

# Fourword: Issues, Individuals, Institutions and Ideas

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There is a story about a young man who had a dream. In this dream he saw people scrambling up and down the rugged faces of four hills. When he looked closer he noticed each hill seemed to have different groups of people trying to scale its heights.<sup>1</sup> He was perplexed.

The first hill, to the east, was covered with very small people. Many were weeping and crying; some were covered in blood or lay lifeless at the base. The foot of the hill where they were piled was shrouded in darkness. The shadows and twisted heap made it hard to see how many were gathered there in death, or life. A bit higher, other tiny bodies could be seen crawling over rocks and spring scrub, determinedly edging their way higher over rough terrain. Knees were scraped, hands were red, but their upward progress was noticeable. At other points it was possible to see some totter forward on wobbly legs, through halting steps and tender help from a few around them. Small bits of tobacco would change hands in thanks. Some were laughing and playing, joyfully climbing to their destination. They seemed to be enjoying the challenge that stood before them. They learned from their mistakes, and carefully watched those around them to see how to go on. Yet, every so often one would trip, or lose their hold on the hill, and tumble and scrape to the bottom. A few had reached the top, and stood in the bright yellow glow of the morning sun. Surveying the horizon they could see three other hills spread before them. Looking curious about what lay ahead they descended the slope, onward to the hill in the south.

The people on the second hill were a lot more boisterous. They were wrestling, talking excitedly, playing ball, tag and a hundred other games. The man thought he recognized a few faces from the first hill, but they seemed somehow different now. Once again a great throng was gathered at the bottom. There was such a number that people kept getting pushed down and trampled in the race to climb the hill. Their close confines under the hot,

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1. This work combines many teachings I have received over the years. I first heard some of these ideas as a young boy at Neyashiinigiing and in Barrie. Later, I learned more from Elder Lillian McGregor from Birch Island. The story about the four hills is found in Basil Johnston, *Ojibway Heritage* (Toronto: McClelland and Stewart, 1976) at 109-119. My version draws strongly from this account and from Elder McGregor's oral teachings, received between 1994 and 1996 when I was working as a professor at Osgoode Hall Law School at York University in Toronto.

humid sun made it look unbearable. The numbers thinned as the hill rose. Scanning the hill the man observed a group chasing a young deer. The arrows they slung widely missed their mark. Attempts to stalk and surprise the deer were hindered by taunts and teasing as they chased through the cedars. Many seemed to have lost interest in what lay at the hilltop. Others tired of the chase, and headed out on their own. They could be seen quietly snaring rabbits or pausing at certain fishing holes as they made their way forward. They contended with deep canyons, sparse rivers and a jagged crimson-red landscape as they moved on. The few who made the summit could once again be seen gazing at what lie ahead. They too made their way down and forward to the hill to the west.

On the third hill a good-sized crowd surrounded the base. Though fewer in numbers than at the foot of the first and second hill, they nevertheless managed to cover much of the available space. Every once in a while the man observed that some would break free of the group and start their climb upward. People could be seen walking together, supporting and helping each other over the black expanse of the endless, sage covered hill. Others struck out alone, pressed onward, and built strength as they overcame the obstacles strewn on their path. At higher elevations the man could sometimes hear violent fights, and see alternating displays of anger and neglect, charm and cunning, kindness and mean tricks. These outbursts could become so cacophonous they would wrack an entire section of the rise. Their strong words seemed perfectly blended with the vivid colours of the autumn flora. He saw that conflict caused some to eventually turn away from their partners. Others discovered companionship for the first time, or took up with another partner, and made their journey onwards with renewed determination. Some pushed forward knocking down others as they went, while still others would gently take the hand of a fallen comrade as they scrambled up the rough face of the hill. In thinning numbers, a few would eventually find themselves at the peak. Reflectively, they could be seen looking backward, and then turn their face forward to the last hill in the distance.

