d'anciens pensionnaires qui n'avaient pas connu de mauvais traitements dans les pensionnats. J'ai parlé du déni des pensionnats et expliqué que le fait de ne présenter que ces lettres puisse être perçu par certains comme un appui au discours négationniste. J'ai aussi indiqué que, puisque le régime des pensionnats a pris fin depuis peu, il reste encore un bon nombre de nos collègues, sans parler des aînés, dont la vie a été profondément troublée par cette expérience et qui subissent encore vivement le traumatisme. La sénatrice a répondu : « Oh! Il est donc simplement trop tôt. » Bien que cette réponse comporte une part de vérité, nous avons aussi parlé de mon expérience de survivante de la rafle des années 1960 et la sénatrice Beyak a évoqué les expériences de sa sœur adoptive, d'origine autochtone.

Le premier jour, j'ai eu la ferme impression que les quelques récits de réussite servaient de justification pour la douloureuse expérience des pensionnats et de la rafle des années 1960, en particulier. J'espère ne pas être la seule à penser que le fait qu'une personne ait pu survivre à une épreuve et réussir sa vie par la suite ne justifie pas la douleur infligée ni ne démontre que cette souffrance ait constitué une condition de cette réussite.

D'ailleurs, selon la recherche sur les traumatismes historiques, le refus de reconnaître ou de valider le traumatisme agit comme élément déclencheur susceptible d'approfondir le traumatisme. À mon avis, cette question est en relation directe avec les problèmes liés à son site Web.

J'espère que nous avons pu éclairer la sénatrice à ce sujet. Mais, comme la période entre les séances ne permettait pas d'approfondir la réflexion, il est difficile de se prononcer. Je pense toutefois qu'elle est mieux en mesure de comprendre le point de vue des gens qui se sont opposés aux messages affichés sur son site.

Séance 4 : Autochtones du Canada : racisme, littératie sociale et relations interraciales – Cary Miller, en collaboration avec Jonathan Black-Branch (jour 2 : 3 heures)

Cette séance a abordé le concept du racisme dans les relations interraciales avec les Autochtones du Canada, d'hier à aujourd'hui, dans une perspective de compréhension sociale et de développement des connaissances (littératie). Les objectifs étaient les suivants :

- Discuter de la nécessité générale de la compétence interculturelle et d'une pratique antiraciste.
- Examiner le concept du privilège des pionniers.
- Étudier la jonction entre la race, le colonialisme et le pouvoir institutionnel.
- Examiner l'inventaire des priviléges coloniaux, de tout ce qui est tenu pour acquis.
- Promouvoir la compétence culturelle dans les relations interraciales autochtones,

notamment l'équité, la diversité et l'inclusion, ainsi que l'acquisition des outils nécessaires pour tenir des discussions respectueuses sur ces questions.

- Évaluer la nécessité d'une meilleure compréhension et d'une inclusion plus significative des peuples autochtones du Canada, dans l'ensemble des secteurs et des régions.
- Développer la compétence culturelle et la sensibilisation aux cultures, étudier l'histoire et ses répercussions, comme les pensionnats.

La deuxième séance avec Cary Miller a porté sur les notions de privilège et de fragilité, les micro-agressions, les déclencheurs et la pratique antiraciste. Elle déclare :

La deuxième journée, nous avons davantage progressé sur les expériences des pensionnats. Cependant, je crains que la croyance fondamentale n'ait pas été entièrement dissipée. Nous avons abordé l'essence du racisme systémique, la nécessité de distinguer l'intention du résultat et la réaction de fragilité chez les gens qui apprennent l'existence d'un racisme systémique.

La fragilité se caractérise par une réaction de déviation, qui vise à éluder la question ou à éviter la discussion. Nous avons parlé de cinq types de déviation, des énoncés courants qui les caractérisent et de la façon de rediriger la discussion. Cette question a semblé susciter un grand intérêt chez la sénatrice, notamment pour son utilité dans ses communications avec les électeurs, ce que je perçois comme un signe très positif, qui montre qu'à tout le moins, elle souhaite améliorer le contenu de ses communications publiques.

Nous avons discuté du privilège et du fait qu'il occulte les oppressions subies par ceux qui ne jouissent pas des mêmes priviléges et dressé une liste des priviléges coloniaux, qui a alimenté quelques bonnes discussions.

Nous avons aussi étudié en détail comment le colonialisme, comme idéologie, s'appuie toujours sur un racisme systémique pour justifier les déplacements, les extractions, le vol et la violence psychologique ou physique. Le racisme peut exister sans le colonialisme, mais celui-ci s'accompagne toujours d'un discours préjudiciable, souvent encodé juridiquement, pour justifier l'acquisition coloniale.

En définitive, je dois conclure que la sénatrice a pris au sérieux les condamnations publiques de ses actes et qu'elle s'est efforcée de retenir de la formation des moyens d'améliorer ses communications publiques.

Elle a su établir une relation personnelle avec moi. Souvent, nous bavardions durant les pauses. La création de liens est une composante très importante de la formation contre le racisme.

Une de ses questions a porté sur la *Loi sur les Indiens* et les raisons pour lesquelles des gens s'opposaient à son abrogation. La veille, dans mon survol historique, j'avais abordé quelques-uns des graves problèmes associés à la *Loi sur les Indiens*. Je lui ai fait remarquer que l'abrogation de la *Loi* en l'absence d'une loi correspondante qui maintiendrait les quelques protections qu'elle contient aurait pour effet de supprimer le peu d'éléments d'autonomie gouvernementale en place et créerait un vide encore plus grand. Nous avons ensuite discuté de l'importance d'aborder la future loi avec un scalpel

plutôt qu'une masse.

Nous avons aussi parlé de l'obligation d'assumer la responsabilité non seulement de nos actes, mais aussi des actions de notre personnel. Il est à espérer que ces discussions auront un effet durable mais, encore une fois, il est trop tôt pour le dire.

