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EXAMINING LAW FACULTY MEMBERS AND INDIGENOUS LAW STUDENTS' CONCEPTUALIZATIONS OF RECONCILIATION

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INTRODUCTION

In June 2015, the Truth and Reconciliation Commission of Canada (TRC) published a multi-volume final report and 94 "calls to action" to advance reconciliation between the Canadian state and Indigenous Peoples. Two of the 94 calls to action are aimed at legal education:

> 28) We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes 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.[1]
>
> 50) In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice

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1 Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015) at 215 [TRC Final Report].

> in accordance with the unique cultures of Aboriginal peoples in Canada.[2]

In the spirit of the 2015 TRC report, all Canadian law schools have made formal commitments to implement calls to action 28 and 50. The Council of Canadian Law Deans (CCLD) put together summaries provided by Canadian law schools outlining their responses to calls to action 28 and 50. Based on the summaries, their responses have varied and have included both curricular and co-curricular initiatives, including the creation of a joint degree program in Canadian common law (Juris Doctor (JD)) and Indigenous legal orders (Juris Indigenarum Doctor (JID)), the introduction of new mandatory and optional courses in Aboriginal and Indigenous law, the creation of concentrations and options in Aboriginal and Indigenous law, the hiring of more Indigenous faculty members, and increased exposure to Indigenous culture and practices.[3]

Research is beginning to explore how law schools are engaging with calls to action 28 and 50. For example, Askew examines some of the strategies that are being adopted by law schools to respond to call to action 28, as well as some of the challenges of teaching Indigenous law.[4] Napoleon and Friedland discuss how storytelling can be a useful method for teaching Indigenous law in law school.[5] Similarly, Borrows uses Anishinaabe law to demonstrate how Indigenous law is taught best when organized in accordance with Indigenous frameworks. Borrows also explores some of the challenges associated with teaching Indigenous law, such as whether Indigenous law can be

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2 *Ibid* at 260.

3 Council of Canadian Law Deans, "Summaries of Responses to the TRC's Calls to Action" (last visited 30 October 2023), online (pdf): <ccld-cdfdc.ca/wp-content/uploads/2018/07/CCLD-TRC-REPORT-V2.pdf>.

4 Hannah Askew, "Learning from Bear-Walker: Indigenous Legal Order and Intercultural Education in Canadian Law Schools" (2016) 33:1 Windsor YB Access Just 29.

5 Val Napoleon & Hadley Friedland, "An Inside Job: Engaging with Indigenous Legal Traditions Through Stories" (2016) 61:4 McGill LJ 725.

taught in English and organized by common law categories.[6] Hewitt explores whether the focus on Indigenizing legal education under call to action 28 comes at the expense of decolonizing law schools as institutions under call to action 50.[7] Similarly, Barkaskas and Buhler examine whether the goal of reconciliation as understood in call to action 28 goes far enough, or if law schools must go further by indigenizing and decolonizing clinical legal education.[8] Habermacher investigates the institutional cultures of three Canadian law schools.[9] In doing so, Habermacher examines how these law schools are engaging with call to action 28 in order to "further tease out their culture as well as demonstrate their relevance to improve our understanding of law Faculties' responses to common contemporary challenges."[10] Finally, Parmar examines what cultural competence means in the context of reconciliation.[11] In doing so, she outlines a broad conception of cultural competence that responds to calls to action 27 and 28 by "[paying] attention to Indigenous laws, legal practices, as epistemologies as sources of ethics and professionalism."[12]

This literature makes a significant contribution to scholarship on reconciliation in Canadian legal education. However, no research to date has explored how faculty members and Indigenous law students conceptualize reconciliation, as a general concept and in the context of Canadian legal education, and whether their explanations are consistent with approaches

6 John Borrows, "Heroes, Tricksters, Monsters, and Caretakers: Indigenous Law and Legal Education" (2016) 61:4 McGill LJ 795.

7 Jeffrey G Hewitt, "Decolonizing and Indigenizing: Some Considerations for Law Schools" (2016) 33:1 Windsor YB Access Just 65.

8 Patricia Barkaskas & Sarah Buhler, "Beyond Reconciliation: Decolonizing Clinical Legal Education" (2017) 26 J L & Soc Pol'y 1.

9 Adrien Habermacher, *Institutional Cultures and Legal Education at Select Canadian Law Faculties* (DCL Thesis, McGill University, Faculty of Law, 2019) [unpublished].

10 *Ibid* at ii.

11 Pooja Parmar, "Reconciliation and Ethical Lawyering: Some Thoughts on Cultural Competence" (2019) 97:3 Can Bar Rev 526.

12 *Ibid* at 557.

to reconciliation which reproduce or transform colonial relations. This work is important because before law schools can properly respond to calls to action 28 and 50, they need to decide what reconciliation means to them. My doctoral research adds to existing scholarship on reconciliation in Canadian legal education by theorizing reconciliation and analyzing participants' understanding of this complex concept.

In this article, I examine whether law faculty members and Indigenous law students explain reconciliations in ways that are consistent with the liberal or transformative approach to reconciliation. In the first section, I introduce the liberal and transformative approaches to reconciliation. I conclude this section by explaining why only the transformative approach is capable of creating a new, healthy relationship with Indigenous peoples. In the second section, I briefly outline my research methodology. I describe my research design, sampling techniques, qualitative research methods, data analysis procedure, and methodological limitations. In the third section, I explore how participants at each law school define reconciliation and whether their explanations are consistent with the liberal or transformative approach. In the fourth section, I summarize my key findings by comparing law schools. I end this article by discussing avenues for future research.

I. APPROACHES TO RECONCILIATION

Reconciliation is a contested concept with different definitions and approaches.[13] Reflecting on the different conceptualizations of reconciliation, Borrows and Tully write:

> [S]ome say reconciliation between settlers and Indigenous peoples is an end state of some kind: a contract, agreement, legal recognition, return of stolen land, reparations, compensation, closing the gap, or self-determination. Others argue that it is

[13] John Borrows & James Tully, "Introduction" in Michael Asch, John Borrows & James Tully, eds, *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings* (Toronto: University of Toronto Press, 2018) 3; James Miles, "Teaching History for Truth and Reconciliation: The Challenges and Opportunities of Narrativity, Temporality, and Identity" (2018) 53:2 McGill J Education 294.

> more akin to an ongoing activity. Some say reconciliation embodies a relationship stretching back 12,000 years, an existential mode of being with one another and the living earth. It has also been associated with treaty relationships since early contact. For some it is the path to decolonization, for others a new form of recolonization. Some insist reconciliation must be resisted, while others see it as an essential process for ongoing relationality.[14]

There are two broad approaches to reconciliation with Indigenous peoples in Canada: (1) a liberal approach to reconciliation that promotes multiculturalism and seeks to make Indigenous peoples equal with settlers, all the while leaving the legitimacy and authority of the Canadian settler colonial state intact, and (2) a transformative approach to reconciliation that challenges state authority, promotes Indigenous sovereignty, self-determination, and resurgence, and seeks to transform existing settler colonial laws and institutions.[15]

A. THE LIBERAL APPROACH TO RECONCILIATION

Grounded in liberal notions of equality and individual rights derived from Western European philosophy, the liberal approach to reconciliation seeks to repair the relationship between Indigenous peoples and the Canadian state through the recognition of "soft" rights, including linguistic and cultural rights, and equal treatment and equal access to social and economic opportunities.[16] While soft rights can address some of the problems facing Indigenous communities caused by centuries of racist and discriminatory laws and practices, the liberal approach to reconciliation is ultimately inadequate

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14 Borrows & Tully, *supra* note 13 at 4.

15 Aimée Craft & Paulette Regan, "Introduction" [Craft & Regan, "Introduction"] in Aimée Craft & Paulette Regan, eds, *Pathways of Reconciliation: Indigenous and Settler Approaches to Implementing the TRC's Calls to Action* (Winnipeg: University of Manitoba Press, 2020) xi [Craft & Regan, *Reconciliation*]; David B MacDonald, "Paved with Comfortable Intentions: Moving Beyond Liberal Multiculturalism and Civil Rights Frames on the Road to Transformative Reconciliation" in Craft & Regan, *Reconciliation*, *supra* note 15, 3.

16 MacDonald, *supra* note 15.

because it locates the harms of settler colonialism in the past, it allows settlers to feel good about themselves without having to acknowledge their own privilege or make any uncomfortable changes, and it leaves the settler colonial state intact.[17]

B. The Transformative Approach to Reconciliation

A transformative approach to reconciliation is needed to adequately repair Canada's relationship with Indigenous peoples.[18] Proponents of this approach reject a liberal approach to reconciliation that "perpetuate[s] unjust relationships of dispossession, domination, exploitation, and patriarchy" and seeks to "reconcile Indigenous people and settlers to the status quo".[19] For them, reconciliation means to "conciliate *again*"—to transform relationships of conflict into relationships of conciliation and sustainability.[20] It is a multinational political, social, and historical project that goes beyond apologies and acts of forgiveness and requires a "transformation of consciousness" or "paradigm shift".[21] Proponents of this approach to reconciliation argue for restitution, a renewed focus on treaty relationships, the restoration of Indigenous lands, and the regeneration and resurgence of Indigenous languages, cultures, laws, and governing structures.[22] Compared to "soft" rights, these "hard" rights are less compatible with the current structures of the Canadian state. Old colonial structures will need to be unsettled, and new political arrangements will need to be imagined—ones "where Indigenous [p]eoples self-determine

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17 *Ibid*; Glen S Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press, 2014).

18 Asch, Borrows & Tully, *supra* note 13; MacDonald, *supra* note 15; Paulette Regan, "Reconciliation and Resurgence: Reflections on the TRC Final Report" in Asch, Borrows & Tully, *supra* note 13, 209.

19 Borrows & Tully, *supra* note 13 at 5.

20 James Tully, "Reconciliation Here on Earth" in Asch, Borrows & Tully, *supra* note 13, 83 at 94 [emphasis in original].

21 Kiera Ladner, "Proceed with Caution: Reflections on Resurgence and Reconciliation" in Asch, Borrows & Tully, *supra* note 13, 245 at 248–49.

22 Asch, Borrows & Tully, *supra* note 13; MacDonald, *supra* note 15; Regan, *supra* note 18.

their own futures either inside or outside of Canada, or some combination of both."[23]

This means that transformative reconciliation requires decolonization. Decolonization refers to the "long-term process involving the bureaucratic, cultural, linguistic and psychological divesting of colonial power."[24] Tuck and Yang argue that decolonization "require[s] a change in the order of the world"[25] and thus cannot be treated as a social justice project. For them, decolonization entails the "repatriation of Indigenous land and life."[26] A growing number of scholars recognize that in order for reconciliation to be effective, it must involve decolonization.[27] Waziyatawin argues that:

> [I]f Canadians, Americans, and Indigenous [p]eoples are going to create a peaceful and just society, all oppression must cease. Colonization, by its very nature, is antithetical to justice. Therefore, complete decolonization is a necessary end goal for a peaceful and just society.[28]

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23 MacDonald, *supra* note 15 at 8.

24 Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd ed (London: Zed Books, 2012) at 98.

25 Eve Tuck & K Wayne Yang, "Decolonization is not a Metaphor" (2012) 1:1 Decolonization: Indigeneity, Education & Society 1 at 31.

26 *Ibid* at 21.

27 See e.g. Jeff Corntassel & Cindy Holder, "Who's Sorry Now? Government Apologies, Truth Commissions, and Indigenous Self-Determination in Australia, Canada, Guatemala, and Peru" (2008) 9 Human Rights Review 465; Jeff Corntassel, Chaw-win-is & T'lakwadzi, "Indigenous Storytelling, Truth-Telling, and Community Approaches to Reconciliation" (2009) 35:1 English Studies in Canada 137; William Julius Mussell, "Decolonizing Education: A Building Block for Reconciliation" in Marlene Brant Castellano, Linda Archibald & Mike DeGagné, eds, *From Truth to Reconciliation: Transforming the Legacy of Residential Schools* (Aboriginal Healing Foundation, 2008) 321; Paulette Regan, *Unsettling the Settler Within: Indian Residential Schools, Truth Telling, and Reconciliation in Canada* (Vancouver: UBC Press, 2010); Brian Rice & Anna Snyder, "Reconciliation in the Context of Settler Society: Healing the Legacy of Colonialism in Canada" in Castellano, Archibald & DeGagné, *supra* note 27, 45.