The fourth hill to the north was very quiet, even at its base. Peaceful. There were much fewer people here than at the foot of the other hills. Thick with snow, its stark white facade made it seem even calmer in its stillness. Its figures walked silently, slowly struggling against the deep gravity of the incline. The man saw that some collapsed without any apparent reason. Others fell, got up, fell again, and got up, repeating this action as they fought their way forward. Couples would watch helplessly as partners crumpled beside them, finally unable to move a foot further. At these periods there would be long pauses as the stronger one knelt by the weaker, said tearful goodbyes, before ultimately standing again and bowing even more deeply at

the gradient before them. Near the pinnacle of the northern hill, its upper reaches were dappled with clear sunlight. Strains of gentle laughter and quiet whispers filled the air. Sweetgrass smoke curled and blended with the breeze. The people standing at the crown of this last hill wore the lines and furrows of the terrain they crossed. The white of the stone ashen sky seemed to adorn their heads, as if purified through their experiences. Then the dream faded.

Upon waking, the man wondered what it all meant. Looking up at the ceiling he thought of the images he had seen. He pondered their significance. Try as he might, he couldn't figure it all out. Then he thought of his Nokomis and Mishomis. They could probably help. In one swift motion he swung his legs out of bed, rested his feet on the rough wood-hewn floor. Pausing for a moment, his breath gathered in small clouds around him. The air seemed still, and he noticed a touch of frost on the windows. If I hurry I can help them with their fire, he thought, then I can ask them about my dream. Scurrying around the cabin he quickly dressed and made his way out the door, along the diamond-snow graveled path. When he arrived, his Nokomis and Mishomis were just stirring. He gathered a few small logs from their woodpile, split them, and let himself in. Crouching at the woodstove, he could see his Nokomis and Mishomis talking in the other room. As the fire crackled and grew in the stove his grandparents joined him. "Ahnee! Did you sleep well? Kemauh?"

"Eha. Ahneesh ae-izhi-bimaudiziyin."

"Onishishin, but I had a dream I don't understand. Ninihsitohtahsiin."

"Do you want to share your dream - enahbundumowin?"

"Eha. It seemed so real, but I can't really get the whole sense of it." He followed his Nokomis and Mishomis to their table. Chrome and Arborite reflected the new day's sun streaming from the far window. Mishomis paused at the sink and stove to prepare a pot of tea over which they would visit. When they were all settled, the young man fiddled with the saltshaker for a few moments, gathering his thoughts. Giving him the time he needed, his Nokomis and Mishomis sat quietly, enjoying the warmth of the fire and sun starting to fill the room. Slowly, methodically, the young man then started explaining what he saw in his dream from the night before.

When he was finished, the old man and woman were still. Finally, Nokomis asked, "What do you think it means?" The young man tried to order his thoughts.

"I don't know, part of it seems so obvious, but I think there must be more."

After a moment's silence, Mishomis asked, "What do you mean?"

"Well, I know that many of our teachings are wrapped up in what I saw, but I can't imagine what they have to do with what's going on in my life.

I'm so busy at work and home; I thought that coming up here would clear my head. Instead, I now feel even more confused."

His grandmother looked into her tea and asked, "Tell me, what are you thinking?"

"Well, I always love coming home because there are so many good memories here. It feels like a place where I can get perspective on the world. Everywhere I turn I recall people I have met, things I have been taught, and events that have made me who I am. The waters are so calming too. And I know this sounds weird; walking along the shores I literally feel the presence of our ancestors. Our family has lived here for so many generations that I can't help but feel a deep connection to the place. I think of them where ever I go. So I came up here again to feel this, to take this lens and look back on what I am doing. I needed to collect my thoughts because so much is going on."

"Grandson," his Nokomis said, "your dream does indeed have much meaning. Perhaps you received the help you are seeking" adding, with a smile and poke in the ribs, "...unless of course you inhaled too much smoke from that fire." The young man smiled. He was thankful for his grandmother; she knew he could get too serious. Her gentle teasing helped him relax. He was glad he put salt in their sugar shaker last night.

After a moment's pause, his Mishomis added, "I know you are struggling to write something of worth for that new Indigenous Law Journal your school is publishing. It's an important development. I am glad people are taking us more seriously. Do you think this has anything to do with your dream?"