Nous lui avons certainement fourni de nouveaux outils pour améliorer ses communications publiques et je pense qu'elle entend s'en servir. Je ne suis pas sûre que notre intervention produise une transformation à long terme dans d'autres domaines. Cela dit, il importe de souligner que mon intervention auprès de la sénatrice s'est déroulée au cours des deux premières journées de sa formation. Elle manifestait un intérêt certain pour la matière et il est possible que des signes de transformation plus évidents se soient révélés plus tard durant la semaine.

Séance 5 : Questions juridiques, politiques et constitutionnelles : La *Loi sur les Indiens*, la Constitution, les pensionnats et les Autochtones – Wendy Whitecloud, en collaboration avec Jonathan Black-Branche (jour 2 : 2 heures)

Cette séance a porté sur diverses questions de nature juridique, politique et constitutionnelle, la *Loi sur les Indiens* et la Constitution canadienne, ainsi que les répercussions des pensionnats sur les peuples et les communautés autochtones. Les objectifs étaient les suivants :

- Examiner les objectifs discriminatoires de l'*Acte des Sauvages, 1876* et ses séquelles persistantes.
- Évaluer le concept d'oppression culturelle imposé par le régime des pensionnats.
- Examiner les droits particuliers protégés par l'article 35 de la *Loi constitutionnelle de 1982*, qui reconnaît et affirme les droits ancestraux et issus de traités des peuples autochtones.
- Voir comment les droits garantis à l'article 35 sont protégés par la « doctrine du devoir de consulter » et, s'il y a lieu, d'accommoder les groupes autochtones, établie par les tribunaux canadiens.
- Explore les concepts de terre et de propriété foncière.
- Soumettre à une analyse critique le rôle de la loi, des pouvoirs légaux et des institutions politiques dans l'histoire des Autochtones et dans leur relation avec la Couronne et les Canadiens aujourd'hui.

À la lumière des séances précédentes, cette séance a permis des échanges très ouverts et francs, notamment une discussion de fond sur la Proclamation royale de 1763 et l'article 35 relatif aux droits ancestraux et issus des traités des peuples autochtones, notamment au regard des causes *Calder* et *Sparrow*. La doctrine du devoir de consultation, les répercussions particulières de la *Loi sur les Indiens* et l'oppression exercée par le régime des pensionnats ont aussi été abordées.

M^{me} Whitecloud déclare :

Ma première réaction à la suite de mes discussions avec la sénatrice Beyak est qu'elle m'a semblé manifester de l'ouverture et le désir d'apprendre. Je m'attendais plus ou moins à ce qu'elle soit distante et peu disposée à accueillir une perspective nouvelle ou différente.

Elle ne s'est pas comportée ainsi avec moi. Elle a accueilli et commenté l'information que je lui ai présentée.

Bien qu'on puisse affirmer qu'elle était pleinement consciente du rôle déterminant du programme pour son avenir, la sénatrice a démontré de l'intérêt pour le contenu et j'ai trouvé intéressant qu'elle établisse des liens avec le contenu de séances antérieures et qu'elle procède à quelques analyses.

Elle a, à tout le moins, intégré certains éléments du contenu. Il est à espérer qu'elle sera en mesure d'adopter une approche plus équilibrée dans sa fonction. »

La sénatrice Beyak a, par la suite, envoyé un courriel pour réclamer des renseignements complémentaires, des liens vers de l'information abordée durant la séance, une vidéo sur l'expérience d'une femme autochtone dans un pensionnat et ainsi que des lectures sur la Déclaration des Nations Unies sur les droits des peuples autochtones.

Séance 6 : Expériences personnelles d'un aîné : Grandir comme Métis-Indien à Manigotagan malgré le racisme – Norman Meade, aîné, en collaboration avec Jonathan Black- Branch (jour 2 : 2 heures)

Cette séance s'est déroulée avec la participation de l'aîné Norman Meade, qui a décrit sa vie de Métis-Indien à Manigotagan, en abordant l'enjeu du racisme et en expliquant comment il a surmonté ce problème. Les objectifs étaient les suivants :

- Découvrir l'expérience de vie d'un aîné, Métis-Indien à Manigotagan.
- Réfléchir à l'impact d'une communauté raciste sur l'aîné.
- Découvrir l'expérience de vivre avec le racisme et la difficile démarche entreprise par l'aîné pour le surmonter.
- Explorer la sensibilisation aux réalités autochtones et les relations interraciales avec les Autochtones.
- Étudier des enseignements autochtones choisis afin de mieux comprendre.
- S'inspirer des enseignements autochtones pour amorcer une réflexion tournée vers le renouvellement.

Au cours de la séance, l'aîné Norman Meade a abordé, avec ouverture et franchise, ses expériences de jeune et d'adulte au sein de la communauté. La sénatrice Beyak s'est dite peinée des actes de racisme flagrant dont a été victime M. Meade, ajoutant qu'elle ne pourrait jamais admettre de tels comportements. Il est impossible d'établir dans quelle mesure elle a vraiment compris l'intensité de l'expérience de l'aîné Meade, mais elle a évoqué la nécessité de promouvoir une communication ouverte, la compréhension et « l'amour » entre les gens, de tous horizons.

Elle a parlé de l'expérience de sa sœur d'accueil d'origine autochtone, victime d'actes ouvertement racistes, et du trouble que cela lui causait. L'évocation de sa propre expérience semble indiquer

qu'elle a prêté attention aux expériences de l'aîné et réfléchi aux dommages que ces comportements causent aux personnes et à l'ensemble de la communauté.