28 Waziyatawin, "You Can't Un-Ring a Bell: Demonstrating Contrition Through Action" in Gregory Young-Ing, Jonathan Dewar & Mike DeGagné, eds,

It makes sense that transformative reconciliation requires decolonization as a first step. It is impossible to create a relationship between the Canadian state and Indigenous peoples that is accountable to Indigenous sovereignty and futurity if the state, through its colonial laws and institutions, continues to hold power over Indigenous peoples.

While decolonization calls for the divesting of colonial power, I do not believe this requires the total destruction of settler institutions and the separation of Indigenous peoples from non-Indigenous society. Borrows and Tully note that some scholars argue that a healthy relationship between Indigenous peoples and the state is not possible and, therefore, Indigenous resurgence must occur separate from settler society. [29] While I agree that separation between Indigenous peoples and non-Indigenous people and the Canadian state will sometimes be necessary to create a new relationship built on mutual respect, I agree with Borrows and Tully[30] that separation is not a healthy strategy in all situations. It is possible to create positive change from within a society. Borrows, for example, notes that secession is "largely a colonizer's activity" and that instead of speaking about severing relations with others, Indigenous peoples "usually speak of creating better relations".[31] Creating better relations will sometimes involve making improvements to settler institutions rather than destroying them. As Borrows notes, "[a] hammer, saw, and backhoe are instruments of creation *and* destruction. It is possible to use these tools to undo or renovate the thing that has been created."[32]

Proponents of the transformative approach to reconciliation argue that the *United Nations Declaration on the Rights of Indigenous Peoples*[33] can "[serve as] a road map for fundamental

Response, Responsibility, and Renewal: Canada's Truth and Reconciliation Journey (Aboriginal Healing Foundation, 2009) 193 at 196.

29 Borrows & Tully, *supra* note 13.

30 *Ibid*.

31 John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 167 [Borrows, *Canada's Indigenous Constitution*].

32 *Ibid* at 167 [emphasis in original].

33 UNGAOR, 61st Sess, UN Doc A/RES/61/295 (2007) GA Res 295, [*UNDRIP*].

transformative change at all layers of Canadian government and society."[34] The TRC also called for *UNDRIP* to be the framework for reconciliation in Canada:

> In its 2012 *Interim Report*, the TRC recommended that federal, provincial, and territorial governments, and all parties to the Settlement Agreement, undertake to meet and explore the *United Nations Declaration on the Rights of Indigenous Peoples*, as a framework for reconciliation in Canada. We remain convinced that the *United Nations Declaration* provides the necessary principles, norms, and standards for reconciliation to flourish in twenty-first-century Canada.[35]

UNDRIP is an international instrument on the rights of Indigenous peoples adopted by the United Nations on 13 September 2007 "by a majority of 144 states in favour, 4 states against (Australia, Canada, New Zealand, and the United States), and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, and Ukraine)."[36] All four countries that voted against have reversed their position and now support *UNDRIP*.[37] *UNDRIP* recognizes that Indigenous peoples have the right to self-determination, self-government, and the right to "maintain and strengthen their distinct political, legal, economic, social and cultural institutions",[38] among many other important rights. *UNDRIP* does have one serious limitation in Article 46(1), which puts member states' sovereignty first and foremost:

> Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the

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34 Sheryl Lightfoot, "Conclusion" in Craft & Regan, *Reconciliation*, *supra* note 15, 268 at 270. See also Craft & Regan, "Introduction", *supra* note 15; *MacDonald*, *supra* note 15; *Regan*, *supra* note 18.

35 TRC Final Report, *supra* note 1 at 21.

36 United Nations, "United Nations Declaration on the Rights of Indigenous Peoples" (last visited 1 November 2023), online: <un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>.

37 *Ibid*.

38 *UNDRIP*, *supra* note 33, art 5.

> United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.[39]

Article 46(1) weakens *UNDRIP*'s transformative potential and is precisely the thing that Indigenous anti-colonial scholars have warned about the liberal approach to reconciliation. Using the principle of territorial integrity to deny Indigenous peoples' right to exercise authority over their lands would undermine transformative reconciliation and be contrary to *UNDRIP* as a whole. For *UNDRIP* to be an effective framework for implementing transformative reconciliation in Canada, the federal government must read Article 46(1) in the context of the whole instrument and other international human rights laws and must accept Indigenous peoples' full right to self-determination without any discriminatory qualifications or conditions. In the last part of this section, I discuss what engaging with transformative reconciliation in Canadian legal education must involve.

C. Transformative Reconciliation in Canadian Legal Education

Implementing transformative reconciliation will require educational institutions to engage with a different kind of learning and teaching.[40] As previously mentioned, the Canadian government has a very long history of using education as an instrument of oppression against Indigenous peoples. It is unsurprising, then, that Canadian law schools have devalued Indigenous law. *UNDRIP* and the TRC's calls to action provide a useful framework for implementing transformative reconciliation in education. Articles 14, 15, and 21 of *UNDRIP* set out the educational rights of Indigenous peoples. Article 14 says that Indigenous peoples have the right to establish and control their own educational systems, the right to participate in the educational systems of the state without discrimination, and the

39 *Ibid*, art 46(1).

40 Tully, *supra* note 20.

right to an education provided in their own culture and language. Article 15(1) says that Indigenous peoples have the right to have their cultures and traditions reflected in the educational systems of the state. Lastly, Article 21(1) says that Indigenous peoples have the right to the improvement of their social and economic conditions, including in the area of education. All these rights must be implemented in order for transformative reconciliation in Canada to occur.

The TRC's calls to action 6–12 specifically address education. They call on the federal government to eliminate educational gaps and discrepancies in funding between Indigenous Peoples and non-Indigenous people in all levels of education. In particular, call to action 10 calls on the federal government to draft a new "Aboriginal education legislation" that would incorporate the following principles:

i. Providing sufficient funding to close identified educational achievement gaps within one generation.

ii. Improving education attainment levels and success rates.

iii. Developing culturally appropriate curricula.

iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.

v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.

vi. Enabling parents to fully participate in the education of their children.

vii. Respecting and honouring Treaty relationships.[41]

Although principles (v) and (vi) are directed at primary and secondary education, principles (i)–(iv) and (vii) are relevant in the context of legal education. These principles are "soft" rights that will address some of the education issues faced by Indigenous peoples. However, because they simply make improvements to Canada's colonial education system, they

41 TRC Final Report, *supra* note 1 at 149–50.

cannot on their own create transformative reconciliation between Indigenous peoples and the Canadian state. For this to happen, they must be implemented in conjunction with the "hard" rights set out in Articles 14, 15, and 21 of *UNDRIP*. That is, for transformative reconciliation in education to occur, the federal government must support Indigenous peoples in their efforts to establish their own educational institutions, grounded in their own cultures and languages, and must work with the provinces and Indigenous communities to make secondary and post-secondary schools healthy working environments for Indigenous students.

In the context of Canadian legal education, the TRC has two recommendations that will assist law schools in implementing transformative reconciliation. Call to action 28 obliges law schools to create a mandatory course in Aboriginal people and the law, while call to action 50 requires the federal government to work with Indigenous communities and organizations to fund the establishment of Indigenous law institutes. Borrows has advocated for the creation of "multi-juridical Indigenous law schools" where students "learn how to compare and contrast sources of authority within legal systems that are committed to unity through understanding, critiquing, and applying deep jurisprudential diversity."[42] Multi-juridical Indigenous law schools would teach Indigenous law alongside common law and civil law. They would also work with local Indigenous communities "to ensure that law is taught in a way that is attentive to practical procedural and substantive concerns."[43] Establishing Indigenous law schools that are separate from settler law schools would be the strongest possible response to call to action 50. Transformative reconciliation requires settler law schools to provide support to local Indigenous communities interested in developing their own law schools.

Creating Indigenous law schools will require enormous resources. In 2019, the federal government announced it would be investing $10 million over five years to support Indigenous

42 Borrows, *Canada's Indigenous Constitution*, *supra* note 31 at 228.

43 *Ibid* at 229.

law initiatives across the country through the Justice Partnership and Innovation Program (JPIP). Funding was used to support multi-year projects (up to four years) that sought to "[d]evelop Indigenous laws through research into traditional or customary practices, including in modern forms or as modified over time", "[s]upport the use of Indigenous laws by Indigenous communities", and "[i]ncrease the understanding of Indigenous laws within Indigenous communities and by all Canadians."[44] The funding was available to bands, tribal councils, and self-governing First Nations, Métis and Inuit, Canadian not-for-profit and non-governmental organizations, and Canadian educational institutions.[45] The deadline to apply for funding was 1 November 2019. In May 2021, the government announced that it would be using $9.5 million to fund 21 projects that respond to call to action 50.[46] To engage with transformative reconciliation, settler law schools can assist local Indigenous communities to apply for similar funding to establish Indigenous law schools.

In the meantime, settler law schools can better engage with Indigenous law by establishing Indigenous law institutes.[47] Creating Indigenous law institutes within settler law schools can be a powerful response to call to action 50. Although they will operate within settler law schools, these institutes can make a significant contribution to the resurgence of Indigenous law if law school and university administrators support their development and allow them to operate with relative autonomy. That is, while these institutes will rely on university support and funding, Indigenous peoples and communities must have control

44 Department of Justice Canada, "Justice Partnership and Innovation Program" (last modified 20 August 2021), online: <justice.gc.ca/eng/fund-fina/jsp-sjp/pfo-pfc.html> [perma.cc/FCQ8-24N7].

45 *Ibid*.

46 Department of Justice Canada, "Revitalization of Indigenous laws at centre of Government of Canada funding" (last modified 17 May 2021), online: <canada.ca/ en/department-justice/news/2021/05/revitalization-of-indigenous-laws-at-centre-of-government-of-canada-funding.html>.

47 Borrows, *Canada's Indigenous Constitution*, *supra* note 31.

over how they are developed. This is the only way they will achieve their full potential.

In addition to implementing calls to action 28 and 50, transformative reconciliation requires law schools to make non-curricular changes to eliminate barriers in Canadian legal education. Engaging with Indigenous law will not effectively contribute to transformative reconciliation in legal education if Indigenous students continue to experience alienation and discrimination. Canadian law schools must make changes to their admissions policies, social environments, faculty hiring and student recruitment practices, teaching and evaluation methods, and student support systems to make law schools healthy environments where Indigenous students can succeed.

In the third section of this article, I will use this theoretical framework to explore whether law schools are engaging with the liberal or transformative approach to reconciliation. Before doing so, I outline my research methodology in the next section.

II. METHODOLOGY

A. RESEARCH DESIGN

My qualitative study employed one-on-one semi-structured interviews with faculty members involved in responding to calls to action 28 and 50[48] and Indigenous law students. I adopted a case study method for my study whereby I took each law school's engagement with reconciliation as a specific case or unit of analysis. The case study method involves "an in-depth analysis of a case, often a program, event, activity, process, or one or more

[48] After the TRC report and calls to action were published, many Canadian law schools created a specific 'TRC Committee' comprised of faculty members—and sometimes students and staff—to respond to calls to action 28 and 50. However, not all law schools created a formal TRC Committee. Some law schools created reading groups where faculty members regularly meet to read the TRC report and discuss how calls to action 28 and 50 can be implemented at their institution. Some law schools used a committee created before the TRC report was released to discuss how their institution should respond to calls to action 28 and 50.

individuals."[49] Cases can be located at the micro (individual), meso (organization, institution), or macro (communities, societies) levels.[50] Since I am studying law faculty members and Indigenous law students' conceptualizations of reconciliation, I locate my study at the meso level of analysis. Using a case studies method with three cases allows me to analyze cases individually and in dialogue with each other to identify similarities and differences. I used one-on-one interviews because they "provide[d] opportunities for mutual discovery, understanding, reflection, and explanation via a path that [was] organic, adaptive, and oftentimes energizing."[51]

B. SAMPLING

My study used purposeful and snowball sampling. Purposeful sampling is when research participants are selected because they "fit the parameters of the project's research questions, goals, and purposes."[52] Faculty members play an important role in shaping how law schools respond to calls to action 28 and 50. Conducting interviews with them helped me explore these responses, as well as their strengths and limitations. The decisions that these faculty members make have a profound impact on Indigenous law students. Including Indigenous law students in my study allowed me to investigate how these decisions are being experienced on the ground. Conducting interviews with Indigenous law students allowed me to explore their experiences in law school, their thoughts on reconciliation and calls to action 28 and 50, and their opinions of the quality of their institution's response to calls to action 28 and 50. My study also used snowball sampling. During the interviews, I asked participants if

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49 John W Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 4th ed (Thousand Oaks: SAGE Publications, Inc, 2014) at 14.