The young man nodded. "Maybe that's part of it," he said. "The dream's images seem to be wrapped up with the trajectory of Anishinabek law you taught me. In fact, I know you've said dreams themselves can sometimes even be a part of our law. I must have been thinking about all these things in relation to the Journal. It is one of the most important initiatives in legal education for Indigenous peoples in a long while."<sup>2</sup>

Mishomis asked, "Why do you say that? Tell me how you think it all fits together."

"Well, to put it in perspective, I think the first real steps forward for Indigenous legal education came when politicians and courts started to take

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2. Other academically based journals that deal with certain aspects of Indigenous legal issues are the *American Indian Law Review* based at the College of Law, University of Oklahoma (founded in 1973), the *Tribal Law Journal*, an electronic journal published by the University of New Mexico School of Law <<http://tlj.unm.edu/>> (founded in 2000), and the *Indigenous Law Bulletin* from the University of New South Wales (founded in 1981). The *Canadian Native Law Reporter* used to publish academic submissions until the late 1990's when the large number of reported cases crowded them out. Their discontinuance made room for the creation of an Indigenous Law Journal in Canada.

our issues more seriously. Cases like *Calder* in Canada,<sup>3</sup> *Mabo* in Australia,<sup>4</sup> *Williams v. Lee* in the United States<sup>5</sup> really kick-started a wave of reform for law schools. The fact that our rights were regarded as more than just moral obligations, and had legal weight to them, was very significant.<sup>6</sup> People sat up, took notice; law professors slowly started to introduce these cases into their regular courses. Eventually, whole courses about Indigenous peoples and the law were created.<sup>7</sup> Of course, there was also resistance in certain schools. Some thought that those who addressed this issue were teaching soft law, or not teaching law at all.<sup>8</sup> Looking back, there were some pretty immature things said and done about the development of Indigenous issues as a legal subject, lots of bruised egos, etc. But I think we've crawled past all that now. Our rights are here to stay. Even here at home we have had a case or two, enforcing our treaty rights and challenging government action.”

The young man paused for a moment as he reflected on the growing light being shed on Indigenous issues around the world. He thought of the cumulative impact of all the attention now devoted to them by the courts and politicians. He knew the U.S. Supreme Court spent a disproportionate

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3. *Calder v. A.G.B.C.*, [1973] S.C.R. 313.

4. *Mabo v. Queensland No. 2* (1992), 107 A.L.R. 1 (H.C. Aus.).

5. *Williams v. Lee*, 358 U.S. 217 (1959). For an explanation of the pivotal role this case played in the revitalization of Indian jurisprudence in the United States see Charles Wilkinson, *American Indians, Time and the Law* (New Haven: Yale University Press, 1987) at 1.

6. In those countries where the justifiability of Indigenous rights is a recent development, this is transforming the treatment of Indigenous peoples in those states, see Paul Havemann, ed., *Indigenous Peoples' Rights in Australia, Canada and New Zealand* (Oxford: Oxford University Press, 1999); Kent McNeil, *Emerging Justice: Essays on Indigenous Rights in Canada and Australia* (Saskatoon: Native Law Centre, 2001); Patrick Macklem, *Indigenous Difference and the Constitution of Canada* (Toronto: University of Toronto Press, 2001); “Case Note, Native Title in Malaysia: Adong’s Case” (2001) 3 *Asian L.J.* 198.

7. An early source for teaching Indigenous Legal Issues in Canada was Peter Cumming & Neil Mickenburg, *Native Rights in Canada* (Toronto: Indian-Eskimo Association of Canada, 1971). Doug Sanders was the primary writer of the first edition and he taught courses about Native Peoples and the Law in the early 1970’s. In the United States, Ralph Johnson was a pioneer in the field. For a brief description of the importance of his work see David Getches, “Dedication to Ralph W. Johnson” (1997) 72 *Washington L. Rev.* 995. For a description of Indigenous people teaching Indigenous Law see G. William Rice, “There and Back Again: An Indian Hobbit’s Holiday, Indians Teaching Indian Law” (1996) 26 *U. New Mexico L. Rev.* 169.