Séance 7 : Dignité, honneur et intégrité : Les responsabilités de la fonction sénatoriale – Lorne Neudorf, en collaboration avec Jonathan Black-Branch (jour 3 : 3 heures)

Cette séance avait pour but d'explorer les diverses responsabilités liées à la fonction sénatoriale, d'aborder les concepts de dignité, d'honneur et d'intégrité ainsi que la perception et la confiance du public dans les responsabilités des sénateurs en tant que législateurs de la Chambre haute du Canada. La séance a porté sur les responsabilités fondamentales associées à cette fonction, notamment les points suivants :

- Évaluer le rôle constitutionnel essentiel que jouent les sénateurs dans l'examen des lois.
- Examiner le devoir qu'ont les sénateurs de promouvoir des principes et des valeurs essentiels de notre régime démocratique, compte tenu notamment du rôle traditionnel du Sénat d'agir au nom de groupes sous-représentés à la Chambre des communes, au sujet duquel la Cour suprême du Canada indiquait, dans *Renvoi relatif à la réforme du Sénat, 2014* : « Avec le temps, le Sénat en est aussi venu à représenter divers groupes sous-représentés à la Chambre des communes. Il a servi de tribune aux femmes ainsi qu'à des groupes ethniques, religieux, linguistiques et autochtones auxquels le processus démocratique populaire n'avait pas toujours donné une opportunité réelle de faire valoir leurs opinions. » (par. 16)
- Discuter du fait que les sénateurs assument une fonction publique particulière selon laquelle ils doivent, comme parlementaires, condamner le racisme sans réserve et assurer l'intégrité de l'institution.
- Voir que le Sénat, en tant que Chambre du Parlement, doit défendre le principe selon lequel tous sont égaux en droit et en dignité et que, pour demeurer en poste, les sénateurs doivent reconnaître et respecter ce principe.
- Voir comment le *Code régissant l'éthique et les conflits d'intérêts des sénateurs* constitue un exercice du privilège parlementaire du Sénat de régir ses affaires internes, notamment par l'imposition de mesures disciplinaires à ses membres, ces deux priviléges étant inhérents au Sénat en tant qu'organe législatif et explicitement conférés au Sénat au titre de l'article 18 de la *Loi constitutionnelle de 1867* et de l'article 4 de la *Loi sur le Parlement du Canada*.
- Prendre conscience du privilège de servir les Canadiens dans la fonction sénatoriale et de représenter les points de vue des régions et des minorités, avec insistance sur les peuples autochtones et leur relation avec le Canada comme nation.
- Étudier le poids des responsabilités découlant d'une fonction publique
- Évaluer le rôle de confiance des législateurs.
- Évaluer le rôle particulier des sénateurs nommés par rapport à celui des législateurs élus.
- Examiner les responsabilités inhérentes à la fonction sénatoriale, dont :
 - Appliquer les normes de conduite les plus élevées, en tant que modèle de comportement, afin de maintenir la confiance du public;
 - Communiquer avec le public et participer aux débats publics, tout en s'efforçant véritablement de comprendre et de respecter les autres points de vue;
 - S'acquitter des tâches sénatoriales avec diligence et dans l'intérêt public;
 - Promouvoir le respect des exigences, des valeurs et des objectifs constitutionnels, notamment l'égalité et la protection contre la discrimination illicite.

- Examiner les responsabilités sénatoriales, maintenir la dignité, l'honneur et l'intégrité du Parlement, du Sénat et de la fonction sénatoriale, individuellement et collectivement.
- Soupeser les concepts de liberté d'expression et de discours responsable.

La sénatrice Beyak a participé activement à cette séance; elle a posé des questions et discuté de son rôle en tant que sénatrice. À différents moments, elle a amorcé la discussion en fonction de l'information présentée, établissant des liens avec les grands objectifs du programme de sensibilisation et, parfois, avec les gestes qu'elle avait posés. Elle a quelques fois indiqué qu'elle trouvait l'information utile et qu'elle avait appris beaucoup plus que lors de sa formation initiale en tant nouvelle sénatrice. Le programme semble véritablement avoir secoué sa mentalité, et la sénatrice a manifestement fait preuve d'ouverture à cet égard. Par exemple, elle a été très volubile quand il a été question de son devoir de sénatrice d'incarner et de promouvoir les valeurs constitutionnelles, plutôt que de s'en remettre aux tribunaux pour faire valoir les droits constitutionnels. Elle semble avoir retenu d'importantes leçons de cette discussion et a particulièrement apprécié la métaphore comparant la Constitution à un arbre vivant.

Au cours de cette séance, nous avons longuement discuté des droits à l'égalité garantis par la *Charte*, réitérant que le droit à l'égalité est une des valeurs fondamentales de la Constitution. Il a également été question de la tradition au Sénat de donner une voix aux groupes historiquement sous-représentés dans le processus législatif. Relativement à la séance, le professeur Neudorf indique ceci : « D'après ses réactions aux points de discussion, j'estime que la sénatrice comprend ses obligations en ce qui a trait à la discrimination raciale. »

La séance a également porté sur le *Code régissant l'éthique et les conflits d'intérêts des sénateurs*. La sénatrice a reconnu ses torts sans détour et a dit assumer l'entièvre responsabilité des gestes qu'elle avait posés; elle a d'ailleurs reconnu qu'elle avait enfreint les articles 7.1 et 7.2 du *Code régissant l'éthique et les conflits d'intérêts des sénateurs*. Elle a dit vouloir apprendre à mieux communiquer afin de jouer son rôle de législatrice plus efficacement dans les dossiers qui lui tiennent à cœur.

Notes du professeur Neudorf : « D'après nos discussions, je crois qu'elle a compris le rôle unique de législatrice qui lui a été confié, sachant qu'elle a été nommée et non élue. Elle a reconnu que les priviléges des sénateurs s'accompagnent d'obligations, dont celles relatives au décorum et à l'éthique. »

Au cours de la séance, il a encore une fois été question de l'importance de la perception du public dans l'établissement d'une relation de confiance, même quand cette perception peut sembler injuste ou injustifiée. Nous avons vu comment des perceptions négatives à l'égard du comportement d'un sénateur peuvent miner la confiance du public envers l'institution du Sénat dans son ensemble. La sénatrice Beyak a dit comprendre ce point et a reconnu que son comportement a pu entacher globalement la réputation du Sénat et du Parlement.