50 Peter G Swanborn, *Case Study Research: What, Why and How?*, (Thousand Oaks: SAGE Publications, Inc, 2010).

51 Sarah J Tracy, *Qualitative Research Methods: Collecting Evidence, Crafting Analysis, Communicating Impact*, 2nd ed (Hoboken: John Wiley and Sons, Inc, 2019) at 156.

52 *Ibid* at 82.

they knew other faculty members or Indigenous law students who they thought would like to participate in my study. Several participants gladly suggested colleagues for potential interview participation. The participants either provided me with their contact information or provided their colleagues with a letter of invitation and my contact information.

As of 2023, there are 24 law schools in Canada: 7 in Western Canada,[53] 14 in Central Canada,[54] and 3 in Atlantic Canada[55].[56] I chose to conduct one-on-one interviews with faculty members involved in responding to calls to action 28 and 50 and Indigenous law students at the University of Ottawa ("UOttawa Law"), Dalhousie University ("Dal Law"), and the University of Victoria ("UVic Law"). UOttawa Law does not have a TRC Committee. Instead, it has an Indigenous Legal Traditions Committee (ILTC). One of the ILTC's responsibilities is implementing a response to the TRC's calls to action. Dal Law created a TRC Committee in October 2016. The Committee's mandate is to address the TRC's calls to action. UVic Law does not have a TRC Committee. Instead, the law school created a reading group where faculty members regularly meet to discuss the TRC report and calls to action.

When selecting the research sites, factors that I considered included engagement with the TRC's calls to action, geographical location, class size, and Indigenous representation. To present a cross-section of Canadian legal education, it was important for me to include one law school from each region of Canada.

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53 University of Victoria, University of British Columbia, Thompson Rivers University, University of Alberta, University of Calgary, University of Saskatchewan, and University of Manitoba.

54 Lakehead University, University of Western Ontario, Queen's University, University of Windsor, University of Toronto, Ryerson University, York University, University of Ottawa (Common Law and Civil Law), McGill University, Université de Montréal, Université du Québec à Montréal, Université de Sherbrooke, and Université Laval.

55 University of New Brunswick, Université de Moncton, and Dalhousie University.

56 Federation of Law Societies of Canada, "Approved Canadian Common Law School Programs" (last visited 30 October 2023), online (pdf): <flsc.ca/wp-content/uploads/2023/05/Common-Law-Schools-V4.pdf>.

First-year class sizes are relatively small at UVic Law (113 students in 2017)[57] and Dal Law (167 students in 2017)[58] compared to UOttawa Law (320 students in the English Common Law Section in 2017).[59] According to the 2016 census, there were 21,815 Aboriginal peoples[60] in Ottawa,[61] 15,190 in Halifax,[62] and 3,625 in Victoria,[63] representing 2.3%, 3.8%, and 4.2% of the population, respectively.[64] National statistics on the amount of Indigenous representation in Canadian law schools do not currently exist. However, I was able to obtain some information

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57 Law School Admission Council, "University of Victoria Faculty of Law" (last visited 30 October 2023), online: <lsac.org/choosing-law-school/find-law-school/canadian-law-schools/university-victoria>.

58 Law School Admission Council, "Dalhousie University Schulich School of Law" (last visited 30 October 2023), online: <lsac.org/choosing-law-school/find-law-school/canadian-law-schools/dalhousie-university>.

59 Law School Admission Council, "University of Ottawa Faculty of Law" (last visited 30 October 2023), online: <lsac.org/choosing-law-school/find-law-school/canadian-law-schools/university-ottawa-faculty> [LSAC Ottawa].

60 I use the term "Aboriginal" here because this is the term used by Statistics Canada.

61 Statistics Canada, "Census Profile, 2016 Census (Ottawa)" (29 November 2017), online (table): <www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Geo2=PR&Code2=01&SearchType=Begins&SearchPR=01&TABID=1&B1=All&type=0&Code1=3506008&SearchText=ottawa>.

62 Statistics Canada, "Census Profile, 2016 Census (Halifax)" (29 November 2017), online (table): <www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Geo2=PR&Code2=01&SearchType=Begins&SearchPR=01&TABID=1&B1=All&type=0&Code1=1209034&SearchText=halifax>.

63 Statistics Canada, "Census Profile, 2016 Census (Victoria)" (29 November 2017), online (table): <www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Geo2=PR&Code2=01&SearchType=Begins&SearchPR=01&TABID=1&B1=All&type=0&Code1=5917034&SearchText= victoria>.

64 Census data provides an imperfect snapshot of the level of Indigenous presence in the cities in which the three law schools are located. For example, Aboriginal identity is based on self-identification, and data only exists for individuals residing in private households.

concerning Indigenous student representation at UVic Law and Dal Law. UVic Law admitted 2 first-year Indigenous students into their 2020 JD class and 13 first-year Indigenous students into their 2020 JID class. Dal Law admitted 8 first-year Indigenous students into their 2020 JD program. UOttawa Law did not provide me with information regarding Indigenous student representation. However, according to the Law School Admissions Council, Indigenous students make up approximately 1% of the student body at UOttawa Law.[65]

C. INTERVIEWS

I conducted 24 one-on-one semi-structured interviews with faculty members and Indigenous law students between January and May 2020. I completed 16 face-to-face interviews and 8 telephone interviews. I originally obtained ethics clearance to conduct face-to-face interviews. However, while conducting face-to-face interviews at Dalhousie University in mid-February, I realized that I would not be able to conduct all of the interviews during my short stay in Halifax. I used telephone interviews because, as a graduate student, I did not have the financial resources to return to Halifax and Victoria for a second time. I obtained ethics clearance to conduct telephone interviews at the end of February. Before beginning each telephone interview, I asked participants to read and sign a revised consent form that explained the privacy concerns associated with conducting telephone interviews with a mobile application. As the spread of COVID-19 restricted non-essential travel beginning in March, it was good that I transitioned to telephone interviews.

The interviews lasted between 30 minutes and 1.5 hours. At Dal Law, I conducted five interviews with faculty members and four interviews with Indigenous law students. At UVic Law, I conducted seven interviews with faculty members and two interviews with Indigenous law students. At UOttawa Law, I conducted three interviews with faculty members and three interviews with Indigenous law students. In April 2020, I received an email from a member of the ILTC at UOttawa Law

65 LSAC Ottawa, *supra* note 59.

informing me that because the committee is in the middle of working through what their response to the TRC will be, and that is being done collectively, the remainder of the committee wants to provide me with feedback collectively, rather than be interviewed separately. After careful consideration and discussion with my doctoral supervisor, I accepted the committee's offer to provide me with a collective response to my interview questionnaire. I sent the committee a copy of my interview questionnaire and received confirmation that I could use the data from the three interviews that I had already conducted. Therefore, in addition to conducting six interviews at UOttawa Law, I also obtained a collective response from the ILTC.

I used one-on-one semi-structured interviews to explore, among other things, participants' understanding of reconciliation and what it means in the context of legal education. I asked participants to define reconciliation and explain what it means to them in the context of legal education. The goal of this part of the interview was to have participants develop thoughts on reconciliation and the best structure and learning environment for law students. There were many benefits of using semi-structured interviews for my study. They were flexible and organic in nature, they encouraged creativity, and they allowed for the emergence of more nuanced data.[66]

D. Data Analysis Strategy

Interview recordings were transcribed in a three-step process. First, each interview was transcribed verbatim. Real names were deleted and replaced with assigned pseudonyms. Second, research participants were given the opportunity to participate in the transcription process by reviewing their transcripts and making corrections or additional clarifications to their contributions using the *track changes* feature. This process helped to "validate the transcripts, to preserve research ethics, and to empower the interviewees by allowing them control of

[66] Tracy, *supra* note 51.

what [is] written."[67] Participants had three weeks to complete this process. Fifteen participants indicated on the consent form that they wanted to review their transcript for accuracy and completeness, but only 10 participants responded to my email invitation. Lastly, I edited the transcripts to make sure the documents read coherently. This step involved eliminating repetitive words and most non-lexical conversational sounds such as *um*, *hm*, or *uh*. Transcription is a political process; what we as researchers choose to include and exclude, from spelling, grammar, and punctuation to tone, facial expressions, and emotions, is the result of our positionality and our interest in the research. To reconcile this, I endeavored to preserve the words of the research participants throughout the transcription, analysis, and writing processes.

After completing the transcripts, I identified relevant themes based on the research and interview questions. To do this, I engaged in an iterative analysis whereby I grounded my analysis in the current literature and the interview data.[68] Before organizing or coding the data, I read through the interview transcripts to get a sense of what was happening. After the "data immersion phase",[69] I began organizing the data. To do this, I used a computer-aided process[70] whereby I colour-coded the interview transcripts using certain colours to correspond with specific themes. After colour-coding almost 350 pages of interview data, I kept these coded documents open and created a new document titled 'Doctoral Study Analysis'. I then created a bolded heading for each theme and copied and pasted under each heading the relevant colour-coded data.

E. LIMITATIONS

67 Irit Mero-Jaffe, "'Is That What I Said?' Interview Transcript Approval by Participants: An Aspect of Ethics in Qualitative Research" (2011) 10:3 International J of Qualitative Methods 231 at 231.

68 Tracy, *supra* note 51 at 209.

69 *Ibid* at 213.

70 *Ibid*.

All research projects have methodological limitations. I would like to discuss four methodological limitations of my study. My study sought input from faculty members involved in responding to the TRC's calls to action and Indigenous law students at the UOttawa Law, Dal Law, and the UVic Law. The first limitation concerns which faculty members I interviewed for my study. Because one of the purposes of my study was to examine the views of key faculty members who are actively working on implementing the TRC's calls to action, I did not interview faculty members not involved in this work. As a result, my study is not representative of all faculty members at the three law schools. Future research should examine how faculty members not involved in implementing the TRC's calls to action conceptualize reconciliation, as their views may differ from those expressed in this article.

The second limitation concerns the number of law schools included in my study. I conducted my research at 3 of Canada's 24 law schools. Consequently, my findings and recommendations may not reflect the thoughts and experiences of faculty members and Indigenous students at other law schools. Future research should examine how these other law schools are responding to the TRC's calls to action.

The third limitation concerns the legal traditions of the three law schools under investigation. I conducted my research at law schools that teach the common law legal tradition. The UOttawa Law offers a degree in civil law. I did not interview faculty members or Indigenous students in the civil law section because I do not speak French. Future research should examine how law schools that teach civil law are responding to the TRC's calls to action.

The fourth limitation concerns the lack of non-Indigenous students in my study. I specifically decided to seek input only from Indigenous law students for two important reasons. First, because research on Indigenous peoples has historically been extractive and violent, I wanted to help unsettle the institution of research by placing Indigenous students' voices and experiences at the centre of the research process. Second, while all law students, Indigenous and non-Indigenous alike, are experiencing their institution's response to the TRC's calls to action on the

ground, Indigenous law students are in a particularly unique position to comment on the adequacy of their response as they have historically been excluded from and marginalized by the Canadian legal profession.[71] Future research should explore what non-Indigenous students have to say about how their law schools are responding to the TRC's calls to action. This is consistent with anti-colonialism, which, as Simmons and Dei[72] note, asserts that the dominant population "must be prepared to invoke and act on their complicities and responsibilities through a politics of accountability in order to bring about change."[73] It will of course be important for researchers to find ways for non-Indigenous students to contribute in meaningful ways that do not reassert their power and privilege over Indigenous peoples.

III. FINDINGS

A. UOttawa Law

Most UOttawa Law faculty members and law students that I interviewed described reconciliation, both generally and in the context of legal education, in a manner that is consistent with the transformative approach to reconciliation. According to its collective response, the ILTC does not use the term *reconciliation*. Instead, it advocates for *decolonization*. This is consistent with the "Indigenous Pathways Statement" made by Adam Dodek, former dean of the common law section, in July 2019, wherein he says that the law school is committed to providing "decolonizing spaces, pedagogies, and knowledge in order to prepare our learners, staff and faculty for participation in respectful and reciprocal relationships with Indigenous peoples and

71 Other racialized groups have also been excluded from and marginalized by the Canadian legal profession. However, the TRC report, and calls to action 28 and 50 in particular, seek to right the perpetual wrongs done to Indigenous Peoples by the Canadian state.

72 Marlon Simmons & George JS. Dei, "Reframing Anti-Colonial Theory for the Diasporic Context" (2012) 1:1 Postcolonial Directions in Education 67.