8. Robert Williams Jr., “Vampires Anonymous and Critical Race Practice” (1997) 95 *Mich. L. Rev.* 741.

amount of its time on Indian law issues.<sup>9</sup> He also thought of the over twenty-five Aboriginal rights cases decided by the Canadian Supreme Court in the last ten years.<sup>10</sup> He knew he could go on and on. The rising importance of the Treaty of Waitangi in New Zealand,<sup>11</sup> the Draft Declaration of the Rights of Indigenous Peoples,<sup>12</sup> the recent *Awas Tingni* case,<sup>13</sup> the development of the

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9. The attention the U.S. Supreme Court has paid to Native Americans has not been without its problems, see David Wilkins, *American Indian Sovereignty and the U.S. Supreme Court* (Austin: University of Texas Press, 1997); Frank Pommersheim, *Braid of Feathers: American Indian Law and Contemporary Tribal Life* (Berkeley: University of California Press, 1996); Robert Williams Jr., *Discourses of Conquest: The American Indian in Western Legal Thought* (New York: Oxford University Press, 1990); David Getches, "Beyond Indian Law: The Rehnquist Court's Pursuit of States' Rights, Color-Blind Justice and Mainstream Values" (2001) 86 *Minnesota L. Rev.* 267; Philip Frickey, "A Common Law for Our Age of Colonialism: The Judicial Divestiture of Tribal Authority over Non-Members" (1999) 109 *Yale L.J.* 1.
  10. *Oregon Jack Creek Indian Band v. Canadian National Railway*, [1990] 1 S.C.R. 117; *R. v. Horseman*, [1990] 1 S.C.R. 901; *R. v. Sioui*, [1990] 1 S.C.R. 1025; *R. v. Sparrow* [1990] 1 S.C.R. 1075; *Mitchell v. Peguis Indian Band*, [1990] 2 S.C.R. 85; *Ontario (A.G.) v. Bear Island Foundation*, [1991] 2 S.C.R. 570; *Williams v. Canada*, [1992] 1 S.C.R. 877; *Quebec (A.G.) v. Canada (N.E.B.)*, [1994] 1 S.C.R. 159; *R. v. Howard*, [1994] 2 S.C.R. 299; *Native Women's Association v. Canada*, [1994] 3 S.C.R. 627; *C.P. v. Matsqui Indian Band*, [1995] 1 S.C.R. 3; *Blueberry River Indian Band v. Canada*, [1995] 4 S.C.R. 344; *R. v. Badger*, [1996] 1 S.C.R. 771; *R. v. Lewis*, [1996] 1 S.C.R. 921; *R. v. Nikal*, [1996] 1 S.C.R. 1013; *R. v. Van der Peet*, [1996] 2 S.C.R. 507; *R. v. N.T.C. Smokehouse*, [1996] 2 S.C.R. 672; *R. v. Gladstone*, [1996] 2 S.C.R. 723; *R. v. Pamajewon*, [1996] 2 S.C.R. 821; *R. v. Adams*, [1996] 3 S.C.R. 101; *R. v. Cote*, [1996] 3 S.C.R. 139; *Opetchesah v. Canada*, [1997] 2 S.C.R. 119; *St. Mary's v. Cranbook*, [1997] 2 S.C.R. 657; *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010; *R. v. Williams*, [1998] 1 S.C.R. 1128; *Union of New Brunswick Indians v. New Brunswick (Minster of Finance)*, [1998] 1 S.C.R. 1161; *R. v. Sundown*, [1999] 1 S.C.R. 393; *R. v. Gladue*, [1999] 1 S.C.R. 688; *Corbiere v. Canada*, [1999] 2 S.C.R. 203; *Westbank First Nation v. British Columbia Hydro*, [1999] 3 S.C.R. 134; *R. v. Marshall (I)*, [1999] 3 S.C.R. 465; *R. v. Marshall (II)*, [1999] 3 S.C.R. 533; *R. v. Wells*, [2000] 1 S.C.R. 207; *Lovelace v. Ontario*, [2000] 1 S.C.R. 950; *Mitchell v. M.N.R.*, [2001] 1 S.C.R. 911; *Osoyoos Indian Band v. Oliver (Township of)*, [2001] 1 S.C.R. 85.
  11. Paul McHugh, *The Maori Magna Carta: New Zealand Law and the Treaty of Waitangi* (Oxford: Oxford University Press, 1992); Matthew Palmer, "The Treaty of Waitangi in Legislation" (2001) *New Zealand L. Rev.* 207.
  12. Erica-Irene Daes, "Equality of Indigenous Peoples Under the Auspices of the United Nations—Draft Declaration on the Rights of Indigenous Peoples" (1995) 10 *St. Thomas L. Rev.* 175; Indigenous Declarations have been also been drafted for specific issues, see Marie Battiste & Seigfried Wiessner, "The 2000 Revision of the United Nations Draft Declaration on the Protection of Heritage for Indigenous Peoples" (2000) 13 *St. Thomas L. Rev.* at 383. For a more general treatment of Indigenous peoples in international law see S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996).