Nous avons revu les passages pertinents du *Code régissant l'éthique et les conflits d'intérêts des sénateurs* en nous référant, à titre de comparaison, aux obligations morales d'autres professionnels, comme les juges et les avocats. Le professeur Neudorf a demandé à la sénatrice s'il est acceptable pour un sénateur de se conformer aux normes minimales, ce à quoi la sénatrice a répondu « non », puisque les sénateurs sont tenus de respecter les « normes les plus

élèvées » de dignité inhérentes à leur charge. Il note ceci concernant cette séance : « À mon avis, la sénatrice comprend ses obligations et responsabilités. »

Séance 8 : Devoir du gouvernement et des législateurs envers les peuples autochtones – Bruce Curran, en collaboration avec Jonathan Black-Branch (jour 3 : 2 heures)

L'objectif principal de cette séance était d'explorer le devoir du gouvernement et des législateurs envers les peuples autochtones. A cette fin, nous avons :

- exploré quelques-unes des obligations du gouvernement fédéral et des législateurs à l'égard des peuples autochtones;
- examiné la portée des obligations de fiduciaire du gouvernement fédéral à l'égard des peuples autochtones;
- examiné l'arrêt *Guerin c. La Reine*, dans laquelle la Cour suprême du Canada a établi le principe voulant que la Couronne a l'obligation d'utiliser les terres au profit des peuples autochtones qui les ont cédées;
- discuté de la notion d'« honneur de la Couronne » :
 - lorsque le gouvernement envisage des mesures susceptibles de nuire aux droits autochtones ou aux droits découlant des traités, l'honneur de la Couronne renvoie à l'obligation de consultation et d'accordement;
- examiné l'arrêt *Mikisew Cree First Nation c. Canada*, rendue en 2018 par la Cour suprême du Canada, de même que son incidence sur le devoir des législateurs de tenir compte des répercussions sur les peuples autochtones de tout projet de loi;
- discuté du jugement *Renvoi relatif à la sécession du Québec* (1998), qui a réaffirmé le principe constitutionnel fondamental qu'est la protection des droits des minorités. Il s'agit là d'un des principes sur lesquels repose la structure de notre gouvernement : « Nous soulignons que la protection de ces droits est elle-même un principe distinct qui sous-tend notre ordre constitutionnel. Ce principe se reflète clairement dans les dispositions de la *Charte* relatives à la protection des droits des minorités. » (par. 80)

Encore là, la sénatrice Beyak a participé activement à la séance, discutant ouvertement des principes en question et faisant par moments des liens avec des séances précédentes et son propre travail au Sénat. Elle a semblé aimer la séance et a posé beaucoup de questions, lancé des discussions et demandé plus de détails au sujet de la Constitution. À propos de la séance, le professeur Curran note ce qui suit :

« La sénatrice Beyak a fait très bonne impression lors de la séance d'aujourd'hui, qui portait sur le devoir du gouvernement et des législateurs envers les peuples autochtones. Tout au long de la séance, elle a eu une conduite digne d'une sénatrice et n'a rien fait ni dit qui pourrait être qualifié d'inapproprié ou de raciste à l'égard des peuples autochtones.

La sénatrice s'est montrée très intéressée tout au long de la séance de deux heures et a posé des questions intelligentes. Ses interventions me portent à croire qu'elle comprend maintenant les droits autochtones et qu'elle souhaite les faire respecter.

Lors de la séance, elle n'a donné aucun signe qu'elle s'opposait en théorie aux différentes obligations du gouvernement et du Parlement envers les peuples autochtones.

Au contraire, elle a semblé avide de comprendre ce qu'elle pouvait faire à titre de sénatrice pour respecter et faire respecter ces droits. »

Dans l'ensemble, la sénatrice Beyak a paru tout à fait à l'aise de prendre part aux séances 7 et 8, traitant à fond du processus législatif, du rôle des tribunaux et de la position de la Constitution à cet égard. Elle a également fait référence à des points abordés dans la séance animée par Mme Whitecloud. Elle semble avoir grandement bénéficié de ces séances, affirmant franchement qu'elle les avait beaucoup appréciées et qu'elle avait appris énormément.

Séance 9 : Vécu d'un aîné : Vérité, réconciliation, souffrance et guérison – Norman Meade, aîné, en collaboration avec Jonathan Black-Branch (jour 3 : 2 heures)

À ce stade-ci, la sénatrice Beyak avait participé à huit séances axées sur l'acquisition de connaissances et de compétences. Lors de la séance 6, l'aîné Meade était venu parler du racisme dont il avait été la cible en tant qu'Autochtone. Ainsi, l'objectif de la séance 9 était de donner suite à ce témoignage, en mettant l'accent sur la vérité et la réconciliation, la souffrance et la nécessité de tendre vers la guérison, tout en explorant les enseignements autochtones sacrés dans une optique de sensibilisation :

- explorer les notions de vérité, réconciliation, souffrance et guérison;
- examiner la position des peuples autochtones, de même que leurs préoccupations sociales et culturelles;
- développer une sensibilité face à la culture autochtone et établir des liens avec les peuples autochtones et leurs communautés;
- reconnaître et comprendre la réalité du racisme envers les peuples autochtones au Canada;
- discuter des enseignements autochtones axés sur la guérison et le renouveau.

Durant cette séance, l'aîné Meade a traité plus en détail du racisme envers les peuples autochtones et des torts qu'il cause à la personne elle-même, mais aussi à l'ensemble de sa communauté. Il a parlé de l'importance des excuses présentées aux survivants des pensionnats devant la Chambre des communes, et de ce que cela signifie pour les peuples autochtones et pour l'ensemble des Canadiens.