73 *Ibid* at 76.

communities".[74] Advocating for decolonization is consistent with the transformative approach to reconciliation, which sees decolonization as an essential step in the long-term process of transforming the relationship between Indigenous peoples and the Canadian state.[75] In its collective response, the ILTC does not define reconciliation or decolonization or explain the distinction that it makes between these two terms. Fortunately, my interviews with UOttawa Law faculty members and Indigenous law students allowed me to fill in the gaps.

Most of the participants indicated that they use the term *reconciliation*. In defining the term, they said that it is a relationship between Indigenous peoples, non-Indigenous peoples, and the Canadian state, that is process-oriented. As one faculty member put it:

> [R]econciliation is a relationship; it's not necessarily a goal or place to reach. It's something that constantly needs to be worked on. It's something that is very difficult, and something that is aspirational in terms of how we interact with each other in the community" (Participant #2).[76]

Participants said that this relationship must be grounded in truth—truth about the historical relationship between Indigenous peoples and settler governments and peoples, as well as truth about past and ongoing harms committed against Indigenous peoples and their communities, including treaty violations, the residential school system, harmful child welfare policies, and the overincarceration of Indigenous peoples in the Canadian criminal justice system. Two participants—a faculty member and a law student—said that true reconciliation cannot be achieved without understanding and addressing these harms:

> I don't think you can have true reconciliation without some ability to address past wrongs. The residential school

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74 Adam Dodek, "Indigenous Pathways Statement" (30 July 2019), online: <web.archive.org/web/20200820225358/commonlaw.uottawa.ca/en/news/indigenous-pathways-statement>.

75 See e.g. Corntassel & Holder, *supra* note 27; Waziyatawin, *supra* note 28.

76 This (and subsequent) material is quoted from statements submitted directly to the author.

> settlements and those types of things are in the right direction, but there is the whole issue of the impact of assimilation policy generally beyond the residential schools and the harms created by them. The child welfare system . . . [and] the prison system [are examples of how] there are so many areas that need addressing in terms of the impact of past wrongs (Participant #1).

> I like to say we cannot look at reconciliation until we actually accept truth. Canada needs to know what the truth is. The people of Canada, not the government. The people of Canada, they do not know. They do not know that these lands were Indigenous Peoples' territory. We lived here. Because we lived here, there was a functioning society here. That means we have lost. We had our way, and that was assimilated. That was taken away. So, non-Indigenous people of Canada don't know the truth (Participant #5).

Conceptualizing reconciliation as grounded in truth is consistent with the transformative approach to reconciliation. The transformative approach says that the purpose of reconciliation is to transform the relationship between Indigenous peoples and the Canadian state from one of conflict into a relationship of conciliation and sustainability.[77] In order for this "paradigmatic shift"[78] to occur, we must grapple with the truth about this historical relationship.

Of course, understanding these past and ongoing harms and how they structure the relationship between Indigenous peoples and non-Indigenous people and the Canadian state is not enough. Settlers and colonial governments must act on this knowledge to transform this relationship from one based on prejudice and violence to one based on respect and reciprocity. As one student put it, "reconciliation means that the government of Canada fixes what they broke . . . through acknowledgement of past wrongdoings and continued wrongdoings" (Participant #5).

Participants used a variety of concepts to describe this transformation process. One student talked about the importance of recognizing Indigenous autonomy and

77 Tully, *supra* note 20.

78 Ladner, *supra* note 21 at 250.

sovereignty, and a faculty member discussed the need to "understand the history of Indigenous peoples and settler communities and try to, through self-determination and nation-to-nation contact, come to new understandings of how that relationship can move forward" (Participant #3). This is consistent with the transformative approach to reconciliation, which promotes Indigenous sovereignty and self-determination.[79] Another faculty member discussed the idea of using treaty federalism as a framework for reconciliation:

> I think we need to embrace the principle of treaty federalism much more rigorously. The idea of nation-to-nation treaties that are in a sense constitutional documents. That kind of recognition of Indigenous sovereignty as an equal, third order of government to the federal and provincial governments within their spheres of authority, however that may be negotiated (Participant #1).

Treaty federalism refers to the nation-to-nation relationships created by written treaty agreements between First Nations and the Crown.[80] Treaty federalism "requires structural and institutional changes in the idea of federalism and representative governments"[81] and involves at least eight goals:

> (1) recognizing of the legal personality of Treaty Nations already acknowledged by imperial treaties; (2) consolidating and implementing the existing treaties; (3) the immediate vesting of the specific power of self-determination of Treaty Nations; (4) including Treaty Nations in the national equalization formula; (5) limiting the powers of federal and provincial governments over Treaty Nations to those that were formally delegated to the Crown in the treaties; (6) broadly acknowledging the right of Aboriginal nations to enter into new treaties where there are no existing treaties; (7) including the Treaty Nations in the electoral apportionment of federal and provincial governments; and (8)

79 Craft & Regan, "Introduction", *supra* note 15; MacDonald, *supra* note 15.

80 James [Sa'ke'j] Youngblood Henderson, "Empowering Treaty Federalism" (1994) 58: 2 Sask L Rev 241.

81 James [Sa'ke'j] Youngblood Henderson, "UN Declaration on the Rights of Indigenous Peoples and Treaty Federalism in Canada" (2019) 24:1 Constitutional Studies 17 at 41.

> filling gaps in the old treaties in accordance with UN human rights covenants.[82]

Treaty federalism is a bold initiative that forms an essential part of the reconciliation process. The importance of treaty relationships is recognized by the TRC and *UNDRIP*. The TRC's call to action 45 calls on the federal government to work with Indigenous Peoples to create a Royal Proclamation of Reconciliation.[83] Call to action 45(iii) says that one of the commitments to be included in this Proclamation is the "renew[al] or establish[ment] [of] Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future."[84] Similarly, Article 37(1) of *UNDRIP* says that:

> Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.[85]

As discussed in the first section of this article, a renewed focus on treaty relationships is an important component of transformative reconciliation.

Not all participants, however, used the term *reconciliation*. One student criticized this concept for placing the burden of change on Indigenous peoples' shoulders:

> Honestly, it's such a brutal term. Reconciliation is something that is not for us, you know? It's something that is required of other people, but for some reason, the burden seems to be put on Indigenous peoples. The burden seems to be that Indigenous peoples must reconcile with the state in order to allow for this country to continue (Participant #6).

Instead of reconciliation, this participant advocated for engaging with the recognition of human rights and human dignity and

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82 *Ibid*.

83 TRC Final Report, *supra* note 1 at 252.

84 *Ibid* at 253.

85 *UNDRIP*, *supra* note 33, art 37(1).

decolonization, which they defined as "the dismantling of the settler state to allow for more positive and healthy relationships among people" (Participant #6). This participant's criticism of reconciliation is consistent with the work of transformative reconciliation scholars and decolonial scholars, both of whom argue that reconciliation that demands Indigenous peoples to reconcile themselves to the state is a form of recolonization.

In their collective response, the ILTC describes what reconciliation means in the context of legal education by referring me to former dean Dodek's 2019 statement wherein he talks about the importance of engaging with "Indigenous knowledge, legal orders, governance, nations, communities and people" and "creating and maintaining an institution of legal pedagogy that amplifies and features Indigenous pedagogy, methodology and research".[86] This was reiterated in my interviews with faculty members and law students. Participants talked about how placing Indigenous laws alongside the common law and the civil law is a necessary step in the reconciliation process. One faculty member noted that for law schools to fully engage with reconciliation, they need to become "juridical system[s] that really recognize not just the civil law system and common law system but the numerous Indigenous laws that are present and evolving" (Participant #3). Another faculty member reiterated the need to ensure that law students do not receive a legal education that ignores Indigenous laws:

> I think all students, if they're going to be a lawyer in this country, need a strong grounding in not only the issues of Aboriginal community relations, but also an understanding that Indigenous peoples have law. They've been marginalized and made obsolete, but that's not right, and so we need to change that. And as lawyers, as legal educators, educators about the law, we are not fulfilling our duty as legal educators if we're missing a whole source of law that's Indigenous to this territory (Participant #1).

Several students said that law schools lack perspectives on Indigenous laws, and that this content is often glossed over or taught from an Aboriginal law/Indigenous–Crown perspective.

[86] Dodek, *supra* note 74.

For them, reconciliation in legal education means, first, acknowledging that Indigenous peoples have complex laws that have existed for millennia, and second, incorporating that content into the law school curriculum. As one student put it, "we all had our own legal orders. So, law school reconciliation, to me, is that law school[s] teach that" (Participant #5).

All participants indicated that learning about Indigenous law must be a mandatory component of the law school curriculum, and that this needs to occur at the beginning of law school. All participants advocated for a standalone mandatory first-year course in Indigenous law. As the ILTC notes in its collective response, "[a]s for the mandatory first-year course content, Indigenous law needs to be treated equally with other mandatory content, like Torts". The importance of treating Indigenous law equally with other mandatory content was reiterated by one student:

> Yes, I think they should [have a mandatory course in Indigenous law] . . . I think it would have to be a first-year course and probably taught at least mostly by Indigenous professors, I would say, and I think that way it's just more recognized on a level that's like other basic 1L courses that you have to go through, like Crim and Torts and all that. It would just be held at the same level of respect, I guess (Participant #4).

Several participants noted that the development of this course should be Indigenous-led and involve active consultation and collaboration with local Indigenous communities. As one student put it, "it would have to be an Indigenous law course. It wouldn't be an Aboriginal law course. It would be an Indigenous law course, and it would be taught by the people whose land we are on" (Participant #6). Similarly, one faculty member talked about the importance of "learning from elders directly or forming relationships [with them] that takes a lot of time and effort" (Participant #2). While participants indicated that having a standalone mandatory first-year course in Indigenous law is necessary, many of them acknowledged that it will be difficult, if not impossible, to include everything in call to action 28 in a single course, and that other courses, whether mandatory or optional, will be needed to achieve this. As one student said after

reading call to action 28 aloud, "[h]ow are they even going to do those things? How can we even teach that? It does seem like a huge list for one course" (Participant #6). Similarly, one faculty member said "[y]ou can't teach all of that in one mandatory three-credit course" (Participant #6), and another said that law schools should consider several options, including standalone courses, "mini courses throughout the year" and "components built into one of the [other mandatory] courses" (Participant #2). Another student said that "I think we should have our own class, Indigenous laws and legal orders, and then also [include Indigenous law content] within the curriculum of Contracts, Torts, Crim, Property, Constitutional law, etc." (Participant #5).

All participants indicated that they believe law schools can engage in reconciliation by changing the current curriculum to include Indigenous law alongside common law and civil law. However, one faculty member also advocated for decolonization as the creation of Indigenous law schools:

> Decolonization . . . means changing the law school quite a bit. It's still a very Eurocentric institution. Law is categorized according to common-law principles. Law is understood from a positive liberal democracy perspective, with very little room for Indigenous perspectives and philosophies of law. Because there are some pretty serious incompatibilities between the two systems. I mean, they can be addressed, but there are some pretty serious incompatibilities. So, you can do a fair bit within the existing institution, but to really get at it you need . . . [t]o embrace an Indigenous law school that is . . . framed around Indigenous approaches to organizing law, not Western approaches . . . . To me it means fully embracing the value of Indigenous culture in law by breaking down the colonial nature of legal education as much as possible, by being truly inclusive of Indigenous law, not just as an add-on or an interesting cultural perspective, but as a core. If you have Indigenous law as a part of the core of law, I think it would be respected more, and valued more, but that's a pretty serious attitudinal change within the legal profession of academia. Most schools think including a course and maybe adding other events and activities is enough, or even sometimes they just have the traditional land acknowledgement, that's enough. You know, that's a start, but to really decolonize Canadian law would mean overturning, really,

> the entire corpus of Aboriginal law doctrine. I mean, if you really want to be serious about it, there should be no Aboriginal law doctrine (Participant #1).

This is consistent with transformative reconciliation, which, as discussed in the first section of this article, must involve advocating for the creation of Indigenous law schools.