Sami Parliament,<sup>14</sup> etc. He knew many mistakes had been made as these issues developed, but he also saw much had been learned.

Breaking into his thoughts Nokomis said, "I remember when we went to our burial grounds those people built their house on. That land was reserved under the treaty, but they went and built that house anyway. They even knew there was a treaty there, but they thought they could ignore it. That made me mad. It wasn't easy to cause all that fuss about it. I hate to stir things up; but I was glad we did. People realized if they didn't settle with us they would end up in court. That house is now gone and our ancestors can rest."

The young man remembered his grandparent's role at the occupation. They had been so strong and supportive. He had visited the site since then too. Standing amongst the maples, listening to the nearby stream, he remembered feeling that their strength somehow continued to mingle with their ancestor's power there. It was a quiet, sacred place. Looking at his grandparents he could see they had aged since then. He didn't look forward to the day when he would have to lay them in the ground, even though he knew they would continue on.

He went on, "Like I was saying, I think the fact these kinds of issues became a part of law was an important development. It had tremendous implications for legal education. Students, lawyers and judges started learning and applying the principles from these cases. They could use them to change the way Indigenous peoples were treated." Changing tone, he said, "This was soon followed by another change in how legal education was carried out. It was a bit more boisterous than the first. People started to get more directly involved with what was happening, and this led to a few tussles. Deans, professors, and students realized they didn't know much about Indigenous peoples, even though they could quote the cases dealing with their issues chapter and verse. Some had never even met an Indigenous person. On further reflection they also soon noticed that Indigenous people were under-represented in the legal profession but over-represented in the

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13. The *Awás Tingni* case from the Inter-American Court of Human Rights ordered Nicaragua to demarcate traditional communal lands of the Awás Tingni and to pay compensation for the granting of logging rights to foreign companies. See No. 67 *Casa La Comunidad Mayagna (Sumo) Awás Tingni*, online: <[http://www.corteidh.or.cr/serie\\_c/C\\_67\\_ESP.html](http://www.corteidh.or.cr/serie_c/C_67_ESP.html)> (date accessed: 7 March 2002). For commentary about the development of this and other cases before the Inter-American courts, see S. James Anaya & Robert Williams Jr., "The Protection of Indigenous Peoples' Rights over Lands and Natural Resources Under the Inter-American Human Rights System" (2001) *Harvard Human Rights J.* 33.
  14. T. Svennsson, "The Attainment of Limited Self-Determination among the Sami in Recent Years" (1995) *Law and Anthropology* 267.