Il a également parlé des sept enseignements sacrés (amour, respect, courage, honnêteté, sagesse, humilité et vérité) et de la nécessité de tendre vers la réconciliation et la guérison. Il a insisté sur l'importance d'être guidé par de tels enseignements. La sénatrice Beyak a participé à la discussion et a semblé s'intéresser aux enseignements, disant vouloir aller de l'avant en adoptant une attitude positive.

L'aîné Meade a formulé les observations suivantes :

« J'ai noté que la sénatrice veut changer sa façon de voir les peuples autochtones.

Cela dit, je crois que la sénatrice, comme bien des gens en position d'autorité, aura du mal à se défaire d'une mentalité qui teinte un système de gouvernance fondé sur le colonialisme, qui remonte d'autant loin que le Canada lui-même.

Les influences systémiques du colonialisme sont contagieuses et difficiles à éradiquer

une fois installées. Pour corriger un comportement, il faut d'abord admettre qu'il y a un problème et y mettre le cœur et la volonté voulu. »

Séance 10 : Révision et évaluation finale : Souffrance et torts causés par la conduite de la sénatrice – Jonathan Black-Branch (jour 4 : 3 heures)

L'objectif de la dixième et dernière séance était de réviser la matière et de faire l'évaluation finale de ce que la sénatrice Beyak a appris grâce au programme. Il s'agissait essentiellement d'évaluer sa conduite personnelle et la souffrance et les torts qu'elle a causés aux peuples autochtones, à leurs communautés et à l'ensemble des Canadiens. Il a été question de la façon dont son comportement avait nui à la réputation du Sénat et de tous les sénateurs. La séance visait plus précisément à :

- explorer les notions de vérité, réconciliation, souffrance et guérison;
- explorer la souffrance et les torts causés par les gestes posés par la sénatrice;
- réfléchir au contexte entourant le comportement de la sénatrice et comprendre pourquoi ce comportement était indigne d'une sénatrice et du Sénat;
- réfléchir au privilège d'être au service de la Chambre haute du Canada, ainsi qu'au devoir des sénateurs de défendre les principes de la Constitution et de faire valoir les valeurs de la *Charte des droits et libertés*;
- comprendre les obligations liées à la charge de sénateur selon le *Code régissant l'éthique et les conflits d'intérêts des sénateurs*, notamment en ce qui a trait à l'alinéa 47(2)b) et à la conduite de la sénatrice Beyak;
- évaluer les droits, obligations et responsabilités des sénateurs, y compris ce qui est hors limite, et aider la sénatrice à comprendre le régime déontologique de l'institution;
- discuter des responsabilités constitutionnelles, de la protection des intérêts des minorités, et de la façon dont toute forme de racisme est incompatible avec les rôles et responsabilités des sénateurs;
- discuter du privilège de servir le Sénat;
- affirmer que le racisme n'a pas sa place dans les institutions du Parlement;
- évaluer comment les gestes, les attitudes et l'inaction peuvent faire ombre à l'intégrité du Sénat, au détriment de l'institution du Sénat, de tous les sénateurs et de l'ensemble des Canadiens;
- réfléchir aux raisons pour lesquelles il est important que la population canadienne fasse confiance aux institutions démocratiques et à ceux qui y travaillent.

Ce fut une discussion ouverte et franche qui a semblé favorable au cheminement de la sénatrice dans le cadre du programme. L'évaluation est présentée ci-dessous, incluant des points généraux et d'autres plus pointus tirés des différentes séances du programme. Il convient tout d'abord de revoir le but et les objectifs principaux du programme de sensibilisation.

But et objectif du programme de sensibilisation

Le but de l'exercice était de concevoir et de fournir un programme de sensibilisation adapté aux besoins de la sénatrice Beyak. L'objectif premier de ce programme était d'offrir à la sénatrice une occasion d'apprentissage indépendante et impartiale qui lui permettrait de comprendre : chacune des responsabilités des sénateurs en ce qui a trait au racisme; comment cela s'applique à la façon dont elle s'est comportée; la nécessité de s'abstenir de tout comportement qui pourrait discréditer le rôle de sénateur ou l'institution du Sénat en ce qui a trait au racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérentes à la charge de sénateur.

Nous avons ainsi procédé à une évaluation générale des besoins, de façon à répondre à la demande du Comité sénatorial de l'éthique (Recommandation 2, 31 janvier 2020) et de déterminer les connaissances et compétences à acquérir à la lumière du comportement de la sénatrice Beyak. Le programme de sensibilisation a été conçu en fonction de ce qui précède et approuvé par le conseiller sénatorial en éthique.

Critères d'évaluation

Il peut sembler difficile de passer outre les gestes posés par la sénatrice et toute réserve ayant mené à l'élaboration de ce programme. Néanmoins, la Recommandation 2 du Comité sénatorial permanent sur l'éthique et les conflits d'intérêts des sénateurs, publiée le 31 janvier 2020, réclamait la tenue d'une évaluation indépendante et objective de la participation de la sénatrice Beyak au programme de sensibilisation approuvé.

L'évaluation s'appuie sur les notions clés, buts, objectifs et résultats attendus pour chacune des séances offertes, qui pointent toutes vers l'acquisition de connaissances et de compétences à mettre en pratique afin d'avoir une meilleure compréhension de la réalité. Il s'agissait de vérifier les informations assimilées par la sénatrice par rapport aux objectifs des différentes séances et aux documents présentés, de même que sa réceptivité relativement aux idées et notions soumises et à l'ensemble du processus d'apprentissage, d'après les commentaires de l'équipe de formation assurant la prestation du programme.

Au terme de la séance 9, la sénatrice Beyak devait réfléchir à ce qu'elle avait principalement retenu du programme. Elle a fait part de ses observations à la séance 10, qui visait à faire une révision du programme et à faire l'évaluation finale.