All participants agreed that reconciliation must involve more than making changes to the law school curriculum to include Indigenous law. Law schools must also make changes to the law school environment and to how they teach and evaluate students. As one faculty member put it, reconciliation "has to infiltrate every aspect of the way in which we conduct ourselves" (Participant #3). Several participants said that reconciliation means law schools need to organize frequent events that highlight Indigenous peoples' laws and cultures, and that these events need to become an engrained part of the law school culture. They also said that law schools need to include more Indigenous art in their buildings. As one faculty member put it, "I'd like to see welcoming cultural art, not a bunch of white judges sitting with their photos on the wall, if you know what I mean? So, I'd like to see something like that, just to make it more welcoming" (Participant #1). Students talked about how reconciliation means reconfiguring the physical space of the law school to be more accessible, inclusive, and inviting. They also said that reconciliation requires law schools to create spaces on campus where Indigenous students can study, socialize, and participate in academic and cultural programming. Participants also talked about the need for more Indigenous administrators, faculty members, and support staff. For example, one faculty member talked about how these individuals can support Indigenous students who experience alienation and/or discrimination:

> [T]he more culturally grounded the students are, the more alien and uncomfortable law school will be. And so, having somebody to support students to work their way through that alienation is important. And also, to navigate the issues of discrimination and racism that does exist in the law school from students and everyone else. So, having that support's important as well. And then a lot of the students come in through the Indigenous

> category, which is less competitive, but their academic preparedness may not be as good because of the importance of trying to get more Indigenous peoples into the profession. And so, supporting them to get at the level needed to pass is important as well (Participant #1).

In addition to changing the culture and environment of legal education, many participants talked about how reconciliation requires law schools to develop different pedagogies and methods of evaluation. One faculty member commented that they "think the way in which courses are taught, the content of what is in the courses, should be implicated by our thinking of what reconciliation is", and that they try to "have a variety of different evaluative and teaching methods . . . recognizing that people learn in different ways" (Participant #3). Several students talked about how law schools need to incorporate methods of evaluation other than in-class high-stakes exams, including take-home exams, oral exams, research papers, and class projects. For example, one student said, "I think oral exams would be really beneficial" (Participant #5), and another said "[y]es, I've had to do course papers. I think it's almost my preference" (Participant #4).

Many participants said that to fully engage with reconciliation, law schools need to incorporate Indigenous pedagogies into the classroom. One faculty member talked about stories and how "stories can be a source of law" (Participant #3), and one student said, "I see the value of incorporating Indigenous protocol into classes and having talking circles and that sort of thing. And from my experience, I think that's kind of where more valuable learning probably occurs" (Participant #4). Another faculty member commented on how changes need to be made to course format and classroom space to allow for Indigenous pedagogies to be used:

> See, we're stuck with the overall structure of the university and there's some maneuverability there. But just even the three-hour class times, or the one-and-a-half-hour class times, that imposes a certain structure that isn't necessarily consistent with Indigenous styles of learning and mastering material. . . .

> Well, structurally, you'd have to change the law school. For classrooms . . . I prefer traditional protocols in teachings. So, I like to have . . . talking circles as part of my pedagogy, and in order to do that, you need classrooms that you can sit in a circle (Participant #1).

Several participants indicated that reconciliation also requires law schools to place a greater emphasis on experiential, community, and land-based learning. One faculty member commented on the need for more experiential learning:

> I mean, a lot of classes are 100% exams, [and] that's not ideal obviously. You know, but having said that, I think a lot of professors are incorporating different ways to evaluate students in more experiential ways, giving them more experiential learning environments and learning opportunities. But also providing mechanisms for which evaluation is not a primary focus of the course (Participant #2).

Another faculty member talked about the importance of "learning on the land that we are on" and how "wonderful [it would be] one day to see people learning on the land" (Participant #2). Similarly, several students talked about the importance of land-based learning. One student said that reconciliation requires land-based learning and "relations with the nations near Ottawa and the Algonquin people" (Participant #4), and another said the following:

> I just like outdoor experiences, environmental experiences, interactive experiences. Those are really helpful and useful, and I think that's way better than sitting in a classroom being lectured at . . . Everything gained from those types of experiences would be better than sitting and taking notes or watching whatever you are on your screen (Participant #6).

The ILTC, individual faculty members, and law students all indicated that while the TRC's call to action 28 is an essential component of reconciliation, the law school must go further. One faculty member said that while having the mandatory course "would be a good step in the right direction", it does not go far enough because "it is just a recommendation for a course" (Participant #1). Similarly, another faculty member commented

that "just having a mandatory course on its own is probably not enough" and that:

> [T]here has to be more support for cultivating Indigenous researchers and scholars to enter the academy. In the ideal situation, there'd be resources to hire Indigenous elders or knowledge keepers to come in and to broaden the scope of who can teach Indigenous legal traditions and institutionalize that (Participant #2).

Law students made similar comments. For example, one student noted that the requirement for a mandatory course does not go far enough, and that the law school should focus on creating a "space and community" for Indigenous law students (Participant #4). Another student said that a mandatory course is "just the beginning" and that it does not address everything that should be happening in the law school (Participant #5). Lastly, one student commented that while a mandatory course "would make a change," on its own, it will not decolonize the law school (Participant #6).

B. DAL LAW

Most Dal Law faculty members and law students that I interviewed described reconciliation, both generally and in the context of legal education, in a manner that is consistent with the transformative approach to reconciliation. Most of them indicated that they use the term *reconciliation*. In defining the term, they said that reconciliation is a process that involves creating a new relationship between Indigenous peoples and non-Indigenous people and the Canadian state. As one faculty member put it, "[r]econciliation is a process rather than a set of goals or objectives that once met, we can claim that reconciliation is achieved" (Participant #4). Several participants noted that this process does not involve asking Indigenous peoples to reconcile themselves to the state. For example, one faculty member made the comment that "some people think that reconciliation means you, Indigenous peoples, reconcile yourself to Crown sovereignty and Canadian control, which is not reconciliation" (Participant #2). Participants were adamant that reconciliation is about asking the Canadian state and non-Indigenous people to take

responsibility for our past and ongoing harmful actions towards Indigenous peoples. One faculty member said that reconciliation "means that for those of us who are settlers, we have to take responsibility for our occupation of the space here and try to find ways to atone for our past historic practices and our current ongoing problematic practices" (Participant #3). Another faculty member talked about how reconciliation means taking time to reflect on how they are connected with Indigenous peoples:

> I think for me at least . . . [reconciliation] is about trying to make sense in a very broad way of the way I've related to and connected with Indigenous peoples that I've seen both directly, in terms of the human beings in my life and social circles, as well as the cultural history and narrative in the way we relate to each other as we understand our cultural history and narrative as a collective of people with sometimes shared values and sometimes not (Participant #8).

This same faculty member then spoke about how reconciliation is also about trying to be more open-minded about Indigenous epistemologies and ways of being. They provided the following example of how they try to be more open-minded in their own work:

> I'm pretty rigid about secular space in public institutions. That kind of a value I hold sort of strong. And the spirit of reconciliation for me requires me to build some cynicism about my own stance on that. So, the spiritual nature of beginning things with a prayer, for example, that's a real stretch for me. Some part of me just finds that very hard to handle. But I think that the spirit of reconciliation requires at least suspending your own cynicism. And trying to be open-minded about what kind of space gets created because someone else is doing something different than you would do. And maybe you wouldn't choose it but it might be important for the community as a whole to be able to create a space where that's accepted and celebrated. And not have it have to be how you would do it. Like that's a small example but it requires, I think, an open-mindedness about your own narrow-mindedness and it's hard to do that because it's hard to see where you're narrow-minded. And then trying to be open and not offended when people point out how you're narrow-minded, [that's] also hard. But that's part of it for me on an individual level and then I think on a systemic level it's about

> appreciating that what you know about the world is so constrained by how it's been taught to you and the limited nature of that. And so, it's got a much bigger piece to it too, I think (Participant #8).

When asked what will be required of us to create this new relationship between Indigenous peoples and the Canadian state and non-Indigenous people, participants said that it must be grounded in an accurate understanding of the relationship between Indigenous peoples and the Canadian state, including historical and contemporary injustices, and a commitment to a more positive future. One faculty member said that because "Canadians know so little about Indigenous peoples in Canada", reconciliation must involve truth about Indigenous peoples' histories as well as "contemporary issues that still continue to impact the well-being of Indigenous peoples in significant ways" (Participant #2). Similarly, one law student said that reconciliation means "acknowledging the awful things that happened and trying to make reparations for those things, recognizing the future that we want to strive for, and then realizing the practicableness of where we are right now" (Participant #6). Defining reconciliation as requiring a truthful understanding of the relationship between Indigenous peoples and the Canadian state and non-Indigenous people is consistent with the transformative approach to reconciliation. This approach advocates for the long-term goal of transforming this relationship from one of conflict into one of conciliation and sustainability.[87] For this "paradigmatic shift"[88] to occur, we must acknowledge the historical and ongoing harm committed against Indigenous peoples.

Participants insisted that reconciliation must involve more than learning about the histories of Indigenous peoples in Canada and the injustices they have experienced and continue to experience. For them, reconciliation means "creating a legal and political order that's legitimate . . . [to replace the current one] that exists by force and coercion" (Participant #1). This call for a

87 Tully, *supra* note 20.

88 Ladner, *supra* note 21 at 250.

new legal and political order is consistent with Ladner's point that transformative reconciliation is a long-term process that requires a "paradigmatic shift".[89] For this new order to exist, the Canadian state must "see Indigenous peoples . . . as hav[ing] the ability and the fundamental human right to have control over [their] destinies in terms of decision-making and self-determination" (Participant #2). One law student spoke about the relationship between reconciliation and decolonization and how both are needed to create this new relationship. For this student, reconciliation is only possible once decolonization has occurred:

> So, I think reconciliation goes hand-in-hand with decolonizing Canadian society. That's a requirement. It's part of it. I feel like decolonizing is the first step and then reconciliation would be the next [step]. When I think of reconciliation, I think of a coming together. You're uniting, and not forcefully. You know what I mean? And, I feel like the only way to do that is to decolonize the mindset first because you're not going to get anywhere unless that's done (Participant #5).

This is consistent with Waziyatawin's understanding of reconciliation, which, as discussed in the first section of this article, calls for decolonization as a necessary step in the reconciliation process.[90] This new legal and political order must respect Indigenous peoples and support the resurgence of their cultures, languages, legal traditions, and governance structures. One faculty member put it this way:

> I think the more foundational issues are about recognizing and creating or giving support for resurgence . . . [R]esurgence puts the emphasis on there's something extremely powerful and important happening within Indigenous academic and non-academic communities that is completely independent of what's going on over in the settler zones, and which needs room to flourish without non-Indigenous interference (Participant #1).

89 *Ibid*.

90 Waziyatawin, *supra* note 28 at 196.

This is in line with the line transformative approach to reconciliation, which calls for the regeneration and resurgence of Indigenous languages, cultures, laws, and governing structures.[91] Not all participants used the term *reconciliation*. One law student criticized this concept for creating a false narrative that the relationship between Indigenous peoples and the Canadian state was once peaceful, and argued instead for *conciliation*:

> Okay, I hate the word reconciliation. I just feel like to reconcile means to return to a relationship, and I can't point to a period of time in settler colonialism where I would be like, yes, let's return to this point. Where do you want to return to? So, to me, I think conciliation is a more accurate description. We want to conciliate and create a better relationship. I agree with that, and I think that's something to strive for, but I don't think, necessarily, there's anything to reconcile. I think conciliation is about accepting the fact that there are two structural forms of knowledge at play on Turtle Island, and I don't think there can be anything further until there is an acceptance of just that, of acknowledging it, not a hierarchy but a partnership of, yes, two forms of knowledge, two systems of governance, two forms of law [exist] (Participant #7).

This student's critique of the word *reconciliation* is similar to concerns expressed by several Indigenous authors. For example, Garneau argues that *reconciliation* is a problematic term because it "presses into our minds a false understanding of our past and constricts our collective sense of the future" and "suggests that there was a time of general conciliation between First Nations, Inuit, and Métis people and Canada, and that this peace was tragically disrupted by Indian residential schools and will be painfully restored through the current process of Re-conciliation"[92] Similarly, Daigle states that:

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91 Asch, Borrows & Tully, *supra* note 13; MacDonald, *supra* note 15; Regan, *supra* note 18.

92 David Garneau, "Imaginary Spaces of Conciliation and Reconciliation: Art, Curation and Healing" in Dylan Robinson & Keavy Martin, eds, *Arts of Engagement: Taking Aesthetic Action in and Beyond the Truth and Reconciliation Commission of Canada* (Waterloo: Wilfrid Laurier University Press, 2016) 21 at 30.