criminal justice and child welfare systems.<sup>15</sup> This didn't strike them as being right. Slowly, a few law school admissions committees started seeking out Indigenous students for their applicant pool.<sup>16</sup> Some were admitted; other schools caught on. Competition, contention and cooperation mingled in unequal parts. A few schools made great efforts to recruit and assist Indigenous students; others quickly lost interest, if they ever had any at all. Debates about affirmative action raged through some schools, others slowly got on with the business of effectively training this new group. Insensitive taunts and aimless administrative wanderings combined with structured, measurable progress. Through it all the number of Indigenous lawyers slowly grew. Where there were about 6 or so Indigenous lawyers in Canada in 1973, there are now over 1000 legally trained Indigenous people in the profession in this country.<sup>17</sup> The same thing happened in the U.S., and is gradually gaining ground in places like Australia, New Zealand and Norway.<sup>18</sup> Their presence has enriched the halls of those schools, and these graduates are making a significant difference to their communities and the broader public. Many more non-Indigenous students have also taken an interest in our rights too. Both groups work together to create a better future.

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15. This literature has continued to grow: see The Royal Commission on Aboriginal Peoples, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Ottawa: Supply and Services, 1996) at 26-53; A.C. Hamilton & C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba*, vol. 1 (Winnipeg: Queen's Printer, 1991) at 509-548; Amy Standefer, "The Federal Juvenile Delinquency Act: A Disproportionate Impact on Native American Juveniles" (1999) 84 *Minnesota L. Rev.* 473; Manuel Guerrero, "Indian Child Welfare Act of 1978" (1979) 7 *American Indian L. Rev.* 51, 57, 66-73; M.M. Slaughter, "Contested Identities: The Adoption of American Indian Children and the Liberal State" (2000) 9 *Social and Legal Studies* 227; Marlee Kline, "Child Welfare Law: 'Best Interests of the Child Ideology' and First Nations" (1992) 30 *Osgoode Hall L.J.* 375; Philip Lynch, "Keeping Them Home: The Best Interests of Indigenous Children and Communities in Canada and Australia" (2001) 23 *Sydney L. Rev.* 501.
  16. P.S. Deloria & Robert Laurence, "What's an Indian? A Conversation About Law School Admissions, Indian Tribal Sovereignty and Affirmative Action" (1994) 28 *Georgia L. Rev.* 1107.
  17. For reflections of Indigenous law students' experiences in law school, see Patricia Monture, "Now That the Door is Open: First Nations and the Law School Experience" (1990) 15 *Queen's L.J.* 179; Tracy Lindberg, "What Do You Call an Indian Woman With a Law Degree? Nine Aboriginal Women at the University of Saskatchewan College of Law Speak Out" (1996) 9 *Can. J. Women and the Law* 301; Leah Whiu, "A Maori Women's Experience of Feminist Legal Education in Aotearoa" (1994) 2 *Waikato L. Rev.* 161.
  18. Lawrence Boca, "American Indians Over-represented in Law Schools? How Can That Be?" (2000) 29 *Student Lawyer* 17; Daniel Lavery, "The Participation of Indigenous Australians in Legal Education" (1993) 4 *Legal Education Rev.* 1; Heather Douglas, "Indigenous Australians and Legal Education: Looking to the Future" (1996) 7 *Legal Education Rev.* 225; Carolyn Penfold, "Indigenous Students' Perceptions of Factors Contributing to Successful Law Studies" (1996) 7 *Legal Education Rev.* 155.



Their ascension really marks the second peak of reform for Indigenous legal education as I see it.”

As they reflected on these developments, Nokomis took her tea and held it firmly in front of her with her hands. The sun was high enough now that the dark liquid reflected the light. Faded red lipstick lined the cup’s lip. After taking a sip she looked up and smiled, “I remember when you first went to law school. Were you ever distracted! You were like a bee in a glove. Running back and forth from home to school all the time. You must have been taking lessons from that rabbit we see around here. Couldn’t stay still in one place for a second. It was like you couldn’t decide where you wanted to be. What was going on?”

