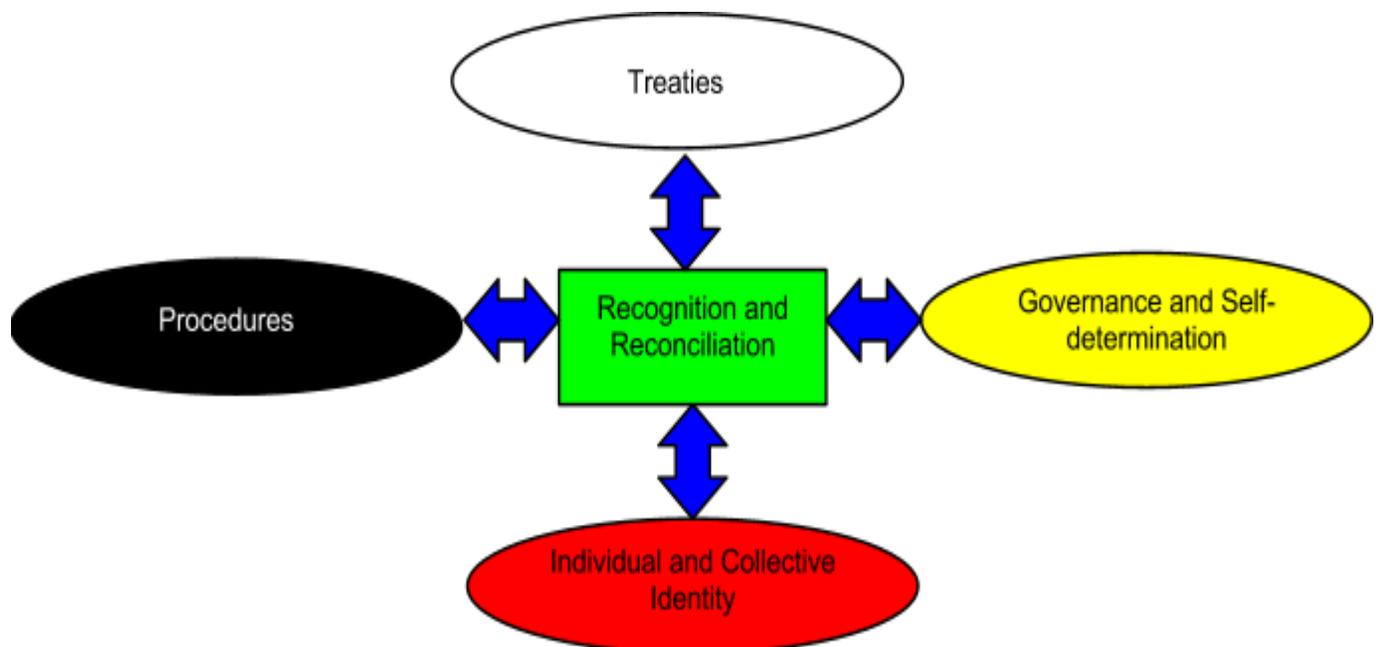


Indigenous Rights Center: Executive Summary

There is a need for a body of indigenous thinking on the strategic direction of aboriginal rights law reform which can grow independent of government interference. We are proposing development of an Indigenous Rights Center to address this need. An Indigenous Rights Center would focus on law reform: identifying emerging priorities; legal education and outreach; and, issues litigation.

This would leave the pursuit of individual claims in the hands of litigation firms, while filling a much-needed gap for strategic thinking in terms of litigation coordination and in engaging in broader discourse and advocacy challenging fundamental assumptions underlying aboriginal rights law.

The focus of the Centre would be the twin concepts of recognition and reconciliation. Reconciliation is the overarching purpose of aboriginal rights law. The process of reconciliation cannot commence without recognition of indigenous peoples, nations and laws. Focus areas would include Treaties; Governance and Self-determination; Individual and Collective Identity issues; and “Procedures”, addressing some of the practical issues encountered in aboriginal litigation which hampers resolution of disputes (such as characterization of aboriginal claims, ‘frozen rights’, costs, timeframe and access to justice considerations):



The Indigenous Rights Centre will offer strategic, issues-based thinking on:

- Coordination of litigation strategy
- Education for First Nations and others on rights, procedures and strategies
- Advocacy
- Direct Support for Communities on how to use claims in order to build consensus and capacity within the community

An Indigenous Rights Center will focus on the development of a principled approach to the development of aboriginal law. This will include articulation and elaboration of the concepts of recognition and reconciliation, as well as challenging outdated or improperly applied doctrines of pre-constitutional and colonial law which serve to perpetuate injustice in aboriginal rights law.

Although such work is highly relevant to litigation, it is impractical for law firms to devote considerable resources to such a project. By contrast, development of a principled approach to aboriginal law as an academic project risks becoming focused on issues not relevant to current practice or not strategically achievable.

An Indigenous Rights Center could convene practitioners, scholars, Chiefs , technicians, Elders and youth to develop a law reform initiative which is both relevant to multiple communities and which is designed to be translated into action devoted at reversing existing injustices in the legal system.

While courts and commentators agree that negotiation is the preferred mechanism to achieve reconciliation, experience has demonstrated that negotiations are ineffective in absence of a meaningful rights framework. As a consequence, articulating a principled framework for recognition of First Nations rights will act as the main catalyst for reconciliation and negotiation between the Crown and First Nations.