> [T]he language of renewing Indigenous–state relations and of *re*conciliation (rather than conciliation) ideologically imply that diplomatic and respectful relationships between the colonial government and Indigenous peoples once existed and can be returned to.[93]

I would argue that this critique of the term *reconciliation* is consistent with the transformative approach to reconciliation in that this approach advocates for the creation of a new relationship between Indigenous peoples and the Canadian state and non-Indigenous people, rather than a return to a previous relationship.

Dal Law participants had much to say about what reconciliation means in the context of legal education. A common theme was that Canadian law schools need to critically reflect on the role that law plays in reproducing inequality and unjust relations of power. One faculty member said that law schools need to "use legal education as a way to encourage students to identify how law is often part of the problem and not part of the solution and how law acts as a legitimizing force for inequality" (Participant #3). This same faculty member noted that because lawyers exercise power, law schools "should be sensitizing and encouraging students to become aware of how they exercise that power [and] how they embody power" (Participant #3). Another faculty member said that this reflection needs to focus specifically on the ways in which "the law school has created systemic bias against the recognition of Indigenous law and perspectives" (Participant #4). Because law has been used to perpetuate inequality, several participants said that law schools must teach students that they have an obligation to practice law in ways that do not create harm. One faculty member, for example, said that they must teach students "how we have an ethical obligation and a political obligation as lawyers to take responsibility for our decisions and our conduct and use law to the extent it can be used to do less harm" (Participant #3). This view was shared by another faculty member, who said that

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93 Michelle Daigle, "The Spectacle of Reconciliation: On (the) Unsettling Responsibilities to Indigenous Peoples in the Academy" (2019) 37:4 Environment and Planning D: *Society and Space* 703 at 707.

reconciliation means "creating a generation of legal professionals who will not continue to perpetuate harm" (Participant #1).

Another central theme was that Canada is a multi-juridical country founded on Indigenous law, and as such, Canadian law schools need to respectfully engage with this content. One faculty member noted that reconciliation requires:

> [C]reating a space where Indigenous legal orders are recognized as legitimate, and more than customs or traditions or values, and that requires a shift within the curriculum, as well as within the mindset of our student body, and our judges and existing legal professionals (Participant #1).

Another faculty member said that reconciliation requires legal educators to think about how they teach law and how they can incorporate Indigenous law into the curriculum:

> For me a big focus has been in thinking about how we teach law to our law students and how they understand what law is. And what it means to think about Canada as a multi-juridical or plural legal space. And so, I'm not an Indigenous legal scholar but I think that I have learned a lot from those who are. I take seriously this idea that there are real possibilities and real ways in which we can make progress in thinking about Indigenous legal systems and bringing that more fully into the law school curriculum. And so, certainly I think the TRC work has been one conduit to do more of that (Participant #4).

Similarly, one law student spoke about the need to normalize Indigenous law in our classrooms:

> I think it [reconciliation] inspires a duty on legal professionals at all levels, and particularly on law schools. Because they're the point of educating our next generations. So, I think that duty needs to be taken more seriously and needs to be substantive to where content within the law school has Indigenous practice in there, and that it's become normalized. That it's not something people are like, "oh my god, what's happening?" (Participant #6).

One faculty member said that it is important for students to learn about Indigenous law and to "spend a little bit of time thinking about our relationships with Indigenous peoples, cultures, and practice" (Participant #8).

All participants said that learning Indigenous law must be a mandatory component of the law school curriculum, and that it needs to occur throughout a law student's education. The law students that I had interviewed felt very strongly about this. For example, when asked if law schools should have a mandatory component in Indigenous law, one student said, "[i]t [having a mandatory component] almost seems obvious or like it should be. If you know anything about Canada's history, it's like, well, shouldn't it be here? This is an important chunk that people need to know" (Participant #5). Similarly, another law student said, "I think it's [a mandatory course in Indigenous law] a must-have. I think there's rationally no reason to fight against it. It's involved in every area of law" (Participant #7), and another one commented that "I think you definitely need to have a mandatory first-year introductory course [in Indigenous law]" (Participant #9). One faculty member spoke about the need for a "spiralling curriculum" where students add to knowledge gained in the previous year:

> So, in terms of TRC implementation, I would like to see a spiralling curriculum where built into the mandatory curriculum at different points students revisit and take concepts deeper or to new points as they go through law school. So, you get a baseline level of introduction in first year, which could either be through standalone courses or through committed portions of existing courses. And then in second year as they move into other mandatory courses that already exist, we embed these things further (Participant #1).

Another faculty member spoke about the importance of incorporating Indigenous law into other courses, noting that reconciliation requires "encouraging our colleagues to include more material [on Indigenous law] in their classes, both the mandatory courses but also the optional courses" (Participant #2).

Many participants said that reconciliation must involve more than engaging with Indigenous law. For them, law schools must also make changes to the admissions process and to how legal educators teach and evaluate students. Several participants spoke about the importance of promoting access and equity in

legal education. For example, one faculty member said that they would like to see "a law school with a diverse conception of merit that considers things other than GPA and LSAT, and an unshackling of legal education from the parochial concerns of the legal profession" (Participant #3). One faculty member discussed the need to "think about how we might admit people who we think will be great in the practice of law with a different lens" (Participant #8), and another said that law schools need to be "accessible to everyone and reduce barriers to admission" (Participant #6).

Participants also said that reconciliation requires that changes be made to the law school environment and to how law schools teach and evaluate students. Concerning the law school environment, one law student spoke about the importance of having spaces for Indigenous students:

> Indigenous spaces tend to be a very safe space for vulnerable conversations, for stress. Whether it's the medicines and smudging and having a safe smudging space, to having an outdoor space, to having a Zen space, to having a space that's just full of Indigenous artwork, it's just generally very calming for Indigenous and non-Indigenous students alike (Participant #7).

Regarding law school pedagogy and evaluation, one faculty member spoke about the importance of "teaching different styles of classes, lectures, seminars, and lecture-based survey courses," as well as incorporating Indigenous pedagogies, land-based learning, and guest lectures into the classroom (Participant #2). Similarly, another faculty member explained how they include multiple assignments in their course to help students learn the material better:

> So, I always do distributed evaluation, so four, five things over the course of the term. In the context of [area of law], for example, there's short memos, two or three pages, and we just do them over and over again. And so, the idea is at least I'm trying to help people learn how to organize their thinking and communicate with me in a way that I can then give them feedback on. And then they can try it again, the same thing so that there's a repeated pattern of something (Participant #8).

The need for different classroom structures and non-traditional methods of teaching and evaluation was reiterated by several law students. One student said that law schools need more "circular classrooms" that are less "stadium-style" and more outdoor learning where students can "interact with the earth" (Participant #6), and another spoke about the need for more roundtable and small group discussions that involve consensus-building:

> I love roundtable discussions, I love consensus-building, things of that nature . . . I find when we do smaller stuff, like ethics and intensives that we get broken down into smaller groups, I find those a lot more productive . . . . Whether you do your readings or not, you get there and you're going to learn just as much about it. You're forced to partake in a very small group and have these conversations and get to know each other, understand those dichotomies between morality and loyalty and ethics and professionalism. And I think that has to be discussed a little bit more (Participant #7).

One law student explained why it is also necessary to ensure that course materials are accessible in Indigenous languages:

> I think materials need to be accessible in different languages because we have Mi'kmaq students whose first language is not English. We have materials in French and English, but do we have materials in Mi'kmaq? No, we don't. Do we have any support for language? No, we don't. So, I think that needs to be seriously considered (Participant #6).

Several students said that they would like to see law schools use diverse methods of evaluation and rely less on 100% final exams. For example, when asked what methods of evaluation they would like to see more of, one law student said, "[n]ot 100% finals, that's for sure. I think it would be incredible if there could be oral evaluations or other forms of evaluation that are not structured in academia. And also, more practical engagement components" (Participant #6). Similarly, another student spoke about why they prefer writing papers over 100% final exams:

> Law school teaches you how to write a three-hour exam; that's what's happening. So, the necessity of it seems pretty arbitrary. People talk about it all the time, about how if you're practising

> law, you're working together to come up with the best ideas, you're researching. There's a lot of different mechanisms that way. So, to be really limited to just how much word vomit can you get out that hits off a number of points of the test . . . It's so, I think, arbitrary and irrelevant at the end of the day. Do I know better ways to do it? Not really. I'm too new. I do know as you get into your second and third year, you have a lot more paper course options. I'm a paper-writer, for sure, that's what I prefer (Participant #7).

Faculty members and law students said that although the TRC's call to action 28 is a necessary component of reconciliation, law schools must go further to create lasting structural change. Faculty members told me that law schools are not engaging with reconciliation unless they require all students to learn about Indigenous law. As one faculty member said, "I do think it's hard for me to imagine not having that mandatory first-year component and claiming that we're kind of successful working toward reconciliation" (Participant #4). Other faculty members said that call to action 28 is "a catalyst for some real big changes in universities" (Participant #2) and helpful for "advancing curricular change or societal change" (Participant #1). Similarly, law students said that call to action 28 "does a lot" (Participant #5) and that "it's great that we have more Aboriginal content" (Participant #6).

Despite the importance of call to action 28, many participants said that on its own it does not go far enough towards creating transformative reconciliation in legal education. One faculty member said that on its own call to action 28 is inadequate because "learning a number of content areas" and "being able to recite a test about what an Aboriginal right is" will not address the "internalized systemic racism" that exists in many Canadian law schools (Participant #1). Similarly, another faculty member said that call to action 28 is "not actually achieving that much" (Participant #3). This faculty member said that the TRC Committee "recognized [this] from day one" and, as a result, agreed on a response to call to action 28 that would include more than just a single mandatory standalone course in Indigenous law. Every law student that I interviewed agreed that call to action 28 does not go far enough towards creating

transformative reconciliation. Two law students spoke about how call to action 28 does not increase diversity or eliminate barriers to success for Indigenous students:

> It [call to action 28] does a lot but I feel like things won't be ideal in my world until there's more of a proportionate group of Indigenous law students. Dal has done a lot to try and get some diversity in its students but it can be hard. (Participant #5)

> I mean, it's [call to action 28] almost like a little tidbit. Like almost like an appetiser, but you're still waiting for the main meal and dessert and all the other stuff to come . . . . It's great that we have more Aboriginal content that's coming out, but where are our Indigenous students? How come our population's so small? How come we still have all these systemic barriers in place? (Participant #6)

Participants said that for call to action 28 to be effective, it must be read in conjunction with the TRC's other 93 calls to action. One faculty member said that call to action 28 is "a very targeted task" that needs to be read "in the context of the whole instrument, the whole report" (Participant #1), and another commented that "there's 93 others and then about a thousand other recommendations from other commissions and inquiries [that need to be examined when exploring how law schools can engage with reconciliation]" (Participant #2). Several law students agreed with these faculty members. For example, one law student said that call to action 28 cannot be responded to in isolation because "the TRC has so many calls to action" that require consideration (Participant #6), and another said that call to action 28 will only create meaningful change "if it's [implemented] in connection with all the other recommendations [because] putting one piece down of a puzzle is a very fractured picture at the end of the day" (Participant #7).

C. UVic Law

Most UVic Law faculty members and law students that I interviewed described reconciliation, both generally and in the context of legal education, in a manner that is consistent with the transformative approach to reconciliation. Nearly all of them indicated that they use the term *reconciliation*. Participants said

that reconciliation is about creating a new relationship between Indigenous peoples and non-Indigenous people and the Canadian state. For example, one faculty member explained that reconciliation means "finding ways in law to understand the complexity of our relationships and allow for us to be different from one another and disagree with one another even as we try to find ways to disagree agreeably" (Participant #2). This faculty member also spoke about "possibilities of still living with some peace and friendship and goodwill even if we're not all on the same page, seeing things in the same way". Similarly, another faculty member defined reconciliation as "the creation and maintenance of good relationships" (Participant #3). One faculty member said that reconciliation is "the creation of new respectful relationships" where people "have continuing obligations to each other based on this relationship that constantly need to be renewed" (Participant #5). This faculty member also connected reconciliation to principles that guide the Coast Salish people and their laws, including "living the good life", "kinship and relationality", "trust and humility", and "sharing and love". Finally, one faculty member said that reconciliation is "about finding a mutually respectful relationship that acknowledges the settler colonial history and its impact and [ensures] our institutional relationships are on a nation-to-nation basis" (Participant #6). These comments were reiterated by law students. For example, one law student said that reconciliation is about "working together, listening and creating plans together" (Participant #9), and another said that it involves non-Indigenous people "coming to Indigenous peoples with an open mind and honesty to work towards something together" (Participant #8). These statements are consistent with the transformative approach to reconciliation, which calls for the creation of relationships of "mutual responsiveness, care, conciliation, and sustainability".[94]

Participants had much to say about what this new relationship between Indigenous peoples and non-Indigenous people and the Canadian state should look like. Participants said that reconciliation requires non-Indigenous people and the Canadian state to be honest about the history of Canada and the

94 Tully, *supra* note 20 at 92.

experiences of Indigenous peoples. One faculty member, for example, said:

> To me I think it [reconciliation] means taking recognition, not only of the legacies of colonialism, of residential schools in the past, of understanding and being accountable, but paying absolute attention to how that exists today and will continue on into the future (Participant #4).