“It was your oatmeal grandma. Couldn’t get enough.” Nokomis laughed. “Actually, I couldn’t decide if I wanted to stay at school. All through first year I kept questioning whether I wanted to work with the law I was learning. It’s hard to have much confidence in something that has been part of your dispossession. I also missed home, and everyone here. I didn’t know if I really wanted to leave home, make my life elsewhere. To tell you the truth, it was also pretty hard for me intellectually. I wasn’t use to looking at the world in the way my teachers did. It took me some time to get the hang of it. But I stuck at it. It really wasn’t until it was almost over that I saw there might be some value in what I learned. And then I had a good professor who encouraged me to go to graduate school for further study. He stood at the crossroads for me. I think it was only then that law started to sink in.”

“Anyway,” he went on, “that’s when I realized that I could maybe teach in one of those places. I started thinking about how important it was that Indigenous issues and individuals were now a larger part of legal education. But I also knew that if things were going to change, these developments were not enough. A third crest of reform lay ahead. Legal institutions themselves had to become different. Ways had to be found for law schools to form partnerships with Indigenous peoples. These institutions had to change if Indigenous legal education was going to grow. And they have, to some extent, though there is still a ways to go. When I look at the Native Law Centre in Saskatchewan, the First Nations Legal Studies Program at U.B.C., Akitsiraq at UVic, the Intensive Program in Lands, Resources and First Nations Governments at Osgoode, or the June Callwood Program in

Indigenous law at my school, I see there has been significant progress.<sup>19</sup> You can see the same thing in the United States, New Zealand, Australia and Norway.<sup>20</sup> There also have been a few failures along the way, as Indigenous peoples and institutions have parted company over a certain things. By and large, however, Indigenous issues and individuals are slowly being received into an institutional context that is relevant to them, which they can work to further transform. One day we may even see an Indigenous law school, or other institution where we teach our own laws while at the same time also getting a good general legal education.”

“Which brings me to why I think the Indigenous Law Journal is such an important development in legal education, the latest challenge to surmount. It is simply not enough to have Indigenous issues, individuals, and institutions become an integral part of the academy. Until our ideas—our ideologies—are part of any intellectual exchange, we are just rearranging deck chairs on the Titanic. Nothing much changes in the law if we just add a few more issues, individuals and institutional variations to the mix. Profound

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19. For comments on different Indigenous law programs in Canada see Roger Carter, “University of Saskatchewan Native Law Centre” (1980) 44 Sask. L. Rev. 135; Donald Purich, “Affirmative Action in Canadian Law Schools: The Native Student in Law School” (1986) 51 Sask. L. Rev. 79; Hugh MacAulay, “Improving Access to Legal Education for Native People in Canada” (1991) 14 Dal. L.J. 133. The Native Law Centre has both a research and a teaching mission. It offers a pre-law summer program for Indigenous students interested in admission to law schools. It also publishes the *Canadian Native Law Reporter*, theoretical and technical legal texts, and has an excellent resource library. The University of British Columbia’s First Nations Legal Studies Program has operated since 1975. Originally an admissions program, it has assisted over 150 Indigenous law students to graduate from its school. U.B.C. is now developing a Centre for International Indigenous Legal Studies to further its mission. Akitsiraq is a law program offered by the University of Victoria to Inuit people in Canada’s newest territory, Nunavut. Fourteen Inuit students are studying entirely at home in their own territory, and will graduate with a UVic law degree in four years. UVic also offers a joint law degree and Masters of Indigenous Governance at its main campus. Osgoode Hall Law School at York University has offered the Intensive Program in Lands, Resources and First Nations Governments since 1994. This clinically based program immerses students in an Indigenous legal experience for all their credits over an entire semester. The June Callwood Program at the University of Toronto provides graduate scholarships for advanced Indigenous legal studies. It also facilitates internships and applied educational experiences with Indigenous communities. The Faculty of Law at the University of Alberta also has an Indigenous Law Program that has director and student support.
20. Robert Laurence, “Preparing American Indians for Law School: The American Indian Centre’s Pre-Law Summer Institute” (1992) 12 Northern Illinois U. L. Rev. 278. There are now two graduate LL.M. programs in Indigenous Legal Studies in the United States (U. of Arizona and Tulsa), with numerous J.D. programs specializing in Indian law (New Mexico, ASU, Washington, Wisconsin, Kansas, Iowa, South Dakota, Vermont) or Indian law clinics (Colorado, Idaho, Montana). The University of Waikato in New Zealand was created for the purpose of advancing Maori legal studies in a bicultural environment, though it has been slow in establishing itself. The University of New South Wales has an Indigenous Law Centre. The University of Tromsø, in Norway, has led the way in teaching Sami legal issues.