Pour ce qui est de l'évaluation globale et finale, le présent rapport se réfère exclusivement, comme indiqué précédemment, aux critères énoncés à la Recommandation 2 du Comité sénatorial permanent sur l'éthique et les conflits d'intérêts des sénateurs, publiée le 31 janvier 2020 (p. 11), à savoir si la sénatrice Beyak :

- a) a réussi le programme;
- b) a appris et était disposée à apprendre;
- c) comprend les responsabilités de chacun des sénateurs quand il est question de racisme et la façon dont sa conduite antérieure s'inscrit dans ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur.

Ces critères sont abordés individuellement ci-après, suivis d'un résumé et d'une conclusion.

A. A réussi le programme

La sénatrice Beyak a participé aux 10 séances du programme de sensibilisation dans leur intégralité, tel qu'on l'exigeait. Elle était ponctuelle et toujours présente, pour un total de 24 heures d'apprentissage en personne.

Elle devait prendre connaissance de certains documents avant les séances. À la fin d'une séance, on lui a demandé de réfléchir à ce qu'elle avait retenu du programme, observations qu'elle a présentées lors de la dernière séance.

La sénatrice a ainsi réussi tous les volets requis du programme de sensibilisation.

B. A appris et était disposée à apprendre

D'emblée, la sénatrice Beyak s'est montrée enthousiaste à l'égard du programme de sensibilisation et a dit avoir hâte de participer aux séances. Elle s'est dite impatiente d'apprendre auprès des différents formateurs, un groupe qu'elle a décrit comme étant impressionnant.

Lors de la première séance, nous avons passé en revue le plan d'apprentissage, en prenant le temps d'explorer les besoins de la sénatrice et de déterminer les renseignements, sujets et objectifs qui la serviraient le mieux dans son cheminement personnel et son travail. Elle s'est montrée particulièrement intéressée à plusieurs points prévus au programme de différentes séances, ce qui indique qu'elle avait déjà pris connaissance du contenu du programme de sensibilisation. Cela suggère qu'elle était dès le début prête et disposée à apprendre et à appliquer ces notions dans le contexte de son travail, mais aussi à corriger ses erreurs passées.

La sénatrice Beyak a bien participé à toutes les séances. Elle a pris des notes durant les discussions, s'y référant parfois pour poser des questions ou faire des liens entre différents points abordés. Cela dénote une volonté de participer et d'apprendre.

Durant les séances, elle a pris part aux discussions, posé des questions et fait des commentaires, se rapportant à ses expériences personnelles et à son travail de sénatrice. Souvent, elle a elle-même lancé des discussions en fonction de l'information présentée et demandé des précisions, tentant d'appliquer ces notions à son travail et à son cheminement personnel.

D'ailleurs, M^{me} Whitecloud a indiqué ceci : « La sénatrice Beyak a semblé ouverte et prête à apprendre. Je m'attendais un peu à ce qu'elle se montre désintéressée et fermée à toute opinion différente de la sienne. Ce n'est toutefois pas ce que j'ai vu. Elle a accepté le contenu que je lui ai présenté et m'a fait part de ses observations. »

Lorsqu'une séance traitait de renseignements ou de sujets qui lui étaient inconnus, la sénatrice le mentionnait. Elle a parfois indiqué vouloir approfondir le sujet et elle tentait de mieux comprendre en posant des questions et en prenant des notes, auxquelles elle se référait à l'occasion. De même, la sénatrice Beyak a envoyé un courriel demandant qu'on lui fournisse plus de détails et des liens concernant certains des points abordés dans plusieurs séances, dont une vidéo sur l'expérience d'une survivante des pensionnats indiens. La sénatrice a aussi demandé des lectures supplémentaires, des publications universitaires et de l'information sur la Déclaration des Nations Unies sur les droits des peuples autochtones. En soi, ce geste suppose qu'elle a soif d'apprendre et qu'elle est prête à y mettre les efforts par elle-même pour y arriver.

Dans certains cas, la sénatrice Beyak a fait savoir qu'elle devait être en mesure de bien répondre aux questions des citoyens en la matière, ce qui dénote une volonté d'appliquer le contenu du programme de sensibilisation à son travail de sénatrice. Elle s'est montrée particulièrement intéressée aux droits des femmes autochtones, tirant des parallèles avec sa propre expérience et celle de sa sœur cadette adoptive, ainsi qu'avec la *Loi sur les Indiens*, qu'elle a une fois de plus dénoncée.

Le contenu présenté est parfois venu secouer les convictions de la sénatrice, qui a fait preuve d'ouverture devant ces nouvelles idées. Par exemple, il a été question de son devoir de sénatrice d'incarner et de promouvoir les valeurs constitutionnelles et elle a semblé apprendre beaucoup de cette discussion. Elle a particulièrement apprécié la métaphore comparant la Constitution à un arbre vivant.

Lors de l'évaluation finale, elle a fait référence à bon nombre des discussions tenues et expliqué différents points et angles explorés dans le cadre du programme. Elle a réitéré qu'elle assumait les conséquences de son comportement et des gestes qu'elle avait posés, disant vouloir maintenant tourner la page.

Dans l'ensemble, la sénatrice Beyak semble avoir appris et était disposée à apprendre tout au long du programme de sensibilisation.