In addition, one law student commented that "truth needs to come up first before anything can be reconciled" (Participant #8), and another law student said that it is important to know that "residential schools did happen here, what happened at residential schools, and that this was the aim of our government policies at the time" (Participant #9). These statements are consistent with the transformative approach to reconciliation, which says that the Canadian state must acknowledge historical and ongoing harms committed against Indigenous peoples, and that non-Indigenous people must educate themselves about this relationship. In addition to being honest about Canada's relationship with Indigenous peoples, participants also said that this new relationship must involve "restorative justice" (Participant #6) and "effort on the part of non-Indigenous people" to work with Indigenous peoples to create transformative change (Participant #8). Finally, some participants discussed the role that law plays in reconciliation. For example, one faculty member spoke about the importance of "working across legal orders in a way that's productive" (Participant #1), and another faculty member talked about Indigenous resurgence and the need to "find ways to reinvigorate both the common law and Indigenous legal traditions" (Participant #2).

Participants said that this new relationship must be process-oriented. One faculty member said that there is "no arrival" to reconciliation and expressed concern with an approach to reconciliation that uses a checklist:

> My worry with the language of reconciliation is that it suggests that it's one thing you can do and then it's done. And I don't believe that that's the case. If you have a relationship, if that relationship is going to be healthy you have to work at it and it's

> a multiple-angled process that isn't just . . . There's always going to be complexities to work out and learning. And if a relationship stops that learning and appreciation of the complexities, then you have, it's no longer productive, I think (Participant #1).

Similarly, one faculty member noted that reconciliation is "dynamic" and an "ongoing process" (Participant #4), and another said, "when I've written about it, I always talk about it more as being a process rather than an end result" (Participant #5). Finally, one faculty member commented that reconciliation is "a process that's ongoing and is going to be engaged over years and years" (Participant #7).

Not all participants felt comfortable using the term *reconciliation*. One faculty member said that they think it is important to talk about *decolonization*. While discussing the similarities and differences between reconciliation and decolonization, this participant said that reconciliation "has a dichotomous thinking that maybe even risks putting non-Indigenous folk at the heart," whereas decolonization "centres Indigenous people and thinks about how what we're doing is inclusive, respectful, engaged, [and] forward-looking" (Participant #4). Advocating for decolonization is in line with the transformative approach to reconciliation, which understands that reconciliation requires decolonization.[95] As previously mentioned, it is impossible to create a relationship between the Canadian state and Indigenous peoples that is accountable to Indigenous sovereignty and futurity if the state, through its colonial laws and institutions, continues to hold power over Indigenous peoples.

Participants had a lot to say about what reconciliation means in the context of legal education. One common theme was that Canadian law schools need to teach students the settler colonial history of Canada and its contemporary realities for Indigenous peoples. For example, one faculty member who teaches family law said that it is important for students to understand how "colonialism has impacted families" (Participant #4), and another faculty member spoke about the importance of learning

[95] See e.g. Corntassel & Holder, *supra* note 27. See also Waziyatawin, *supra* note 28.

about "Indian residential school trauma" and "the ways in which our current [social] structure[s] also disembed people from community, break things down, create toxicity" (Participant #7). This theme was reiterated by law students. For example, one law student said that students need to be "educated on the history of colonialism in Canada" (Participant #8), and another student commented, "I think they [law schools] would definitely have to focus on what are First Nation realities today. Like I said, the history is important to understand, however, I think it should be more focused on today's reality" (Participant #9).

Another very common theme was that Canadian law schools must be multi-juridical spaces where students critically engage with Indigenous law alongside common law and civil law. For example, one faculty member commented that law schools must:

> [N]ot just [be] multi-juridical, working with common law, civil law, and Indigenous law, but [must also be] multidisciplinary [and include] accountants, psychologists, engineers, and of course lawyers, so that you would get a sense of law as a human activity, a social process that has to take account of a diversity of possibilities (Participant #2).

Similarly, another faculty member said, "I'm teaching trans-systemically so I'm not only teaching Coast Salish law but I'm teaching the common law" (Participant #5). This faculty member also said that reconciliation requires law schools to:

> [B]uild in more opportunities for students to understand the nuances or interdisciplinary nature of legal issues. So, we've talked here at UVic about instead of thinking that there's these watertight compartments of our curriculum, like Crim or Tort, but to focus on an issue and then show how that issue interplays with different laws (Participant #5).

One faculty member explained how they teach property law from Gitxsan and common law perspectives:

> So, I teach Gitxsan land and property law along with common law of property. And so, part of it is looking at what are patterns that are similar and what are patterns that are different within the approaches. Law derives from a particular society's history, different points in time, according to the economic ordering of those people and the political ordering of those people. And so,

> the purposes of property, there's some similarities with common law but there're also a lot of differences. A lot of state or common law property has developed because people live in small places on small bits of property and there's a lot to fight over. And that's very different than lots of Gitxsan land and property, which is managed through the kinship group system. But there are some similarities. There is trespass, there's succession, there's accretion. There're all kinds of stuff that's very, very similar. There's personal property and real property. Alienation is completely different so it's not just holding them up side by side and then figuring out differences and similarities. It doesn't work like that. It takes a much more intensive process to think through the different concepts within each society (Participant #1).

Faculty members also spoke about how Indigenous law needs to be fully integrated into the curriculum rather than being treated as an "add-on". As one faculty member put it, it is important for law schools to "think about how to teach those issues [Indigenous legal issues] in a way that isn't an add-on but that's integral to the course" (Participant #4). The need for a transsystemic approach to legal education was reiterated by law students. For example, one law student spoke about the importance of "learning from Indigenous scholars, reading Indigenous textbooks written by Indigenous people, and reading Indigenous law like Gitxsan law" (Participant #8).

All participants said that law students must learn about Indigenous law. Unlike at UOttawa Law and Dal Law, faculty members did not believe that students should be required to take a mandatory first-year course in Indigenous law. One faculty member, for example, said that "mandatory courses can generate as many problems as they're trying to solve" (Participant #1), and another faculty member commented

> I personally feel that a mandatory course is not the right approach. I respect what the TRC says and I think we have obligations and responsibilities. I wonder if even Senator Sinclair would say that that's what he meant. That we should all do mandatory courses (Participant #4).

Two faculty members expressed concern that a standalone mandatory course will not be able to capture all of the content contained in call to action 28:

> I would be in the camp of saying that a mandatory course . . . doesn't go far enough, but part of that is I don't think you can capture all of those things in a mandatory course (Participant #6).

> What I mean is that it is truly impossible to imagine one course that could possibly touch on the number of topics listed in this supposedly mandatory class. I don't think it is a joke to create the section, there is something importantly aspirational there, but it is a bit of a joke to imagine that offering such a course could possibly be sufficient or even do-able (Participant #7).

Instead of creating a standalone mandatory course in Indigenous law, faculty members said that the focus should be on ensuring that law students "do not graduate from law school without having been introduced to, or having engaged with, the key things that are in call to action 28" (Participant #4). Many of them advocated for incorporating this content into existing mandatory courses. One faculty member said that they "love the idea of Indigenous legal perspectives, as well as Aboriginal rights jurisprudence, being incorporated into contracts and torts and constitutional law and administrative law" (Participant #1). Similarly, another faculty member commented that they prefer to "infuse Indigenous perspective, law, tradition across the courses" (Participant #2). One faculty member spoke about how their colleagues are incorporating this content into the existing curriculum:

> There's a lot of attention to incorporating that stuff, not in a standalone course, but as part of ordinary mandatory curriculum through torts, contracts, constitutional law, criminal law, etc. So, what I see my colleagues do is incorporate a variety of calls into the regular curriculum. So, in constitutional law, for example, they have a big component . . . they look at how you draft a Royal Proclamation of Reconciliation (call to action 45), what it might look like, the work around it, how to put it into interaction with other things. So, the responses are not just focused only on the mandatory course aspect of call to action 28, but on taking up the substantive content, and implementing it in all the other courses we teach. So, taking seriously the mandatory nature, but embedding all of those things into the

> courses where those things can be grappled with in a different way (Participant #7).

Faculty members were adamant that law students must engage with Indigenous law throughout their legal education, not just during their first year of studies.

In addition to teaching the history of Canada-Indigenous relations and requiring students to engage with Indigenous law, participants said that reconciliation requires law schools to make changes to how legal educators teach and evaluate students. Participants said that law schools need to incorporate "land-based" and "practice-based" learning (Participant #2). One faculty member said that it is important for law schools to incorporate "a variety of ways of learning different forms of law, so problem-based learning, project-based learning, going out on to the land, working in clinics, [and] working in communities" (Participant #6). Another faculty member said that they:

> [W]ould love to start with some kind of experiential, partly land-based [learning] first semester, where [students are] just thrown in the deep end as observers, as flies on the wall, as learners from a bit of a distance, and then com[e] out of that experience . . . acting as orienteers and guides (Participant #2).

Students would then be asked to reflect on their experience by answering questions like "what happened there, what did you find was useful, strange, helpful, etc.?" (Participant #2). The purpose of this exercise is to make sure that students "aren't just left to drift" (Participant #2) after participating in land-based and practice-based learning. Another faculty member said that they think it is important to "have a field school in a local community" (Participant #3). This participant acknowledged that this requires a strong "institutional relationship between our faculty and the local communities whose territory this is" (Participant #3). One faculty member said that they like "to take students to Cowichan to hike Mount Prevost and hear our creation story and learn some of the Hul'q'umi'num' words and just think about the connection between land and law" (Participant #5). Finally, one faculty member spoke about the importance of engaging with "pedagogies of Indigenous learning", such as carving, beading, and weaving, as a way to

"move from the British colonial boarding school model of delivering education" to one that encourages "different kinds of student learners" (Participant #7). Law students reiterated the importance of engaging with land-based learning which centers Indigenous knowledge and law. For example, one student said that they think it is essential for law students to have the "opportunity to go out into the wilderness and learn about Indigenous stories" (Participant #8).

Participants expressed concern about traditional methods of evaluation used in legal education. More specifically, several participants said that very often exams do not adequately assess what students have learned in a particular course:

> We're developing new assessment processes because law school exams aren't going to necessarily enable one to demonstrate all that they know or what little people know about Gitxsan law (Participant #1).

> I have a very large class right now and I still have the class being assessed almost entirely by an exam at the end. And even though I think a lot of what the content of the exam will be, that is definitely not ideal in a lot of ways (Participant #3).

> [E]valuation should be part of the learning process, not something we tag on at the end of the course in order to assign a grade. The way students learn is through iteration. If they're not getting feedback on the work that they're doing they're not going to grow, right? So, you take a course [and] you get a 100 percent final at the end of it. Some people don't even go and look [at it afterwards]. They get a B or an A-, if that's what they thought, and they're off to the races. I just don't think that's the way to develop ethical problem-solvers (Participant #4).

Participants said that "an ideal law school would have a range of approaches to pedagogy" (Participant #6), and that law schools need to develop new forms of assessment because "there are a whole bunch of skills that we want people to develop and they're more than just learning substantive areas of law. They are about critical analysis, problem-solving, creativity, imagination, and empathy" (Participant #4). Participants had many ideas for improving assessment in legal education. One faculty member, for example, uses project work that "draws on performativity or

art" and "play readings as a course evaluation" (Participant #4). One faculty member, who teaches Gitxsan law, said that they use "a very labour-intensive process of an exam, a legal memo on a Gitxsan housing problem, [and] a presentation" to evaluate students' ability to practice Gitxsan law (Participant #1). Another faculty member said that when they do land-based teaching, they use "paper-oriented" exercises and "reflective journal" exercises to assess students' level of understanding. This faculty member also said that they like to use the "Pass/Fail/Honours" system because it assesses whether students meet a certain threshold "without trying to say, well, what's the difference between a 74 and a 77?" (Participant #2). Two other participants also noted that they think a Pass/Fail system would be beneficial. One said, "I think an ideal law school for law students would be one in which it was graded on a Pass/Fail basis because I think that that would allow students to be more creative" (Participant #6), and the other made the following comment:

> I've tried a lot of different things in terms of assessment in my classes and I find that everything has strengths and weaknesses for different people, and it is more kind of settling on what works the best in the circumstances. There's a good amount of discussion on the possibility of instead of grading people, having more pass-fail kind of assessment. And I do actually think that would be of assistance when focusing on helping people develop their knowledge and competence in particular areas. I think that probably would be a constructive thing to do rather than thinking so much about rankings that are brought on by external forces. So, that is one thing that I would consider (Participant #3).

