

International Contexts
for Indigenous
Entrepreneurs (Chair
Kaely Woods)



11:00 – 11:45 am

Professor Robert Anderson (University of Regina),
'Indigenous entrepreneurship in Canada'

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Constitutional Rights

- Section 35(1) of the Constitution Act, 1982, provides recognition of Aboriginal People's rights and affirms their interests in traditional lands (Wright and White, 2012).
- The Constitution Act states that "The existing Aboriginal and treaty rights of the Aboriginal Peoples of Canada are hereby recognized and affirmed" (Constitution Act, 1982).
- the Constitution Act (1982) **secures Aboriginal rights** over common law, federal legislation, or provincial legislation, according to Wright and White, "**it does not create** them; Aboriginal rights are inherent, collective rights based on their original occupancy of the land (Wright and White, 2012).
- Inherent Indigenous rights based on Aboriginal title **exist independently** of any form of legislation or executive recognition" and are based on notions of joint rights and jurisdictional-based legal concepts and ideas that existed before colonial contact (Berger, 1972).
- They are collective rights based on Indigenous peoples' original occupation of territory lands and pre-existing institutions of private property and Indigenous rights (Alcantara, 2003).

Court Recognized Rights

Calder v. British Columbia (1973)	legally confirmed that Aboriginal title as a right derived from traditional occupation and use of tribal lands
R. v. Van der Peet decision (1996)	established a structured test around the cultures and practices of Aboriginal peoples in the pre-colonial period to use in establishing current rights
R. v. Gladstone decision (1997)	structured a more “flexible test for constitutionally permitted limits to Aboriginal rights
Delgamuukw v. British Columbia (1996)	established the basic characteristics of Aboriginal title: 1) the inalienability of title, except to the Crown in right of Canada; 2) the origin of that interest originating from prior occupation; and, 3) the collective, not individual, Aboriginal interest in land
Haida Nation v. British Columbia (2004)	defined the legal duty to consult when there existed a contemplated Crown conduct and a possible adverse impact on a potential or established Aboriginal or treaty right
Tsilhqot’in Nation v British Columbia (2014)	found that Aboriginal title confers a right to 1) possess the land, 2) the economic benefits of the land, and 3) use and manage the land
Grassy Narrows First Nation v Ontario (2014)	found that while provinces have the exclusive power to manage natural resources on Crown lands, this right is subject to the prior duty to consult the Aboriginal group concerned and accommodate its interests.

Truth and Reconciliation Commission

Honouring the Truth, Reconciling for the Future

- **Released in 2015**
- ninety-four broad recommendations designed to redress Canada's injustices with respect to Indigenous peoples and to dismantle the legacies of colonialism
- represented the first steps to change through which Indigenous and non-Indigenous Canadians might work together to realign their shared history

We are not there yet. The relationship between Aboriginal and non-Aboriginal peoples is not a mutually respectful one. But, we believe we can get there, and we believe we can maintain it. Our ambition is to show how we can do that

Truth and Reconciliation Commission

Recommendation 92

We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources.

This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Truth and Reconciliation Commission

- the Supreme Court of Canada has highlighted at a fundamental level is that Aboriginal communities have a right to an equitable place at the table in relation to natural resource development in Canada. Their empowerment through *Tsilhqot'in* and earlier decisions has the potential to be immensely exciting as a means of further economic development in Aboriginal communities and prosperity for all
- the time is now for governments, Aboriginal communities, and resource sector companies to work together to build partnerships for the future.... We need to keep building a national consensus that responsible resource development that takes account of sustainability issues and that respects Indigenous communities, contributes positively—very positively—to Canada and its future.
- sustainable reconciliation on the land involves realizing the economic potential of Indigenous communities in a fair, just, and equitable manner that respects their right to self-determination. Economic reconciliation involves working in partnership with Indigenous peoples to ensure that lands and resources within their traditional territories are developed in culturally respectful ways that fully recognize Treaty and Aboriginal rights and title.

Honouring the Truth, Reconciling for the Future pp 304-5

Emerging Policy

- in the fall of 2015, on being elected Prime Minister of Canada, the Right Honourable Justin Trudeau (2015) asserted that no relationship was more important to Canada than the one with Indigenous peoples and articulated a vision for change through building a renewed, nation-to-nation relationship based on the recognition of rights, respect, co-operation and partnership ...
- In 2015 at Assembly of First Nations 36th Annual General Assembly one month after the release of *Honouring the Truth, Reconciling for the Future*, the Prime Minister called for
A renewed, nation-to-nation relationship with Aboriginal communities. A relationship based on recognition, rights, respect, co-operation and partnership. One that is rooted in the principles of the United Nations Declaration on the Rights of Indigenous Peoples.
- On May 10, 2016, Canada's Minister of Indigenous and Northern Affairs Canada, Carolyn Bennet, stated in a speech to UN General Assembly that Canada is
now a full supporter of the Declaration without qualification and that it intends nothing less than to adopt and implement the declaration in accordance with the Canadian Constitution (Library of Parliament, May 25th, 2016).

Indigenous Business in Canada

Context along with the preceeding

- (i) the increasing emphasis of sustainable development (economic, environmental, social and cultural);
- (ii) a shift to a flexible global economy that involves an increase in local-global alliances, particularly between transnational corporations and subnational/local groups; and,
- (iii) the increasing recognition of the Indigenous peoples' rights and title to traditional land, resources and other assets.

Indigenous Business in Canada

Overview

- In 2011, estimated that there were 25,000 Indigenous-owned business entities across Canada that represented over \$974 million in earnings (Gulati and Burleton, 2011).
- The Canadian Council for Aboriginal Business (CCAB) estimated that there were 37,000 Indigenous entrepreneurs in 2006 (Métis - 49%, First Nations - 45%, Inuit – 2%) in Canada (Canadian Council for Aboriginal Business, 2011).
- Of these entrepreneurs, 72% of First Nations entrepreneurs worked on reserve, 97% of Métis entrepreneurs worked off-reserve and 81% of Inuit worked off-reserve (Canadian Council for Aboriginal Business, 2011).
- Indigenous entrepreneurs have developed businesses across a wide range of sectors: construction - 18%; agriculture, forestry, fishing and hunting, mining, and oil and gas extraction - 13%; knowledge and service-based sectors, such as education, scientific and technical services, or health and social services - 28% (Canadian Council for Aboriginal Business, 2011).

Indigenous Business in Canada

Examples

- Onion Lake, Hobema
- Osoyoos Indian Band, Nk'Mip Project
- Lac La Ronge Indian Band



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