C. Comprend les responsabilités de chacun des sénateurs quand il est question de racisme et la façon dont sa conduite antérieure s'inscrit dans ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur

Tout compte fait, la sénatrice Beyak a semblé faire des efforts pour mieux comprendre ses responsabilités en tant que sénatrice en ce qui a trait au racisme. S'il est impossible de savoir assurément si la sénatrice Beyak a bien assimilé toute l'information qui lui a été présentée au cours des séances, elle a, à première vue, travaillé avec chacun des formateurs afin de comprendre la matière; elle a participé aux discussions, pris des notes et posé plusieurs questions se rapportant à ce critère. Bien qu'elle ait eu du mal à comprendre certaines idées contraires aux siennes, elle s'est généralement montrée prête à apprendre et à explorer différents points de vue, demandant parfois comment elle pourrait communiquer l'information à ses concitoyens. Au fil des séances, elle a semblé beaucoup plus à l'aise d'aborder les différents sujets et réceptive au contenu présenté. Une évaluation plus exhaustive est donnée ci-dessous.

- ***Comprendre les responsabilités des sénateurs relativement au racisme***

Dans toutes les séances, il a été question du racisme et du tort qu'il cause aux peuples et communautés autochtones, de même qu'au Canada tout entier. Nous avons pris le temps d'examiner de près la notion de racisme, et nous avons expliqué en quoi le racisme est systémique et comment il est ancré dans les institutions sociales, politiques et juridiques. La sénatrice a participé activement aux discussions afin de comprendre les enjeux relatifs au racisme, à l'égalité et à la non-discrimination et la manière dont elles se rapportent à ses fonctions de sénatrice.

Des volets étaient voués aux responsabilités de la sénatrice Beyak face au racisme et à ses obligations à l'égard du Parlement et de l'ensemble des Canadiens. Par exemple, dans le contexte de la séance *Responsabilités de la fonction sénatoriale*, le professeur Neudorf a indiqué ceci : « D'après ses réponses aux questions posées lors des discussions, la sénatrice comprend ses obligations en matière de discrimination raciale. »

Si on en croit ses interventions lors des séances et son évaluation finale, dans laquelle elle devait résumer ce qu'elle a appris et donner ses observations finales, la sénatrice Beyak comprend ses obligations face au racisme à titre de sénatrice.

- ***La façon dont sa conduite antérieure s'inscrit dans ces responsabilités***

Bon nombre des séances ont mis l'accent sur la conduite antérieure de la sénatrice. Ce fut le cas pour les séances traitant du racisme avec M^{me} Miller, qui a indiqué ceci : « Nous avons aussi discuté de l'obligation d'assumer les conséquences de ses actes, mais aussi des actes de toute personne à son emploi. Espérons que le programme ait un effet durable, mais encore une fois, il est trop tôt pour se prononcer. »

Plus tard, durant la séance *Responsabilités de la fonction sénatoriale*, la sénatrice Beyak a été appelée à réfléchir aux gestes qu'elle avait posés et a affirmé que sa conduite n'était pas digne de ses obligations à titre de sénatrice en ce qui a trait au racisme. Elle a noté que sa conduite avait fait du tort aux peuples et communautés autochtones. Elle a exprimé ses regrets, sachant que sa conduite était déplacée.

Durant la séance *Responsabilités de la fonction sénatoriale*, de même que dans son évaluation finale, la sénatrice a indiqué qu'elle assumait entièrement les conséquences de sa conduite antérieure et qu'elle reconnaissait avoir enfreint les articles 7.1 et 7.2 du *Code régissant l'éthique et les conflits d'intérêts des sénateurs*.

Il semble que la sénatrice Beyak comprend les responsabilités de la fonction sénatoriale en ce qui concerne le racisme, et comment sa conduite antérieure s'inscrit dans ces responsabilités.

- ***La nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme***

Il a été question dans plusieurs séances, et dans l'évaluation finale, de la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme. Lors de la séance *Responsabilités de la fonction sénatoriale*, notamment, il a encore une fois été question de l'importance de la perception et de la confiance du public et comment des perceptions négatives à l'égard du comportement d'un sénateur peut miner la confiance du public envers le sénateur, mais aussi envers l'institution du Sénat dans son ensemble.

La sénatrice Beyak a dit comprendre et reconnaître ce fait. Elle a déclaré qu'elle comprend et accepte la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier sa charge de sénatrice ou potentiellement l'institution du Sénat.

Quand il a été question de la perception du public, elle a noté à quel point c'est important, faisant un parallèle avec le scandale entourant les dépenses des sénateurs.

Évaluant ses obligations à titre de sénatrice en matière de racisme, elle a reconnu que sa conduite avait fait ombrage à la charge de sénateur et à l'institution du Sénat.

Si on en croit ses interventions lors des séances et son évaluation finale, la sénatrice Beyak comprend et reconnaît la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme.

- ***La nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur***

Il a été question dans plusieurs séances de la nécessité de respecter les normes les plus élevées de dignité, tant en ce qui a trait à la charge de sénateur qu'à la perception et à la confiance du public. Nous avons revu les parties pertinentes du *Code régissant l'éthique et les conflits d'intérêts des sénateurs*, discutant des obligations éthiques semblables d'autres professions.

Nous avons parlé des normes minimales et des normes les plus élevées.

Le professeur Neudorf a demandé à la sénatrice s'il était acceptable qu'un sénateur s'en tienne aux normes minimales, ce à quoi elle a répondu non, puisque les sénateurs doivent respecter les normes les plus élevées de dignité inhérente à la charge de sénateur. Il note : « À mon avis, la sénatrice comprend ses obligations et responsabilités. »

D'après les réponses qu'elle a données lors des séances, notamment la séance *Responsabilités de la fonction sénatoriale*, de même que dans son évaluation finale, il semble que la sénatrice Beyak comprend et reconnaît la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur.

Résumé et conclusion

En somme, la sénatrice Beyak a participé à un programme de sensibilisation de 24 heures, soit 21 heures pour les séminaires-ateliers interactifs en personne et 3 heures pour la révision et l'évaluation finale. La sénatrice devait faire état des principales choses qu'elle a apprises et faire part de ses observations dans le contexte du programme de sensibilisation.