All participants said that call to action 28 is a necessary component of reconciliation, but that law schools must go further to create lasting systemic change. Faculty members said that call to action 28 is important because law students cannot leave law school without having learned about Indigenous law. For example, one faculty member said that the TRC's final report and calls to action "raised a national consciousness about the residential schools, about the class action [lawsuit], [and] about the residential schools and their ongoing consequences" (Participant #1), and another faculty member called call to action

28 a "fantastic call to action" (Participant #7). One faculty member spoke about how the law school uses call to action 28 to say that students should not graduate from law school without "being asked to think carefully about the role that the legacy of colonialism and residential schools has played in the law that we live today and the way in which colonialism is still imprinted on people's bodies today" (Participant #4).

Despite the importance of call to action 28, many participants said that on its own it does not go far enough towards creating transformative reconciliation in legal education. For example, when asked whether call to action 28 goes far enough towards contributing to reconciliation, one faculty member said:

> No. Lawyers' ethics aren't just identifying a series of values and putting them in a checklist. It's something that you live. And so, the course might in one mode meet that call to action, but actually not do the work of reconciliation if it's not properly integrated or supported or invested in or staffed (Participant #2).

Similarly, another faculty member said:

> I don't think if you say everyone should just take one course and that course should include these things, that's not enough . . . . It just doesn't make any sense. It needs to be integrated. It needs to be embodied. It needs to be reiterative. It needs creative evaluation methods (Participant #4).

Several participants resisted the idea that reconciliation involves a checklist of action items. For example, one faculty member said that they "don't think anything should be seen as an end-goal" and that "[t]here is no arrival here. Even if law schools set up committees and did a mandatory course and did everything like chop-chop, then what? In five years, it's going to look different. There will be different events, different problems" (Participant #1). Similarly, another faculty member said that having a mandatory course is not the only option and that it should not be treated as an item on a checklist:

> I think having a mandatory course that included components that are listed there, I can imagine that would be a good thing, but I don't think it is the only thing, for sure. And just having done that, to me leaves all kinds of things unanswered, which is not to

> say that law schools shouldn't do that. Because I think that is actually one possible way that you would uncover what the next things are. But I definitely don't think you'd be like, okay check, we're done (Participant #3).

Some participants expressed the opinion that it would be very difficult, if not impossible, to include everything in call to action 28 in one mandatory course. For example, one faculty member said that while they think that "those are all important things for a response to the TRC and for our lawyers to have those competencies", they "would be in the camp of saying that a mandatory course doesn't go far enough" because they "don't think you can capture all of those things in a mandatory course" (Participant #6). Similarly, another faculty member said, "how can you possibly do this in a mandatory course? You can do a whole degree on alternative dispute resolution mechanisms. That's a whole Ph.D. in and of itself" (Participant #7). This participant went on to talk about how each law school's response to the calls to action will depend on their location and institutional environment. For them, having a mandatory course might take away from the other really important work that UVic Law is doing to contribute to reconciliation:

> I think it's a fantastic call to action and I think that how they'll [law schools] use it will depend on where they see themselves and the local conditions of the place that they're at. So, for us to do the mandatory course would, I think, be a copout because I think we've already been doing some of the preliminary work, and with that work in place, we need to continue to go deeper with the work. The Indigenous Law Research Unit's work is giving us opportunities to learn how to work in partnership, and this opens up space to have our engagements continue to build on what we are learning. We have a 25-year history with our students doing the fantastic Aboriginal Cultural Awareness Camp, which has nurtured different kinds of conversation. And we are right at the epicentre where we can call on Indigenous communities, like multiple Indigenous communities, around us all the time to help us learn. So, for us to do the mandatory course, we could, but I don't think it would be the way that our work here can help people in other places. We've produced faculty who went out to other places to do their graduate work, and that's a help, right. But I think at other institutions, they're

> in a different place with different kinds of resources and the mandatory nature of the call might be politically wise and useful and helpful at the place they're at. And I'm not saying we're ahead of people, I don't want it to sound like that. It's more like different kinds of challenges and different kinds of assets (Participant #7).

Participants said that in order for call to action 28 to be effective, it must be read in conjunction with the TRC's other 93 calls to action. For example, one faculty member said that when responding to the calls to action, law schools:

> [S]hould look at the report as a whole because that informs how they work with call to action 28. People need context, background so that call to action 28 is grounded in people's legal imagination. There's more homework than just thinking about the call to action (Participant #1).

Similarly, another faculty member said that "you have to read the entire report. If you put the report into place in terms of its spirit, its ethos, then you're in a better place than just focusing on the call to action around the mandatory course. That broader vision has to inform the course" (Participant #2). Finally, one faculty member explained how they have students engage with the entire report:

> [Law schools should be responding to the] [r]eport as a whole. So, just for another example for you, our graduate theory course, which I teach, the first two weeks we read the report, the executive summary volume and then the entire legal theory course takes topics like sovereignty, recognition, embodiment, distribution, all the topics of graduate theory. And every week we read three readings and people have to draw the connections between those readings and the TRC and their own research project. So, we use the document itself as a way of not only focusing on the calls to action, but on the historical context as a way of making sure that we think about theory and engagement through this common history. So, that course, it's a riot to work with, to teach and learn alongside the students, and I think that's the kind of thing that I'm talking about, is where we start using it not like here's what it makes you do, but how does taking it seriously help you rethink connections between schools of theory, schools of thought, and what politics means on the

> ground . . . So, of coursethe calls to action [are] a nice handy summary that helps trigger thinking, but what we've got is a massive question of what it means to live in the world we live in now or to say "all my relations", right? What does that really mean? (Participant #7).

IV. DISCUSSION

Participants at all three law schools defined reconciliation, both as a general concept and in the context of legal education, in ways that are consistent with the transformative approach to reconciliation. In general terms, participants defined reconciliation as the process of creating a new relationship between Indigenous peoples and communities and non-Indigenous people and the Canadian state. Participants indicated that this new relationship must be grounded in honesty, respect, reciprocity, and relationality, and that it must be constantly evaluated over time. Moreover, they said that reconciliation means that non-Indigenous people need to learn about the relationship between Indigenous peoples and the Canadian state and the historical and contemporary injustices associated with this relationship. Participants at all three law schools agreed that simply learning the truth about this relationship is insufficient. Non-Indigenous people and settler governments need to work with Indigenous peoples to transform this relationship from one based on prejudice and violence to one grounded in respect and support for the resurgence of their cultures, languages, legal traditions, and governance structures. Participants were adamant that this process of change must not involve recolonization by requiring Indigenous peoples to reconcile themselves to the Crown's assertion of sovereignty. Rather, the burden of change rests with colonial governments and institutions to relinquish power over Indigenous peoples, recognize and support their inherent right to self-determination, and work with them to create a healthier relationship for the future.

Participants had many fascinating things to say about what reconciliation means in the context of legal education. Participants at all three law schools argued that in order for law

schools to engage with reconciliation, they must first acknowledge the role that law and legal education has played in perpetuating colonial domination. While it is true that law has been used as a tool for freedom and social change, it has just as often been used as a tool for oppression and inequality. It is essential for students to know this history and learn how to practice law in ways that do not perpetuate harm. In addition to acknowledging that law has been used to support Canada's settler colonial project, participants said that law schools must become multi-juridical spaces that engage with Indigenous law alongside common law and civil law. Several participants acknowledged that law schools have, for a very long time, treated Indigenous law as an add-on to common law and civil law, which is not reconciliation. Rather, reconciliation requires law schools to ensure that law students learn about Indigenous law and the content included in call to action 28.

Participants at the three law schools expressed different approaches to how students should engage with this content. UOttawa Law participants said that students should be required to take a mandatory first-year course in Indigenous law so that it is treated equally with other mandatory content. They also said that it will be necessary to use other mandatory and optional courses in order to teach students all the content included in call to action 28. Participants at Dal Law said that learning Indigenous law must be a mandatory component of the law school curriculum, and that it occurs throughout a law student's education. They also said that Indigenous law and legal issues must be incorporated into other mandatory and optional courses. Finally, participants at UVic Law did not believe that students should be required to take a mandatory first-year course in Indigenous law. Instead, many of them advocated for infusing this content into existing mandatory and optional courses. They also said that law students must engage with Indigenous law throughout their legal education, not just during their first year of studies. Despite taking different approaches to how students should learn about Indigenous law and the other content included in call to action 28, participants at all three law schools agreed that students cannot graduate from law school without knowing this material. This diversity of approaches

reflects the reality that a law school's location, institutional environment, and financial resources will affect its response to the TRC's calls to action. It also reflects the reality that incorporating all the content included in call to action 28 into a single course will be very difficult, if not impossible. As a result, when formulating their response to call to action 28, law schools should not feel restricted to developing a standalone mandatory course.

Participants at all three law schools said that while call to action 28 is a necessary component of reconciliation, it will not result in transformative change on its own. To make call to action 28 more effective, participants said that it must be read in the context of the entire report and in conjunction with the other 93 calls to action. However, regardless of how law schools interpret and apply call to action 28, participants indicated that learning a number of content areas will not treat Indigenous law equally with the common law or civil law, nor will it address the systemic racism that exists in many Canadian law schools. Law schools will need to make other changes to achieve these goals.

Participants at all three law schools said that law schools need to engage more with call to action 50 by creating institutes for the study, research, and application of Indigenous law. UVic Law is already engaging with call to action 50 through its JD/JID program, Indigenous Legal Research Unit, and new National Centre for Indigenous Laws. UOttawa Law and Dal Law also have plans to engage with call to action 50 by creating an Indigenous Nationhood, Governance and Laws Institute, and an Indigenous Law and Governance Lodge. Engaging more with call to action 50 will make Indigenous law more prevalent in Canadian legal education.

All participants agreed that reconciliation requires law schools to do more than implement calls to action 28 and 50. They must also make changes to the law school environment and to how they teach and evaluate students. Participants said that reconciliation requires law schools to make their admissions process more accessible for Indigenous students, hire more Indigenous faculty members and staff, recruit more Indigenous students, create more spaces for Indigenous students to study and socialize, and empower faculty members to use creative

methods of evaluation and engage with experiential learning, land-based learning, and Indigenous pedagogies. The need to make more than just curricular changes makes sense given that many Canadian law schools, including the three that I studied, have been offering courses in Aboriginal and Indigenous law for decades. Yet, despite this engagement, law schools have been sites of exclusion and discrimination for many Indigenous students. Addressing this exclusion and discrimination will require changes like the ones described above.

CONCLUSION

In this article, I have shown that participants at UOttawa Law, Dal Law, and UVic Law conceptualize reconciliation, both as a general concept and in the context of legal education, in ways that are consistent with the transformative approach to reconciliation. In a future article, I will explore whether UOttawa Law, Dal Law, and UVic Law's responses to the TRC's calls to action are consistent with the liberal or transformative approach to reconciliation, and outline recommendations that law schools can consider when formulating responses to the TRC's final report and calls to action.

My research sought input from faculty members involved in responding to the TRC's calls to action and Indigenous law students at three Canadian law schools that teach the common law legal tradition. Future research can expand on my findings in four important ways. First, future research should examine how faculty members not involved in implementing the TRC's calls to action conceptualize reconciliation as their views may differ from those expressed in this article. Second, future research should examine how faculty members and Indigenous students at other Canadian law schools conceptualize reconciliation. Third, future research should examine how faculty members and Indigenous students at law schools that teach civil law explain reconciliation. Finally, future research should explore what non-Indigenous students have to say about reconciliation. This is consistent with anti-colonialism, which, as Simmons and Dei note, asserts that the dominant population "must be prepared to invoke and act on their complicities and responsibilities through

a politics of accountability in order to bring about change".[96] It will be important for researchers to find ways for non-Indigenous students to contribute in meaningful ways that do not reassert their power and privilege over Indigenous peoples.

[96] Simmons & Dei, *supra* note 72 at 76.