legal change requires that questions be examined from perspectives that partially emerge from sources outside western legal discourses, motivated by considerations from Indigenous normative orders. Standards for judgment must not only flow from the common law, but should also spring from Indigenous legal values. Precedent should not be confined to dusty old law books, but should be alive to the authority of our Elders, teachings and life-ways. The criteria for measuring what is just, fair and equitable should not solely be drawn from non-Indigenous sources. Our codes of conduct need to be part of law's formal and informal expressions. Our traditions should guide how we answer the problems we face. Our customs are necessary to meet challenges that lie ahead. They should be simultaneously compared, contrasted, combined with and disaggregated from critical and constructive norms arising from many philosophical and cultural legal traditions. Progress in the field of Indigenous law will be limited until the ideas by which people order and govern themselves include norms developed from these perspectives. That is why the new Journal is so important. It examines wisdom; it attempts to measure law's maturity. It creates a unique venue for the exchange and exploration of ideas.<sup>21</sup> Of course it needs to be added to a hundred other initiatives that bring these ideas forward. Yet, as part of this climb, these ideas will complete an important circle in Indigenous legal education. They will feed back into how we think and act in relation to issues, individuals and institutions that make up the wider world of law. Such interactions are needed to facilitate a broader normative order. They will bring us closer to our treaties, and the promise of living together in peace, friendship and respect."<sup>22</sup>

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21. The stated objectives of the Indigenous Law Journal are as follows:

Our central concerns are Indigenous legal systems and legal systems as they affect Indigenous peoples.

We are governed by core values that include recognition:

- that Indigenous legal systems are best learned from the contexts and perspectives of Indigenous peoples;
- that to ensure balance and cultural authenticity, both Aboriginal and non-Aboriginal participation is required in all of the journal's editorial and business decisions; and
- that the pursuit of excellence in scholarship is rooted in both an understanding of the past, and commitment to innovation.

To compare and contrast this with the purposes of the American Indian Law Review see Robert A. Fairbanks, "American Indian Law Review: Purposes and Goals Revisited" (1995) 20 *American Indian L. Rev.* 1.

22. Peace, friendship and respect were central principles that brought Indigenous and non-Indigenous peoples together in early treaty relationships in central Canada. For a description of the development of these aspirations in a legal/diplomatic context see John Borrows, "Wampum at Niagara: The Royal Proclamation, Canadian Legal History and Self-Government" in Michael Asch, ed., *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality and Respect for Difference* (Vancouver: University of British Columbia Press, 1997).

Nokomis, who had been sitting quietly through this explanation, cleared her throat. “Tell me grandson, how does all this talk about issues, individuals, institutions and ideas relate to your dream?” The young man looked at the room around him, inattentively picking at his salt-hardened spoon. He felt the answer was right there, but just couldn’t put his finger on it. He thought back to the images of his sleep. Their different elements swirling through his mind, settling into place slowly, by degrees. He thought over his words to his grandparents, feeling their contours beginning to align with his nighttime thoughts. He looked at his Mishomis, green workpants, gray woolen socks, and old hunting shirt. Nokomis in her flannel calicoed dress.

“I’m not quite sure Nokomis. I know I shouldn’t do it alone. I’ve connected some things, but I need to think about it some more. Our laws lie hidden throughout. Maybe you could help.”<sup>23</sup>

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23. East—Knowledge—Yellow—dependent—tobacco—air—childhood—spring—issues  
South—Growth—Red—semi-dependent—cedar—earth—youth—summer—individuals  
West—Reflection—Black—independent—sage—fire—adulthood—fall—institutions  
North—Purity—White—interdependent—sweetgrass—water—elder—winter—ideas.