Encore une fois, le programme de sensibilisation a été conçu expressément pour la sénatrice Beyak et visait principalement à lui permettre d'acquérir les connaissances et compétences à mettre en pratique, et de mieux comprendre les droits, rôles et responsabilités d'un sénateur. Il avait ainsi comme objectif d'approfondir la compétence culturelle et la littératie sociale pour promouvoir une prise de conscience et une vision nouvelle des relations interraciales avec les Autochtones au Canada. Il était question des responsabilités uniques liées à la charge de sénateur et de la nécessité de respecter les normes de dignité, d'honneur et d'intégrité inhérentes à la charge et au Parlement, de même que de la responsabilité de la sénatrice Beyak pour sa conduite antérieure.

Les séances ont porté sur les bases du colonialisme, l'histoire et l'expérience des peuples autochtones, ainsi que les héritages historiques, y compris le régime des pensionnats indiens. Nous avons exploré les différentes perspectives historiques, culturelles, juridiques, sociales et politiques concernant les relations raciales avec les peuples autochtones. L'enseignement était appuyé par des références à des codes et directives en matière d'éthique, à la loi et à la jurisprudence, de même qu'à des rapports, à des faits historiques et à la littérature universitaire. Le programme a particulièrement mis l'accent sur la compétence culturelle et la littératie sociale pour promouvoir une prise de conscience face aux relations interraciales, dans le but d'approfondir les connaissances juridiques de la sénatrice et de lui permettre de mieux comprendre les principes constitutionnels et ses obligations à l'égard des peuples et communautés autochtones au Canada.

En conclusion, il appert que dans l'ensemble, d'après les observations de l'équipe de formateurs ayant assuré le programme de sensibilisation, la sénatrice Beyak a satisfait aux critères énoncés dans la Recommandation 2 du Comité sénatorial permanent sur l'éthique et les conflits d'intérêts des sénateurs, au 31 janvier 2020 (page 11). En particulier, la sénatrice Beyak a) a réussi le programme; b) a appris et était disposée à apprendre; c) comprend les responsabilités de chacun des sénateurs quand il est question de racisme et la façon dont sa conduite antérieure s'inscrit dans ces responsabilités, la nécessité de s'abstenir d'agir d'une manière qui pourrait déprécier la charge de sénateur ou l'institution du Sénat en matière de racisme, et la nécessité de respecter les normes les plus élevées de dignité inhérente à la charge de sénateur.

Il convient de noter que tout au long du programme, outre le contenu théorique, l'accent a été mis sur le développement de compétences dans le but de favoriser la réflexion. Ainsi, même si la nature et l'objectif des séminaires-ateliers étaient d'acquérir des connaissances, la sénatrice devait développer ses compétences et mettre ses apprentissages en pratique, de façon à ce qu'elle puisse revoir ses convictions, attitudes, comportements et idées. Autrement dit, certains ateliers étaient axés sur le contenu théorique, et d'autres visaient à jeter les bases qui allaient permettre à la sénatrice d'avoir une meilleure compréhension de la réalité et favoriser la réflexion professionnelle et l'épanouissement personnel.

Il y a une différence entre les connaissances et les croyances. Et il y a une différence marquée entre un comportement et une attitude. Comme c'est généralement le cas pour tout changement culturel ou social, il faudra du temps pour changer les mentalités face aux questions autochtones. Cela nécessite des interventions délibérées et des mesures progressives et successives, ce qu'un programme de sensibilisation ne peut vraisemblablement pas accomplir à lui seul. Cela dit, l'information et le savoir sont la clé pour modifier les comportements, ainsi que pour poser un regard nouveau sur ses propres suppositions, convictions personnelles et attitudes qui reposent sur des stéréotypes. Dans cette optique, les interventions éducatives de cette nature peuvent fournir les outils nécessaires pour adopter de nouvelles attitudes et perspectives et grandir.

Dans ce cas-ci, la sénatrice Beyak a accepté de saisir l'occasion pour apprendre, explorer de nouvelles idées et réfléchir à sa conduite à titre de sénatrice et à ses répercussions sur le Sénat, le Parlement et l'ensemble de la société canadienne. Elle repart avec des connaissances, des idées et une compréhension nouvelles, armée de nouveaux outils pour s'acquitter de son rôle professionnel et forger ses convictions personnelles.

Le tout respectueusement soumis,

Jonathan L. Black-Branch
Mai 2020

ANNEXE F

[Traduction non officielle]

De : Lynn Beyak
Envoyé le : Le jeudi 4 juin 2020, 0 h 29
À : Legault, Pierre [REDACTED]
Cc : Palumbo, Deborah [REDACTED]
Objet : Réponse au programme d'évaluation de la sénatrice Beyak

Pierre Legault, conseiller sénatorial en éthique

Deborah Palumbo, conseillère sénatoriale en éthique adjointe

Madame,
Monsieur,

Par la présente, je vous demande de remercier le Comité sénatorial de l'éthique de ma part de m'avoir donné l'occasion de suivre cette formation supérieure utile, du 19 au 22 mai 2020.

Merci également à vous deux d'avoir pris le temps de suivre les recommandations du comité à la lettre, en offrant un forum éducatif professionnel et expert, grâce à la conférence Zoom. Je vous suis reconnaissante des efforts supplémentaires que vous avez déployés pour que je puisse prendre autant de notes que je le souhaitais.

Enfin, je tiens à féliciter l'Université du Manitoba, le doyen de la Faculté de droit, Jonathan Black-Branche, et son équipe professionnelle et compétente d'avoir produit un rapport réfléchi, juste, complet et précis concernant ma formation. Travailler avec autant de personnes, spécialistes dans leur domaine, impartiales et distinguées, a été un honneur et un privilège.

Le savoir et l'expertise du doyen et de son équipe étaient incomparables, et inestimables.

Je vous prie d'agréer, Madame, Monsieur, mes salutations distinguées.

L'honorable Lynn Beyak
Sénat du Canada